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TRANSMITTING LAND

13 May 2016. It is 1pm and Ko Kyaw is about to leave his house to go to his betel garden on his parents' land further afield.¹ First, we join his wife, who packs some betel nuts, cheroots, water and snacks for their labourers as well as several straw baskets to carry the precious green leaves. On our loaded motorbikes, we depart for the field some five minutes away to the east of Gawgyi. The tracts are sandy in summer, water drains in the monsoon. We almost collide with an oxcart. 'The sun is hot isn't it,' shouts the driver. As we arrive, the usual group of girls and women, as well as Ko Kyaw's wife's uncle, welcome us with the usual 'Have you eaten yet?'

Ko Kyaw was ploughing a furrow to ease the flow of water when I asked who owns the piece of land he envisioned for a second betel garden. This place and the adjacent plots have enriched his extended family for decades, if not sold off to a neighbour. He grew up here and knows every little thing around. This landscape has been shaped by social life for centuries, and I could only guess how many hours he must have spent here building his dexterity in climbing mango trees and swinging his slingshot. He told me, in a deep, serious voice, gazing at the land and half-embarrassed by my recurring questions, that 'nobody owns' this land (*behdhurma mapaingbu*). What I knew was that his parents were the owners on paper, that it was given to his father after his grandparents' death, that his sister also had a claim on it as inheritance and that building a second greenhouse was a further step towards taking care of his parents. In a way, investing in family relationships was a means to access land. But there was more to it.

By looking at the transmission of inheritance as a process of redefining authority and responsibility, this chapter argues that intrafamily relationships are a domain of politics and that transmission is about recalibrating people's engagement with each other. This is in part because dynamics of kinship and

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the moral and social obligations between family members have organized land relations in the *longue durée*, but also because what makes a family – hierarchy, commensality – and the mutual obligations between its members – gratitude, care – create entitlement to property. Focusing on transfers of wealth within families allows us to see them as a crucial domain of engagement.

In this chapter, I use Ko Kyaw’s statement as a line of enquiry for three questions: (1) How do the dynamics of kinship and the moral and social obligations between family members organize the transmission of inheritance? (2) How have they maintained a degree of continuity in the countryside? And (3) How can the transmission of inheritance, as a process of redefining authority and responsibility in families, inform how village leadership is imagined? This chapter adopts three different voices deployed in three sections. The first section takes a historical voice to look at how entitlement to inheritance has been a central feature of land relations in the history of Gawgyi village while several state projects and laws have attempted to orient and control land tenure. The second section is more conceptual and presents the ideas surrounding how inheritance should be transmitted. These historical and conceptual parts serve as a backdrop for exploring the actual dynamics of transmission through the case of Ko Kyaw’s family. The concluding section links the question of transmitting inheritance with the issue of transmitting leadership to open up a possible comparison between ‘taking care of’ a family (stewardship) and ‘taking care of’ village affairs (guardianship).

Saying that nobody owns the land does not mean that no one can claim ownership or that no one has secured land rights. It is thus not directly about how land tenure has been formalized by a state at times lacking consistent infrastructural control and often dispossessing locals. It rather means that it is uncertain who *will* own this or that piece of land in a context where land disputes *could* have occurred mostly between villagers.² Hence, it is a statement about the temporalities of family relationships, about the dynamics of property transfers and about how people craft their lives. Exploring the transmission of inheritance as a redefinition of authority³ and responsibility crisscrossed by uncertainty through Ko Kyaw’s case shows that what makes a family – hierarchy, commensality – and the mutual obligations between its members – gratitude, care – create entitlement to property. Ko Kyaw’s statement is thus a point of entry to revisit ownership and authority in the Burmese context. To sustain this claim, this chapter connects property, authority and kinship.⁴ Land, and by extension property relations, have been analysed as a ‘semi-autonomous’ social field (Moore 1978), with its own set of (changing) rules, arbitration, competitions, actors, arenas and bypasses that have come to be studied under the rubric of land governance. An everyday perspective shows that land needs to be seen in its connection to other aspects of social and political life. Foregrounding the fact that land

is entangled in multiple relationships, this chapter, based on an ethnography of land relations (Colin 2008), is an effort to describe how my interlocutors think about it in their own terms to provide an understanding of, among other things, how rights are conceived. Highlighting the dynamics and dilemmas of inheritance transmission allows for an exploration of how authority is conceived in family relationships. The core focus is the process, the temporalities of family relationships, how people engage with each other, and the outcome a redefinition of ownership (*paingsainhmu*) not in terms of rights (*ahkwint-ayay*), but of stewardship (*okchokhmu*).

In turn, this ethnographic perspective allows us to explore the history of land relations from a new angle, showing how family relations have accommodated state projects and laws. Around Gawgyi, farmlands and harvests have been commodified for at least two centuries and multiple state projects have been set up to organize land tenure. In the genealogy of such schemes, the rationalizing of the precolonial state, the creation of a colonial land tenure, the development of socialist land reform and, more recently, the introduction of a more open land market are turning points.⁵ Yet the domain of inheritance operated to some extent alongside these projects and has been integrated into Burmese Buddhist law,⁶ ‘a construction of principles that apply to lay Buddhists and regulate matters of marriage, inheritance, and divorce’ (Crouch 2016b: 86–87), mostly used in courts. On the ground, a large array of customs regulating land use and transfers have been operating in a countryside crossed by state and market forces. Among these customs, the entitlement to inheritance has maintained a degree of continuity in local land tenure for decades, if not centuries, because, as the ethnography of land relationships in Gawgyi village shows, transmitting inheritance is about redefining authority and responsibility over things, and obligations between people. In tracing the change in land tenure over time, I rely on different historical sources: colonial reports,⁷ academic publications on the history of the country,⁸ legislation,⁹ and oral histories of villagers in Gawgyi and beyond.¹⁰

After having studied how Ko Kyaw crafted his position as headman (*okchok-yayhmu*) in the previous chapter, describing the transmission of inheritance and *in fine* ownership as a question of stewardship (*okchokhmu*) allows us to question in the next chapter another form of authority, that of *big men*, in terms of guardianship (*okhteinhmu*). This perspective enables us to link a historical dynamic – the rise of village affairs as the form of Gawgyi politics – with local conceptions of authority.

A Short History of Changes in Land Tenure

This section relates to the historical chapters of the book to describe how the flexibility of land relations over the past two centuries made the countryside

around Gawgyi a rent market in which debt, family obligations and arrangements for sharecropping operated outside the law to some extent. It shows that the colonial devaluation of a private property-based system at the turn of the nineteenth century created a picture in which the person in charge of a household was the owner of the land. However, during the colonial period as for today, there were often differences between who farmed the land (occupancy), who (momentarily) owned it and who had a potential claim to it (inheritance and pre-emption). The ‘owner’ became a state tenant during the socialist period (1962–1988) and today is the person eligible to receive a land title. On one level, the major changes in land tenure in Gawgyi since its settlement relate to state projects which aim at either rationalizing the precolonial government, devising a colonial system of land tax, developing a socialist land reform or, more recently, creating a more open land market.¹¹ On the ground, however, many local rules regulating land use and transfer have remained. Small-scale tenancies were the norm, and the entitlement to inheritance was the most enduring claim,¹² which, when needed, could be defended in court following the principles of Burmese Buddhist law. Inheritance was thus a domain the state could mediate but not truly interfere with in day-to-day practice, and it was invested by the main farming families to muster estates and wealth. This section argues that beyond the formal land tenure system, and aside from patron–client politics, what organized land relations were the dynamics of kinship (alliance, descent and the succession of generations) and the moral and social obligations between family members.

‘Hereditary Private Tenure’ and the Colonial ‘Record of Wrongs’

As Boomgaard noted for Southeast Asian precolonial polities, the question was more ‘who owns the crop’ than ‘who owns the land’, due to the scarcity of labour (2011: 449). Yet forms of ‘hereditary private tenure’ (ibid.: 448) existed in the Lower Chindwin area as it was an important trading centre of the country. On the whole, the bulk of the land was cultivated by the villagers. The families usually cleared land and the deriving claim is called *dama-u-gya*, meaning first clearing. When passed down through inheritance, it became *bobuapaing myay*, that is, ‘grandparents’ land’. The tenure was hereditary because it was inherited, and thus the term ‘private’ was merely a reflection of the temporary authority of one person over a family estate that could be sold, rented or mortgaged. The more or less formalized system of tenure of the early nineteenth century (appanage, first clearing, inherited lands and small-scale tenancies) was flexible enough to accommodate changes due to natural hazards, war and famine-driven migrations and competition for offices, and depended on the ability of local authorities to control land access and labour.

One of the main changes was brought about by the British from 1886 onwards.¹³ Their knowledge of the land was rudimentary, and a revenue system able to sustain direct rule was quickly put in place. Based on previous experiences in Lower Burma and Bengal, the Upper Burma Land and Revenue Regulation was enforced in 1889. Two major categories were officialized: state and non-state lands. The key test was whether the land was inheritable (non-state) or not (state). Decades of in-fighting and competition over offices had largely disrupted what could have been a revenue system. Thus, revenue was first drawn¹⁴ from the capitation tax. Soon, non-state lands were targeted. The recording of rights started on the premise that Burmese land ownership (notably non-state land) was ‘held in private ownership, on what is practically a full freehold tenure, and in small estates’ (Hardiman 1910: 150). What was a form of hereditary private tenure (*bobuapaing*) was understood as individual private property. In the Gawgyi area, the cadastral survey took place from 1897 to 1902 and, in the meantime, registers of rights and tenancies were compiled. At the end of this process, the parcels (called *upaing*) were assigned a serial number referencing the name of the person who now owned it, and who then became liable for the land tax. Plots were now ‘permanent holdings’ recorded under the name of an owner (*paingshin*) on paper.

Far from being a successful enterprise, the formalization of land rights became a source of conflict and competition. As Furnivall put it, the Record of Rights quickly became a ‘Record of Wrongs’ (1957: 92), and Township Courts were quickly put to work and opened a new arena for forum shopping. The cases were broadly of two types: suits for the division of familial property and for the redemption of mortgaged land. We saw in Chapter 2 that in the second case, the use of courts was a way to challenge the precolonial gentry who accumulated land through money lending and mortgaging. In the first case, the conflicts stemmed from the confusion between occupancy and ownership. Indeed, during the titling process, ‘the occupant was usually taken as the owner, although probably in a large majority of cases the family property had not yet been divided and the occupant was cultivating as the tenant or the mortgagee of the family as a whole’ (Furnivall 1957: 92). In addition, nearly half of the land was farmed through small-scale tenancies at the turn of the twentieth century (Hardiman 1910: 17–27) and in the 1920s (Hughes 1932: 39–40). In other words, there were often differences between who worked the land, who owned it and who had a potential claim to it.

What is interesting is what this tells us about the forms of land relations. Once a plot was cleared, it became part of the possessions one could transmit to one’s children, usually in equal shares, inheritance being almost fully cognatic (Hardiman 1910: 27; Koenig 1990: 40). Sometimes, a larger part was reserved for the eldest son or daughter, known as the *auratha*¹⁵ (Thant Myint-U 2001: 30).

Thus, *dama-u-gya* land eventually became *bobuapaing*, that is, a transmissible family estate. It was not ancestral property kept intact. Descent being usually bilateral and the family mostly nuclear, estates tended to be fragmented through time. In the early nineteenth century (Hughes 1932: 40), as is still the case nowadays (Huard 2018), people became owners mostly through inheritance, and tenant farming¹⁶ was the main avenue to access land. This means that a person could be recognized as the main authority of an estate quite late in life. Before that, he might farm plots as a tenant (for his parents, co-heirs, neighbours, local landlord and so on), or as a usufructuary mortgagee, for instance. Outright sales were rare, and a right of pre-emption on sales and mortgages by relations, that is by kinsmen, heirs and even neighbours, was often asserted. Migration did not erase potential claims to land, and colonial officers were confounded by how the sentimental or religious attachment to family land influenced its value and the conditions of transfer. All these claims and forms of land transfer make up a bundle of rights¹⁷ whose core is entitlement to the family estate. One of the ideas organizing land relations during the late precolonial and colonial periods was the fact that land would be given to the children, which pertains to the realm of family obligations. The pre-emption on sales and mortgages by relations, the ability to migrate and keep a claim alive, the conflict over inheritance, and the use of colonial courts to bypass local customs make more sense when understood in these terms. The formalization of ownership was but one aspect of local land relations.

‘Land to the Tiller’

The next major change happened in the decades surrounding independence in 1948 and took the form of a push to allocate ‘land to the tiller’. Once the Japanese had been driven out of the country and independence achieved, the U Nu government tried to bypass the communists and secure the support of the rural population by enacting land reform.¹⁸ The objective was to turn farmers into government tenants by proclaiming the state as the sole owner of all land and resources. This anti-landlordism policy had limited effects and scope, however. Most of the countryside was out of reach due to communist insurrections. In Gawgyi, the promotion of a ‘land to the tiller’ reform by the White Flag communists was already an opportunity to negotiate property relations to a certain extent. What first went to the tiller was the land held by gentry descendants and contested money lenders who could not maintain their hold through debts. The delivery of land titles around 1956, when the central government regained power in the Monywa region, was considered a mere formality by villagers. For Nash and Spiro, who conducted their fieldwork at that time in the central plains of Burma, it was mostly a matter of village big men’s politics.¹⁹ In addition, the

successive changes and overlapping of supra-village authorities (the British, the Japanese, the communists, the army, U Nu's government) were opportunities to compete for resources as they empowered some villagers in Gawgyi over others.

Nash has provided his own account of property relations in the drylands of central Burma. For him, land was owned by the head of the household, 'but with presumptive inheritance rights equally distributed among all members' (1965: 49). The key word is presumptive. Rights to inheritance were potential outcomes, claims that could be enforced in a particular context. He went on to talk about kinship relations and defined property stewardship as one of its bases:

Property stewardship involves the overlapping claims of kinsmen in tangible, real property ... chiefly land and cattle, house gardens, ploughs and jewellery ... Overlapping claims in real property are always graded claims. A son and daughter, a brother or sister, have putative rights in the land and cattle owned by parents and siblings. The rule of inheritance, almost always followed, of equal shares among offspring, or among a sibling group, is a recognition of this overlap in claims to property. The possession of graded rights (control by the property holder, inheritance by the offspring, usufruct for part-time work by brothers, first employment of cousins for labour, gleaning rights by anyone who can establish kin links) ties some contemporaries into tighter kin nets than their fellow Burmese who do not have estates. (Nash 1965: 69)

While Nash described kinship as a rather loose social structure in the Burmese context, he nonetheless has shown how entitlement to property and access to resources relates to family relations to a large extent. This way of organizing and legitimating claims would eventually remain operative throughout the socialist period.

We saw in Chapter 3 that in Gawgyi, the unfolding of the 'Burmese Way to Socialism' was gradual. On paper, all forms of agricultural production were declared as owned either by the state or by cooperatives. The reorganization of the economy rapidly turned into a more radical nationalization.²⁰ The centralized system of crop procurement and product distribution became more interventionist, extending to almost all products. Meanwhile the government promised an agrarian revolution that would immediately put an end to the tenant system. Since the 1963 Tenancy Act, peasants had become state tenants with delegated land use rights. They were liable for part of their production while being prohibited from transferring their land (by sales, mortgages and, from 1965, rents), except for inheritance purposes, in order to root out landlordism.

The headman was pivotal to getting around the law and registering (forbidden) changes of ownership. He could – and did – dispossess farmers through

the Land Committee if their quota was not reached, and tenants working on a plot for up to five years could claim the ‘right to cultivate’ (*lokpainghkwin*) it in their own name.²¹ In other words, the local recognition of ownership and tenancies – officially illegal – was in the hands of the Land Committee, and thus of the headman, and it fuelled cases of dispossession, repossessions and factionalism. Throughout this period, and after the reorientation of the state in 1989, small-scale tenancies,²² rentals, sales and mortgages occurred outside of the law. The legal land tenure system became a means for local officials to increase their wealth by, for instance, demanding fees for changing names on paper, while it also made it possible to keep ownership local. Follow-up on the land record and crop harvests decreased with the gradual abandonment of procurement as the state largely lost interest in controlling land tenure and focused more on introducing new high-yield crops for export (Thawngmung 2004). More importantly, local customs organized land tenure arrangements during the socialist period and beyond, operating in parallel with legal norms. That is, as with the colonial period, the state only controlled the tip of the iceberg of land relationships. Paradoxically, even if farmlands were never legally classified as *bobuapaing*, the entitlement to inheritance was the only legal way to transfer land from 1963 to 2012. Many contracts written to support a transaction borrowed the vocabulary of family obligations (for instance, to transfer a land for supporting a family, for eating and so on) to accommodate reality and legality.

Post 2012

The last main change in land tenure happened around 2013, when the 2012 Farmland Law barged into the village to legalize the land market. It opened up an opportunity for farmers to apply for a Land Use Certificate during the titling process carried out by the SLRD. To some degree, it reintroduced the concept of private property²³ as land use rights could be legally sold, mortgaged, rented, pawned and inherited. In Gawgyi, the titling process opened a Pandora’s Box, as some long-standing disputes came to the forefront. Eventually, it became more a matter of recognizing who has authority over which parcels and updating the cadastre at low cost. Overall, the flexibility of land relations made the countryside a rent market in which debt, obligations and arrangements for sharecropping have accommodated laws and state projects to some degree throughout the past two centuries. The colonial picture of individual and private land owners was followed by the image of farmers as state tenants who now have Land Use Certificates. The successive reforms may have changed forms of ownership,²⁴ but beyond the formal land tenure system, and aside from patron–client politics, we have seen that what organizes land relations are the dynamics of kinship (alliance, descent and the succession of generations), the moral and social obligations

between family members and a conception of ownership as property stewardship. These domains are often overlooked as international NGOs, debates around the ‘rule of law’ and foreign investors drag the focus towards laws, policies and the recognition of customary rights.²⁵ As we will see in the next sections, an ethnography of land relations shows that transmission of inheritance is not only about land, but relates to the conceptions of the person, to how relationships create claims on things and to how authority is conceived.

Conceptions of Inheritance

This section describes the local conceptions that impinge on inheritance and links them to legal, historical and anthropological literature in order to anchor the subsequent case study on the actual dynamics of transmission.

In the countryside of central Myanmar, inheritance (*amway*) is supposed to be given by the parents after their death²⁶ to their biological children in an egalitarian way (*anyi ahmya*). This is how the villagers of Gawgyi formulate the rule governing the transmission of inheritance. In this village inheritance is still the main way to access land.²⁷ On the whole, an ideology of inheritance is a set of rules that defines a strategy to allow for the continuity of a farm (Rogers and Salamon 1983). In Gawgyi, it is a never-ending process of legitimation of claims, of exclusion and of redefining obligations.

In the broadest sense, passing on inheritance refers to the responsibility of parents to raise their children. Life is conceptualized according to two meanings: as vital breath (*athet*) and as a condition of existence (*bawa*). Parents do not give life in the first sense, but allow it in the second, and have a duty to promote it. They are benefactors (*kyayzushin*) for their children – as are Buddha and teachers – who are owed gratitude in return (Schober 1989). There is an obligation of care between parents and children (*pyuzu saunshauk*): first from parents to their children and later vice versa. It is dynamic. This must be known and applied without being said (*htitat*). Parents must pass on a set of knowledge, skills and possessions, but the children also have a responsibility towards their parents. In one of the written laws that were used to adjudicate cases in precolonial Burma, the metaphor of stewardship is deployed to explain how entitlement to property is created through personal relationships:

The teacher has power over the property of the scholar, parents over that of their children, husbands over that of their wives, and the master over that of the slave. The scholar has power over the property of the teacher, children over that of their parents, the wife over that of the husband, and the slave over that of the master. Regarding these four kinds of power, when the teacher has taught the scholar his craft, and they are living

together, their property is in common; ... Why is this? – because the scholar is the steward, the person in charge of the property. (Richardson 1847: 177–78)

In other words, *living together creates a relationship that entitles one to property because the mutual obligations between people create claims over things*. Being entitled is to be potentially in charge of the patrimony. Commensality, called ‘living and eating together’ (*adunay adusa*) or ‘one pot, one household’ (*tit-o tit-ein*), is crucial in defining what constitutes a family, like the sharing of the same eating pot or the pooling of resources. It has been noted early on that the equal division of inheritance eventually led to the fragmentation of estates (Hardiman 1910: 28). This centrifugal tendency was nonetheless counterbalanced by a centripetal one that can be described as a ‘keeping-while-giving’ paradox akin to Annette Weiner’s theory developed in 1992.²⁸ The parents should pass on inheritance equally, but they often keep a part of it for the person who will take care of them and continue the family. Thus, if there is a tendency for families to fragment due to neolocal settlement after marriage, bilateralism in descent and equal division of inheritance, there is also an inclination towards maintaining continuity, notably within large farming families. The conceptions of kinship and family, in terms of shared blood, heredity and descent from a common womb and semen (Spiro [1977] 1986: 44–45), emphasize this disposition. One child in particular, called the *auratha*, in theory the eldest son or daughter, was supposed to take on the burdens and responsibilities of the parents:

The status of *aw-ra-tha* [*sic*] was not solely ascriptive, however, as it carried with it certain functions which had to be fulfilled for the welfare of the family. The duties of the *aw-ra-tha* were to assume the responsibilities of the father, discharge his debts, and continue the family. It was therefore necessary that the eldest son be competent to meet these obligations. (Koenig 1990: 40–41)

This status still exists to some extent in Gawgyi, as we will see in the case study below.

In a narrow sense, inheritance refers to the material or tangible patrimony. This is divided into two categories following a centre–periphery distinction that shares commonalities with the galactic, or centre-oriented, traditional polities described by Tambiah ([1973] 2013). There is the ‘inner property’ (*atwin pyitsi*) of the household: gold, jewellery, house, vehicles, farm machinery, sometimes livestock and so on; and the ‘outer property’ (*apyin pyitsi*): agricultural land, trees, crop drying areas and so forth. In general, outer properties are given in

equal portions to each child and those at the core are meant for the person who stays with the parents to take over responsibility for the family. The centre–periphery division of property is always subject to negotiations and thus should be understood as a sketch, and not a map,²⁹ of how to transfer inheritance. Passing on patrimony is a process that never really begins or ends and, because generations intertwine, the obligations between family members and the authority over people and things are constantly transforming.

Transmission is rarely carried out in one go at the time of the parents' death, but occurs at different times, such as during marriages or when the parents define how they will be cared for during their lifetime. A marriage officializes the creation of a new family and the spouses receive a wedding gift (*lethpwe*)³⁰ from their parents, usually in the form of a sum of money. To propose to their future wives, men (their parents) bring what Spiro called the 'bride price' (*tintaung*; 1975: 90), sometimes including land and which *de facto* constitutes all or part of their inheritance. Once married, the whole of the patrimony donated by the parents of the spouses becomes conjugal patrimony. During divorces, the contributions of each spouse can theoretically be separated if one or the other has committed a serious fault (adultery, non-involvement in the domestic economy, alcoholism, dubious expenses and so on). The general situation is that of children receiving bonding gifts to create their own family, and if those transactions include their share of inheritance, it can cancel out their entitlement to their parental patrimony. In addition, adoption is often used to designate a person (a niece, a nephew, a grandchild)³¹ who will take care of the adopting parents, and that person then becomes entitled to inheritance. To advance the family, a 'close' outsider can thus be brought in, becoming a full member. Overall, transmitting inheritance means fulfilling one's obligations by taking into account the history of various transactions occurring within a family. It also depends on the strategies to access resources. To describe this difficult undertaking, let us follow the example of one family in particular.

Recalibrating Relationships

When we met in 2013, Ko Kyaw was about thirty-three years old and, unlike his older sister and younger brother, he was still single. Coming from a family of relatively wealthy farmers, he slept at his parents' house and ate food prepared every morning and evening by his mother, Daw Hlaing, for him and his father U Bo. In the evening, the latter went to sleep at his 'little wife's' (*meyange*)³² house but still had dinner with Daw Hlaing. Sharing the same pot defines the restricted family sphere. Ko Kyaw, who was then the headman of the village tract (from 2013 to 2016), occasionally registered sales contracts, demarcated the plots of land and worked some of his parents' land.

A year and a half later, his situation was quite different. He had married Ma Khin and they had a daughter. Settling at first with Ko Kyaw's parents, the couple then moved to live with Ma Khin's mother, Daw Nu, after the birth of their child.³³ Ma Khin stopped working at an electronics store in Monywa while Ko Kyaw had become more and more involved in agricultural work. His parents bought a tiller to make ploughing easier and lent him money to partially finance the construction of a greenhouse and the drilling of a well to establish a betel garden on one of their plots. Ko Kyaw can engage in such projects on his parents' land because he is seen as the child who will become responsible for them. The boundaries are porous between what belongs to the parents and what belongs to Ko Kyaw, even after his marriage. For example, the betel garden project, set up to support his home, was partly financed by a loan from his parents which Ko Kyaw repaid after the first harvests. Ko Kyaw's privileged access to his parents' patrimony is granted to him because their respective assets – those of the parents and those of the couple – are supposed to be combined in the long term. Deciding who has the right to access the parental estate is a delicate undertaking for his parents, as they have not yet defined what, how or when to give inheritance to all their children.

Marriages are crucial moments in the temporality of this transmission. Daw Hlaing and U Bo gave inheritance to only one of their three children, Ko Nway, at his wedding. Ko Kyaw's sister got married first. As is customary, she received her *lethpwe* at her wedding, but not her share of the inheritance. She married a former village headman who is in charge of his own parents. They promised him a large portion of their wealth at the wedding and the young couple settled in their house. Ko Nway, the last son, also received a *lethpwe* (approximately 100 USD) from his parents, who funded the wedding ceremony. He also received his share of the inheritance, in this case four acres and two zebus,³⁴ following the agreement reached during the engagement ceremony between the spouses' families. This marriage ensured a substantial economic base for Ko Nway and his family, uniting him with a woman whose patrimony was guaranteed. For her part, the bride, the eldest of six siblings, was adopted by her maternal grandfather, U Htoo, to care for him in the future.

Taking care of parents, whether through blood ties or adoption, also reinforces the legitimacy of claims over parental assets and even allows them to receive a little more. U Htoo has already given his two blood children their share of inheritance and since then has lived with Ko Nway and his wife, who thus gained access to his patrimony – a house and ten acres. The latter will become the owners after the death of U Htoo. Adoption can thus serve as a safeguard to avoid potential conflicts between rights holders while preserving land within families. It is a lever to secure a profitable alliance and ensure care for U Htoo in his old age. Changes of residence, marriages and adoptions are therefore crucial

elements in understanding how inheritance transmission is configured according to family and patrimonial trajectories. The egalitarianism promoted by the rule of inheritance transmission is sometimes undermined. The dynamics of family formation, mainly articulated around marriage and adoption, are influenced both by strategies for controlling resources and the need to take care of people. Parents have to give equally but retain a larger share for the one who will be responsible for them. This is the keeping-while-giving paradox. It is justified by a sense of fairness: the person providing care and taking responsibility should get more. It relates to the precolonial definition of the *auratha* – the child who will take the burden of the parents upon himself – but is also seen as an investment in kinship to access land and resources.

For Ko Kyaw's parents, it was not yet time to clarify how the inheritance between him and his sister would be passed on. Once married, Ko Kyaw lived temporarily with his mother-in-law, Daw Nu, a widow since 2005. He worked hard to establish his home – he, his wife, their daughter – while anticipating how he would look after his parents. Ko Kyaw and Ma Khin did not receive their share of the inheritance for their marriage. When he came to live with his mother-in-law, the arrangement was that Ko Kyaw would farm her land without any direct benefit. The other children of Daw Nu never really farmed these plots. By joining forces with her son-in-law, Daw Nu ensured her harvest, as he had the necessary material capacities, knowledge and network. In addition, during the land titling process, certain parcels owned by Daw Nu were registered by Ko Kyaw – as village headman – under the name of his wife, Ma Khin, in order to apply for a larger loan from the agricultural bank. Thus, Ko Kyaw and his wife tacitly and partially took over Daw Nu's land, potentially creating rights to her property.

A year later, the couple returned to live with Ko Kyaw's parents because it is here that their home should flourish, he said. The two families lived together, but generally did not share meals. The two households remained side by side until the situation became clearer, that is, when the young couple would need to take charge of the parents. During this phase of uncertain relationship building between the two families, the definition of mutual responsibilities and the extent of the commitments made are tested. Ko Kyaw's father, U Bo, became seriously ill during this period. To finance his hospitalization, U Bo and his wife Daw Hlaing sold two zebus and some jewellery and contracted a debt of about 700 USD from a villager. U Bo died a few weeks later, officially from stomach cancer, though local rumour attributed it to witchcraft. After the death of U Bo, Daw Hlaing had to finance the funeral alone and repay the debt. It was her sole responsibility and duty as a wife. Her married children were not directly responsible for this debt, at least not while Daw Hlaing was able to pay it. To do this, she worked daily before the monsoons, ploughing the land of other villagers with her

two remaining zebus. She could have sold a piece of land, but she chose not to. Selling in case of emergency, selling ‘because you have a stomach-ache’, would likely achieve a poor price. Moreover, there was no need to give away a piece of her patrimony to which a part of her offspring is entitled, and which, moreover, could be used as a pension.

Transmitting inheritance is thus about changing and endorsing a division of responsibilities and authority over things and people. It is a cyclical process, in the generational sense, whose stages need to be clarified according to individual and family trajectories. Concerning Ko Kyaw and his mother, this clarification was still problematic.

The death of U Bo in late March could have triggered the union of the two homes: that of Daw Hlaing and that constituted by Ko Kyaw, Ma Khin and their daughter. But it did not, at least not yet. At the age of sixty, Daw Hlaing ploughs plots of land almost daily to pay off her debt and waits for her son and daughter-in-law to take care of her. For example, estimating that by herself she represents about twenty acres, she says they will only receive the house if nothing changes. She also says they should ‘do the work for her’ (*alok kyway*). This expression uses the verb *kyway*, close to ‘treat’ in English, in the sense of offering, serving (a meal) or doing for. Thus, it seems normal for Daw Hlaing that her son and daughter-in-law do the work for her, that they take her place and take care of her. That should be their responsibility.

Ko Kyaw and his wife mainly cultivate the betel garden. Ko Kyaw also ploughs his mother’s land, that of his mother-in-law and others, thanks to the rototiller. They work partly for Daw Hlaing, but not to pay down her debt. The future of the relationship is uncertain. This fragile balance is reflected in the way food is shared. Every morning, Daw Hlaing cooks her own meals and rare are the dinners she shares with Ko Kyaw and Ma Khin. The tension is not obvious, and the partial absence of commensality symbolizes a situation in transition: eating together expresses a domestic union and a sharing of resources, home, property and debts. In addition, each family has its own money keeper (*ngwayhtein*), Ma Khin and Daw Hlaing respectively, who keeps track of their household’s expenses.

Although the two domestic economies are partially entangled, Ko Kyaw and his wife do not take full charge of Daw Hlaing. This has to do with an inheritance problem that makes it difficult to redefine who has authority over the household and who is responsible for wealth and debts. In this case, the situation is at a standstill because Daw Hlaing’s assets are not yet fully established. It is necessary to go up the generational scale to understand the dynamics associated with this heritage.

Daw Hlaing was born in Tozigon, a neighbouring village of Gawgyi. She was adopted during her adolescence by her paternal uncle who had no children.

She later married U Bo, lived with him in Gawgyi for a few years, and the couple settled with Daw Hlaing's adoptive father until his death. Daw Hlaing then received her inheritance. The way she tells this story is significant. By way of inheritance, she received seven acres and a house. However, her adoptive father also bequeathed her a ruby, not as an inheritance, she said, but 'to eat'. Daw Hlaing and U Bo then returned to live in Gawgyi to care for his parents. Later, Daw Hlaing's blood parents, caught up in a difficult situation, asked her to give them the ruby to pawn, promising to repay her as soon as they could. She assented. During an evening discussion on this subject in late June 2016, Daw Hlaing and her two sons told me with some difficulty how her father, after having pawned the ruby to a lender in the nearby town of Kyawkka, lost almost all the money through gambling. Daw Hlaing has been waiting for her parents to repay this debt for over twenty years. The latter settled in Gawgyi, in an area adjoining the house of U Bo. Daw Hlaing's widowed mother still lives there with two of her sons. She is almost eighty years old and remains the guardian of the money for her entire household, collecting the income and deciding what to spend. She has not yet decided how the patrimony will be divided.

If, following Graeber (2011), we consider that debt is but one form of obligation characterized by the fact that it can be quantified and cancelled out, then the value of the ruby is now hardly quantifiable. It pertains to the realms of family obligations rather than debt and is an ambiguous obligation. The relationship between Ko Kyaw and Daw Hlaing therefore depends on the clarification of that obligation between Daw Hlaing and her mother. Since the death of her husband U Bo, Daw Hlaing has more or less openly evoked how she has not yet received any inheritance from her blood relatives. In theory, she is no longer entitled to it, having already obtained that of her adoptive father, but she adds that the ruby was not an inheritance *per se*. Describing it as a given thing 'to eat', and not as inheritance, legitimizes Daw Hlaing's claim on her blood relatives – given the debt associated with the loan of this ruby – by reformulating the status of a thing according to its context of transmission. If Daw Hlaing estimates her land holdings at about twenty acres, it is not because of her title deeds. She counts her parcels but adds the acres owned by her mother that could potentially pay off the ruby.

Finding an equivalence, or a substitute, in the search for fairness in the discharge of a debt is a delicate undertaking. It requires one to find an equivalence of value in a peculiar situation that contradicts the normative framework of family relationships. This is especially true here, as the families live on good terms and a conflict would inevitably impact them, as well as relatives, even the neighbourhood and potentially the entire village. No agreement has yet been found. It is now possible to answer a critical question: why does Ko Kyaw not take care of his mother? Ko Kyaw does not yet take care of his mother because if he does,

he becomes responsible for her debts in an unstable situation. This would put him in the middle of a tense situation in terms of who owes what to whom and on what grounds. In addition, his sister has not received her share of inheritance, his father has just died and his mother, in debt for the hospitalization, is trying to put forth an obligation to her blood family. If Ko Kyaw takes care of his mother, he will somehow take her place. Formalizing such a relationship with her would transform his relationships with other people, as he would have authority over patrimony whose contours are under discussion.

This is why, ultimately, Ko Kyaw can say that a piece of land belongs to no one. The land in question was his father's on paper – he changed it under his mother's name – and his sister was also entitled to it. Most importantly, the question at stake was not who owns that land, but who will. This uncertainty is linked to the intertwinement of three generations. Thus, ownership is about gaining authority and responsibility over things, obligations and people. It is a process of becoming and an achievement. Because entitlement to inheritance is the most enforceable claim, it is the closest thing to 'a right that could exist outside of the context of realizing it' (Prasse-Freeman 2015: 96). Yet it is always a potentiality that could be realized, because even if it is vested in the status of a person, it comes to craft one's position within a dense social landscape. When someone is recognized as the owner of an estate, it means that this person has achieved a position of stewardship of that property. Ownership is but momentary and the idea of stewardship (taking care, being in charge of) reflects how authority and responsibility for things and people is conceived.

Transmission, Engagement and Leadership

At the end of this journey, we have seen that the transmission of inheritance is critical in the production of power relations, for people do not transmit simple things, but also a responsibility and an authority over those things. The short discussion on changes in land tenure has shown that entitlement to inheritance has organized local land relations since at least the eighteenth century alongside a series of state projects and legal codifications. In any case, it continued to operate to the point that inheritance remained the main avenue to access land in the early 2010s in the rural areas of central Myanmar. This transfer is not only about land but relates to how familial and personal relationships create legitimate claims on things. In Gawgyi, the rule of equal division between children thus appeared as a roadmap constrained by a keeping-while-giving paradox: the actual transfers of inheritance combine the push to provide a living to one's offspring and the pull to perpetuate the family. The main farming families had attempted to pull people and resources by using this paradox and muster estates and wealth. What makes a family – hierarchy, commensality – and the mutual

obligations between its members – gratitude, care – are key because they create entitlement to property. For one of the children, who usually receives more, it also means taking upon oneself parental patrimony and liabilities. A case study of one farming family in Gawgyi has shown how this process is crisscrossed by uncertainty because the transmission entangles multiple generations, moments (marriage, adoption, death) and strategies to access wealth, to the point that one can say that ‘nobody owns’ this or that piece of land, given that the redefining of liabilities and responsibilities between people is under way. Ultimately, ownership is not about individual private property but about stewardship: taking care of land, of a family, being in charge, being responsible and taking upon oneself the obligations, the debts and the opportunities. ‘Nobody owns the land’ is thus saying that ownership is uncertain due to the complexities of life and family relationships. Who will end up as the owner is not completely foreseen, and ownership is never really finite as long as there are co-heirs and potential co-stewards.

The main conclusion is that the family domain is a configuration of power within which people calibrate their engagement with each other. Transmitting inheritance is a process of redefining authority and responsibility over things, and obligations between people. Focusing on transfers within families thus allows us to understand the family as a political domain in tension, and intrafamilial engagement as a way of situating oneself and manoeuvring in a network of responsibilities, potentialities and obligations.

It is now possible to expand the implications of this conclusion to the field of village leadership. Within the realm of family relations, authority is conceived as a matter of stewardship (*okchokhmu*): taking care of a patrimony and of the persons attached to it through kin ties. Yet the field of family relations was a matrix for thinking about rightful filiation and by extension about leadership. The arguments justifying how an office should be transmitted are similar to those defining in Burmese Buddhist law who can take over a family. The conceptualization of filiation and stewardship, through the concept of *auratha* (or ablest child), was a base for thinking about the transmission of offices in precolonial Burma when competition for leadership was a central stake in local politics (Chapter 1). Koenig has shown that personal abilities rather than primogeniture were key, because there was no ascriptive element strong enough in defining who among the children should succeed one’s parents:

Hereditary was necessary to establish a primary claim to office, but the claimant was also required to be minimally capable of performing the duties of the office as determined by the other local officials. The *Da-yit-za di-pani* [Treatise on inheritance] of 1811 explains: If the son by the head wife is blind or deaf, or otherwise deformed, and is not known

to the local authorities, he is the eldest son only in name but does not obtain the status of one. The son who industriously performs his father's duties and is known to the local authorities is considered as the eldest son though he may be born of the lesser wife, and he shall succeed to the hereditary office ... *Birthright was therefore contingent on competence and the consensus of the other officials, and primogeniture was qualified by the requirement of competence and the cognatic nature of Burman inheritance that gave all children some claim on the estate.* (Koenig 1990: 144–45, my emphasis)

Thus, in the realm of family transmission, as for the domain of filiation in gentry families holding offices in the nineteenth century, authority was ascribed in terms of heredity but achieved in terms of aptitude. The emphasis on personal abilities goes beyond family relationships and pervades the literature on leadership, from the legitimization of kings to the conceptualization of politics in terms of men of prowess and patron–client relationships. The combination of, and tension between, heredity and ability are at the core of the theory of politics in the Burmese context. Cast in the realm of Gawgyi politics, what does it imply?

Since the inception of the Myinmilaung tract, only the first two headmen were linked by heredity according to a local theory of habitus ('who lives close to a hunter becomes a hunter; who lives near a fisherman becomes a fisherman'; cf. Chapter 2). The succession of the next headmen (office holders) departed from this practice and they were selected following the balance of power within the village tract, the moral shifts and the ways in which the governments wanted to transform and control the countryside. Thus, village headship in Myinmilaung became an ambivalent position crossed by conceptions about rightful leadership, by factionalism, and at times embodied by persons who marked ethical ruptures. We saw that Ko Kyaw could not have been the 'administrator' (*okchok-yayhmu*) imagined by the state, taking care of and responsible for the village tract. Nonetheless, the idea of 'taking care of' as a form of authority is present in family leadership, related to personal abilities and mutual obligations between 'parents' and 'children', and conceived in terms of stewardship.

What is interesting is that the village big men, the *lugyi* who take care of village affairs, are also named with an expression referring to the idea of 'taking care of'. This expression, translated in English as 'guardian of village affairs', is *ywayay okhteinhmu*. The word *htein* is preferred by Gawgyi people to the word *chok* – present in headman/administrator – because the former refers more to the idea of 'looking after', 'herding' or 'guiding', hence the translation as guardianship. This semantic leaning reflects the juncture of the rise of village affairs as the form of local politics with the transformation of village leadership.

The question now is how far can the comparison between family stewardship and village guardianship be pushed to help us understand village affairs as a domain of engagement? If what makes a family and the mutual obligations between its members make families a domain of politics, then what is political about taking care of a village? What are the obligations between its members and how do they engage with each other? To explore these issues, we now need to look at how Gawgyi is shaped as a collective and question what the big men's worth is made of.

Notes

1. Portions of this chapter were published in 'Nobody Owns the Land: How Inheritance Shapes Land Relations in the Central Plain of Myanmar', *Journal of Burma Studies* 24(1) (2020b).
2. This chapter does not concern areas where ongoing or past land disputes involve resource extractions (such as the case of the Letpadaung copper mine near Monywa; cf. Amnesty International 2017; Prasse-Freeman and Phyo Win Latt 2018), military-private partnerships (cf. Woods 2011), ethnic conflicts (Transnational Institute 2013) or agro-industry (cf. Woods 2015).
3. On the relations between access, property, power and authority, see Sikor and Lund (2009).
4. On Burmese kinship, see, among others, Kumada (2015), Nash and Nash (1963), Nash (1965) and Spiro (1975, [1977] 1986).
5. Here I refer to the post-2012 land bills, notably the Farmland Law No. 11/2012 and the Vacant, Fallow and Virgin Lands Management Law No. 10/2012 which foster the commodification of land.
6. As Crouch has shown, Burmese Buddhist law encompasses a series of precolonial texts called *dhammathat* compiled as a source of law by colonial lawyers and judges from which Burmese legal practitioners departed through comments and textbooks operating as definitive restatements of the law (cf. Crouch 2016b). On *dhammathat*, cf. Huxley (1997). For key works about Burmese Buddhist law, cf. E Maung (1970), Lahiri (1957) and Maung Maung (1963).
7. Cf. Hardiman (1910, 1912) and Hughes (1932).
8. Cf. Brown (2013), Cady ([1958] 1960), Charney (2006, 2007), Cheng Siok Hwa (1965), Furnivall (1957), Koenig (1990), Lieberman (1984), Steinberg (1981a), Taylor (2009), Thant Myint-U (2001), Thawngmung (2004) and Toe Hla (1987).
9. Tenancy Act (1936), Land Nationalization Acts (1948, 1953), Enterprises Nationalization Law (1963), Farmers' Rights Protection Law (1963), Tenancies Law Amending Act (1963), Procedures Conferring the Rights to Cultivate Land (1964, rule 64/1), Law to Protect the Implementation of Socialist Economic System (1964), the Farmland Law (No. 11/2012) and the Vacant, Fallow and Virgin Lands Management Law No. 10/2012.
10. Oral histories and data on the conceptions and practices of transmitting inheritance were also collected in several villages in 2013–2014 and 2015–2016 in Monywa, Yinmabin and Budalin townships, notably in Hnawpin North, Hnawpin South, Innte, Ayadaw, Kyawkka, Thazi, Ywadon, Budaungkan, Kyawsipon, Booba, Minzu, Zeehpyubin, Salingyi, Nyuangpinthar, Kothan, Hledar and Aungchanthar.

11. For an example of a genealogy of how state projects were adapted and transformed by the successive governments, see Ferguson (2014).
12. I do not claim that the transmission of inheritance is a static custom that remained unchallenged and never transformed in the past decades. More research is needed to specify the transformation of customs pertaining to property relations in Myanmar at large. For an example of such a study, see Crouch (2016a).
13. Before colonial rule, King Mindon (1853–1878) attempted to reorganize the local systems of dues and duties between the villagers, the hereditary gentry, the appointed officials and the Crown by introducing a capitation tax. This could have changed the nature of political hierarchies by undermining local traditions, but it remained largely a failure and, while it led to the rebellion of many gentry leaders (Thant Myint-U 2001: 115, 173), it did not transform how inheritance influenced land tenure.
14. This inflow entered both the district's coffers and the (newly created) village headmen's pockets – the latter ascribing individual households' shares.
15. This word can also be written *aw-ra-tha* and *orasa*; see Crouch (2016b).
16. The local moral economy fixed the norms of these mostly sharecropping arrangements, depending on rains, relations, quality of the land, who pays the land tax, who provides the seeds, the tools, and so on (cf. Hardiman 1910; Huard 2016).
17. This notion was first used by Maine and was reconceptualized by Beckman as the arrangements of rights and obligations bundled in a thing – such as land – and is thus a metaphor used to describe property in its characteristic as a relation between different actors (cf. Maine 1861; Benda-Beckmann et al. 2006).
18. The 1948 Land Nationalization Act for the most part echoes the content of the unimplemented Tenancy Act of 1936, the objective of which was to resolve the tenancy problem in Burma.
19. Large land owners and tenants formed the upper class of villages and small-scale tenants and daily labourers (in many cases the 'tillers') depended on big farming families.
20. Nationalization was notably enacted through the 1963 Enterprises Nationalization Law and the 1964 Law to Protect the Implementation of Socialist Economic System.
21. Procedures Conferring the Rights to Cultivate Land, 1964, rule 64/1.
22. In 1971, between one-third and one-half of the land in the Chindwin region still operated via small-scale tenancies (cf. Steinberg 1981a: 127).
23. Although the state still remains the sole land owner. This law adds another layer within a system of stacked laws (cf. Mark 2016).
24. On this point, see Ferguson (2014: 298).
25. See for instance: Andersen (2015), Faxon (2017), McCarthy S. (2018), Oberndorf (2012), Shivakumar and Saw Hlaing (2015), Su Phyo Win (2017) and Willis (2014).
26. Traditionally, succession of parental properties is made on the third or the fifth day following burial of the last parent, during a commemoration ceremony at which all relatives gather. The elders among the relatives usually manage the division and distribution of the properties to the siblings. In practice, however, the division of inheritance often happens before the death of the parents.
27. Cf. Boutry et al. (2017) and Huard (2018).
28. My aim is not to follow Weiner's argument about how the inalienability of transmitted things is the basis of political hierarchy, but rather to focus on the personal relationships (Weber 2000) visible at the village level and not on the quality of objects, because this quality is evaluated according to the relationships at stake. Starting with family relationships, one can see how the transmission of a patrimony is nonetheless

- political because, through the ability to give and keep, the question of responsibility and authority is at stake (Weiner 1992: 150).
29. Seeing the norms for dividing inheritance as a sketch rather than a map – that is, as guidelines rather than strict rules – allows us to highlight the processual nature of this transfer. On the difference between a sketch and a map, cf. Ingold (2016).
 30. The *lethpwe* also encompasses the things given by the people invited to the wedding and can be understood as a gift bonding the couple.
 31. The adoption of young children is called *mwaysa*, while the adoption of adults (for the explicit purpose of continuing the family) is called *mwayhkan*.
 32. On the question of polygamy under Burmese Buddhist law, male domination through law, the impact of recent changes in the legislation (the 2015 Monogamy Law and the Buddhist Women’s Marriage Law) and the debates and changes over time in the use of the words to describe first, second and third wives, cf. Crouch (2016b).
 33. The settlement pattern of newly-wed couples is mostly neolocal, but the issue of transmitting inheritance and of continuing the family (or just of saving enough money to build one’s own house) often leads the couple to reside at the house of one of the spouse’s parents, depending on life circumstances and strategies to access wealth.
 34. A zebu is a type of cow (*Bos indicus*) from South Asia, with a large hump on its shoulders, used in many forms of farm work.