

# Turning Land into Capital

## A review of recent research on land concessions for investment in Lao PDR

Part 2 of 2 – Gaps analysis and recommendations for future research



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Phase I – Preliminary Desk Review

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## **Executive overview**

Part 2 of this report summarizes a number of existing gaps in the literature as a way toward moving forward toward future projects, both research- and non-research-oriented.

Recognizing that the INGO Network is just beginning to discuss what future action might look like, the recommendations for future research are presented in the form of eight “gaps.” Individually and in combination, these gaps present a wide range of possibility for future intervention. I have tried to present these gaps in abstract yet practical terms in order to leave open a variety of options (about timing, size, scope, location, and so on) in ongoing discussions about how to move forward. Readers interested in an executive summary may wish to focus on the Conclusion.

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Cover photo credit: Mike Dwyer, Vientiane province 2004

## Gaps analysis and recommendations for future research

### 1. Land concessions *per se*

Despite the persistence of multiple interpretations (in common use as well as in the land policy literature), there seems to be an adequate empirical basis for a definition that distinguishes land concessions from land leases in more detail than has occurred previously. The essence of such a definition would recognize (i) the heterogeneity of the rights that can be conceded (e.g., the right to survey and explore, the right to negotiate, and the right to use); and (ii) the possibility that concessions can be issued over lands that are acknowledged by all parties as village land. To put it simply, leases pertain to land *parcels* while concessions pertain to one or more of a number of land *rights*. Box 1 gives a more precise “working definition” that attempts to formalize this difference between leases and concessions while remaining faithful to the flexibility of concessions-in-practice.

#### Box 1: What *are* land concessions?

**Working definition:** *A land concession is the limited conceding of a land-based right (or rights) by the state to an investor in order to lower the investor’s assumed risk to a level that will permit further action in the investment process.*

As suggested in the studies reviewed, the precise nature of the “land-based right” depends on the resource involved – its physical and social accessibility, as well as the amount that is already known about it. Thus, “land-based right” can refer to, for example:

- the right to *use* land (if the resource accessible and well-known),
- the right to *negotiate* with villagers for land that is deemed physically appropriate and accessible, but whose social availability is uncertain and subject to local approval, and/or
- the right to *survey exclusively* (i.e. to survey without competition), if both physical and social suitability are unknown or contested.

“Limited” refers to the fact that the right can be defined in space and time, and can include management responsibilities as well. “Ceding by the state” leaves open the thorny question of who the land belonged to in the first place; this is a question of critical importance, and its answer should not be assumed in the definition.

The tendency of non-specialists to use the term “concession” (*sampathan*) relatively loosely both in writing and in conversation – often simply to refer to a large project involving a foreign investor, and sometimes solely on the basis of the commodity being produced – is one clue that “concession” should be defined broadly (land *rights* rather than land *parcels*). But it also raises a number of difficulties in assessing the negative impacts of land concessions and, more importantly, in attempting to design remedies to address the problems. There remains a gap between an increasing number of geographically-limited, concessions-focused case studies and a number of large-sample, more general studies of development, some of which have encountered land concessions as a problem area. A number of these general studies have the potential to shed substantial light on the subject of land concessions, but the information provided about concessions *per se* is in many cases insufficient for the level of detail (about tenure arrangements on the one hand, and livelihood impacts – both positive and negative – on the other hand) desired by those engaged in the concessions debate.

**Gap 1: Clarify existing literature that has encountered negative social impacts of land concessions.** In the literature that identifies negative impacts of land concessions but is not explicit about what is meant by the term concession, what is the nature of the concession and what is the nature of the negative impacts? Understanding the details in these studies will help clarify the *external validity* – the ability to generalize from particular cases – of the case studies in which land concessions are better understood, but which raise questions of whether and how results can be extrapolated to other places, times, companies, crops, and so on.

## **2. Assets vs. entitlements in assessing concessions impacts**

Closely related to the “village-covering” character of many land concessions is the question of rights to compensation for assets taken by development projects. Although compensation for lost assets is guaranteed in law and is widely acknowledged by government at all levels, there are, as quoted in Part 1, “a range of land uses...for which the legitimacy of compensation is not recognized either in law or in practice” (World Bank 2001). In this context, two questions for systematic empirical investigation emerge: First, what resource *entitlements* are considered *assets* worthy of compensation, and what roles do existing laws, policies, calculations and beliefs play in actual compensation processes? The distinction between entitlements and formal assets<sup>1</sup> applies both to extensive, rotational and communally-managed resources in the case of forests and NTFPs,<sup>2</sup> swidden lands, grazing lands, fisheries and wetlands, as well as to more sedentarized forms of agriculture that are conducted privately on land belonging to the state, as in peri-urban Vientiane (cf. VT 2007a). The debate here is not about *whether* entitlements are lost to land concessions – they *are*, and some, where the degradation discourse is involved, are even targeted for conversion. Rather, the debate turns on *what forms* of entitlement should be compensated and what should not. The second question asks what *forms* of compensation should be acceptable, and in practice often turns on whether employment (and what kinds of employment) constitutes adequate compensation for the loss of assets (cf. VT 2007a, 2007b).

For better or for worse, these are both challenging questions which bring up fundamental ethical and philosophical questions about development and under-development, the role of the state, and the rights and responsibilities of citizens; in short, these questions are inevitably political. But no matter what one thinks, better understanding the relationship between existing resource tenure, compensation practices and both formal and informal mitigation will better inform the debate.

**Gap 2: Assess the distinction between assets versus entitlements in land concessions-related compensation.**

- **All projects** – In the widespread absence of formal land titling systems that are capable of unambiguously inventorying and valuing land assets for compensation purposes, compensation will continue to be handled using existing institutions on the basis of previous experience. Although the right to compensation is recognized, many concessions-related land conflicts can be better understood by looking at how concession

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<sup>1</sup> The concept of entitlements (Sen 1981) recognizes the importance, especially for the poor, of food-procurement systems that do not fit into, and are thus not guaranteed by, *formal property* systems, but that are nonetheless recognized locally – including by governments – as necessary, if not entirely desirable.

<sup>2</sup> Among non-property entitlements, NTFPs in particular contribute substantially to cash income and food security, playing a key role in the social safety nets and coping strategies upon which the poorest of the poor rely (Foppes and Ketphanh 200, 2005). See also MAF 2004.

activities have encountered existing practices (e.g., agricultural practices, taxation, and land clearing-related fines) and institutions (e.g., village-level land use committees, Land Tax Departments, and Agriculture and Forestry Departments). Although much of this ‘existing terrain’ is by now well-mapped in the literature on land allocation (e.g., Badenoch 1999; SPC 2000; Vandergeest 2003; BIRD 2003; GTZ 2004), the finding that land allocation activities certified less land than many people actually use (or were accustomed to using) has not yet been systematically translated into the realm of land concessions compensation. It nonetheless suggests that a substantial difference exists between statutory (certified) property and the use-based entitlements upon which many rural communities depend, a hypothesis supported by a number of the studies reviewed in Part 1. In particular, land tax payment, rather than prior use, seems to constitute an important claim on land when it comes to negotiations between villagers and officials (e.g., Barney 2007b:99).<sup>3</sup> To the degree that current land taxation practices follow the partial and negotiated – rather than complete and territorially specific – pattern described by GTZ (2004:20, 31-32), village claims to land in the face of potential concessions are likely to be tenuous because they may not be able to point to particular plots where tax has been paid. From the perspective of the tax collector, land concessions may produce more “legible” territory than farmers for a variety of reasons related to longstanding efforts to sedentarize and intensify agriculture, and from the associated tax structure in particular (which contains different rates for productive and unproductive land, as well as for different land categories). Equally difficult to deal with, however, is the heterogeneity observed *within* the land allocation process, as well as within larger-scale territory-organizing efforts (e.g., VT 2007c); Hunt’s (2007) research on empowered land allocation, for instance, presents both a compelling and complex hypothesis – that even if communities believe that plantation concessions will decrease their overall resource entitlements, they may choose to work with (or for) plantation companies anyway if they feel their entitlements are at risk anyway. Taken together, these findings pose the empirical question of how entitlements are (or are not) rendered into recognized assets when it comes to compensation, and how investment negotiation and asset compensation processes are affected by previously existing activities and institutions like taxation, fines, and agricultural reform attempts.

- **Exceptional projects** – In addition, outside the ‘normal’ arena of taxation, fines, LUPLA and increasingly contract farming, exceptional cases of project-based compensation (e.g. Nam Theun 2 and other ‘best-practices’ hydropower projects that used market-based compensation methods) may prove instructive for two reasons. Because of the resources and attention they attract, best-practices projects may be more effective at creating new approaches that depart from the ‘existing terrain’ described above; second, these projects can often provide *within*-project comparisons of different compensation situations that occur inside a singularly-administered compensation framework.

### 3. Distribution of and access to benefits

A bigger question, one that emerges from the experience-to-date with land concessions and that is implicit in the government’s recent efforts to use concessions in a more limited way, is the following: What is the role of land concessions in improving the aggregate, or overall, development benefits generated by Laos’ resource-rich landscape? On the one hand, land concessions attract capital, technical expertise and market linkages; on the other hand,

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<sup>3</sup> CIDSE reported a similar instance in which villagers who complained about the loss of land they had been using were told by officials that they did not have any rights to that land since they had not paid taxes on it (C. Hanssen, personal communication, August 2007).

concessions are what planners call a “blunt instrument” that most people associate with comparatively higher social and environmental costs. In addition to looking at projects that involve land concessions (gaps 1 and 2), there are important comparative questions between concession- and non-concession projects, both within and between sectors, commodities and companies. Among the studies reviewed here, this approach has already been used effectively (e.g. by UNDP 2006, Diana 2006, Schipani 2007, and Hunt 2007); in addition, a wealth of literature on smallholder and contract farming is increasingly available (e.g. NAFRI 2007a, LEAP case studies<sup>4</sup>). A number of important questions remain, in particular about the benefit streams that come from different configurations of resource use: How are benefit streams from land concessions actually used? (How) are land concessions actually *supposed* to alleviate poverty locally? How do prior development interventions affect communities’ interactions with land concessions?

As regulatory capacity improves, it will become easier to interrogate projects in detail about the precise ways in which they intend to alleviate poverty locally. A number of projects have already articulated their vision, including LXML, whose vision is predicated on building physical and social infrastructure via a trust fund with the district and helping to create a local goods-and-services economy, and Burapha Agro-Forestry, which uses a local labor and rotational inter-planting of food and fast-growing tree crops to combine food security with income generation. It is equally possible that some projects are organized more along an ‘enclave’ development model, in which local poverty alleviation is not an objective. But understanding how projects *plan* to operate will undoubtedly help interventions that *are* explicitly poverty-focused (e.g., INGO projects) evaluate where they are most needed.

**Gap 3: Push harder for explicit understandings of poverty alleviation and safety nets vis-à-vis land concessions.** An implicit debate about the relationship between land concessions and poverty alleviation has been going on in conference presentations and newspaper articles over the past year or so since agricultural land concessions entered increasingly into policy discussions. This debate is reflected in, on the one hand, support for an *entrepreneur-based model* which explicitly rejects large concessions in favor of “2+3” contract farming and, on the other hand, support for an *employment-based model* which sees large concessions as providers of badly-needed jobs and state revenues for social programs. These models have different sets of risks and opportunities that emerge from the way they deal with landownership, market-based vulnerability, state regulatory authority, and social safety nets; preferences thus reflect differing philosophies about economics and government. But differences in opinion also reflect a debate about how good or bad things are in the present.<sup>5</sup> Although the advantages and disadvantages of each model can be theorized in different ways – economically via risk and reward tradeoffs, institutionally via differing positions on the role of state intervention, ecologically via the associated production models involved, and so on – empirical evidence is slowly beginning to accumulate. Reviewing all of this evidence (e.g., Rigg’s (2005) research on

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<sup>4</sup> These are available on the LaoFAB group website. See <http://groups.google.com/group/laofab>

<sup>5</sup> For example, in a *Vientiane Times* article published shortly before the government announced the concessions moratorium, two officials articulated opposing positions in this regard: one said that “he accepted that the concession land had taken over local production areas, but denied that the concession area covered a large parcel of land. ‘We accept that there will be some problems with villagers initially, but if we don’t change today from local production to industrial production, when will we do it?’ he said.” In contrast, another official suggested that the starting ‘baseline’ was substantially higher: “[he] said all investments should change villagers’ lives for the better, and anything with a potentially negative impact should not be acceptable... He maintained that development projects should not be allowed to use land on which people were growing crops or planting trees, as this would only force them further into poverty” (VT 2007d).

livelihood strategies vis-à-vis migration for work or education) is beyond the scope of this report. Nonetheless, as dispossession-based conflict has emerged at the center of the concessions debate, the rush to contract farming (the much-touted “alternative to concessions”) has highlighted other difficulties related to making a living on the weaker end of a contractual relationship with increasingly globalized agri-businesses. The advantages that *some communities* – and some *members* of some communities – have been able to take of concession-based employment points to the need to better understand the process of social differentiation and the increasing use of social and ecological safety nets that have accompanied the rise of land concessions.<sup>6</sup> In this consultant’s opinion, the question “which model is better?” is inadequate: it is too simple for both the present (existing large concessions have yet to be adequately dealt with) and the future (in which the question of large concessions is a likely to be one of *how*, *when* and *where* rather than of *if*). A more useful perspective would investigate existing project areas to understand the needs and opportunities for intervention (by both state and non-state actors) in order to help those who are most *vulnerable* to negative impacts and those who are most *able* to make positive change.

**Gap 4: Look at access to benefits, not just rights to benefits.** The assets-versus-entitlements issue (gap 2) has a flip side when it comes to measuring the aggregate benefits that come from land concessions. Just as a property-based framework has difficulty accounting for some important aspects of *villagers’* land-based livelihoods, it also has trouble ‘holding’ the benefit streams that accrue from land concessions, especially when benefits result from *access* to benefits, rather than *contractual right* to them. In situations without contractually-specific property rights where investment is occurring rapidly nonetheless, a legalistic system that can fully account for land concessions is in many ways the *goal* of development activities; in the meantime, an approach that examines access to benefits along the chain of commodity production (Ribot 1998) can provide an analytic perspective with sufficient critical distance to accommodate both (i) a legalistic, property-based perspective and (ii) increasing calls for attention to issues of proper governance and the use of state power. This can be illustrated with a well-cited case which hinged on the burden of responsibility for livestock exclusion from rubber plantations (VT 2006a). In 2006, villagers in Nambak district (Luangprabang) threatened to petition the National Assembly because local officials gave foreign investors *access* to a benefit to which they did not have a clear legal *right*. The benefit in question was the labor required in order to keep buffalos out of rubber gardens. Initially, and in accordance with villagers’ expectations, the company had built its own fences; it was only after the concession grew so large that it was, according to a local official, “impossible” to continue fencing, that local officials sided with the company and started penalizing villagers for grazing their buffalo as they always done. This extra benefit awarded to investors – putting the responsibility for buffalo exclusion solely on villagers – was the source of villagers’ complaints.

#### **4. The role of best practices projects**

‘Best-practices’ projects attract attention: they aspire to social and environmental responsibility, they are (at least somewhat) responsive to requests for engagement with

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<sup>6</sup> Safety nets here include both formal compensation packages and employment policies, as well as more reactive practices like increased reliance on familial and social networks, economic migration, consumption of wild foods, and harvesting (both for use and for sale) of NTFPs. Responses involving movement pose special challenges to traditional research designs, which are often place-based and predicated on the assumption that survey information is relatively non-sensitive.

researchers, and data tends to be more easily available. ‘Best-practices’ projects are thus also best-known projects, and represent their sectors in public debate, whether as models for the improvement of other projects, lightning rods for criticism of the sector as a whole, or both.<sup>7</sup> But just as ‘best practice’ (which generally means ‘best available practice’) does not necessarily mean *good* practice, best-known does not necessarily mean well understood. The role of ‘best practices’ projects thus remains open to debate, especially on issues of project design, impact assessment and monitoring.

**Gap 5: Better understand ‘best practices’ in practice, both internally and by comparison.**

- **Transparency & accountability** – The links between accountability and transparency are well-described, and the model of ‘global’ best practices – for example, as described by the RTEA (2007) project – posits an externally-oriented approach, in which accountability to foreign shareholders, lenders and consumers is achieved via stronger local regulation backed up by independent monitoring. But given some of the difficulties with access to even ‘best practices’ projects (UNDP 2006, Barney 2007a, Hunt 2007), this model raises important questions about who might play the role of independent monitor. Diana (2006) presents a different – more local, albeit still transnational – model of accountability based on distributed social (including family) networks that raises the question of how far such networks spread, whether they might be harnessed for regulatory purposes, and if they might be made explicitly pro-poor.<sup>8</sup>
- **Regulating earlier** – It is widely commented that regulatory capability ‘lags behind’ investment practices. This is increasingly being addressed at the policy level – for example, by the concessions moratorium and the strengthening of the SEIA process. But the implications of the mismatch between investment approval and regulatory practice level have yet to be adequately examined at the project scale. Despite expectations that an improved regulatory regime will attract more investment via the creation of a more favorable ‘investment climate’, regulating *earlier* in the project cycle alone (irrespective of whether or not regulation is more independent) may drive up investment costs up because of the higher cost of money – for mitigation works for example – prior to production.<sup>9</sup> Although yet to be systematically investigated, the question of *tradeoffs in mitigation timing* has important implications for project design and monitoring in general, and for the study and regulation of area- and non-area-based impacts associated with land concessions in particular.
- **Joint ventures** – A related question is that of the socioeconomic tradeoffs – both to government and to affected citizens – inherent in different business and regulatory models. Joint ventures between investors and government are an increasingly common approach, especially given their potential to channel not just land taxes and rental fees, but corporate profits, into state revenue streams.<sup>10</sup> But with these added rewards come new risks, including potential conflict of interest (if the state’s regulatory role is not

<sup>7</sup> It should also be recognized that the category of ‘other’ – i.e. non-best-practices – projects has arisen in the gray literature. ‘Other’ projects are often implied, by various rhetorical devices, to be Chinese, Vietnamese, Korean or Malaysian, further highlighting the utility of specificity and transparency over generalization.

<sup>8</sup> Diana points out that it is wealthier smallholders who have been able to take advantage of distributed social networks, often at the expense (via competition for land) of the poor (also see Ducourtieux et al. 2005).

<sup>9</sup> This problem has been described in the hydropower sector (e.g., FIVAS 1996; ADB 2004:102). Writing about the mining sector, Jones et al. (n.d.:11) described it this way: “At the development stage there can be a tendency to underestimate the effort required to establish and maintain a project’s social [mitigation scheme] because of the perceived need to get on and...move into production.”

<sup>10</sup> Joint venture-ship is common to all of the main sectors reviewed here, including mining (e.g., LXML), agriculture and plantations (e.g., LPFL) and hydropower (e.g. THPC and NTPC).

sufficiently independent from its role as investor) and economic risk (if the investment is not profitable). Although a number of well-known ‘best practices’ projects are joint ventures (e.g., LXML, LPFL, THPC and NTPC), joint venture-ship has been treated largely as an exceptional development model in the literature on land concessions – the most well-known example is GTZ’s conclusion that “the GoL has not yet fully developed [state land concessions as an] income source” (2006a:5), which is based on an analysis of revenues from land rentals and taxation (but not joint venture profits). Under-appreciation of the importance of joint venture-ship may be explainable due to a lack of public data (e.g., Barney 2007b); but the strategy of using state land equity as joint venture capital clearly plays an important role in government efforts to “turn land into capital” and reorganize natural resource-derived benefits so that they contribute more to central government revenue streams and associated social programs. Given the substantial money to be made from joint venture profits,<sup>11</sup> the potential benefits are clear. The risks, however, to state revenues, rural communities, and regulatory structures (e.g. land tenure certification systems), have not yet received adequate attention.

## **5. Surveying, land suitability analysis and degradation**

By now, it can hardly be assumed that “available land” refers solely, or even primarily, to land that is actually *unused*; rather, the debate is about the category that is commonly called *under-use*, whether in the sense of having low annual productivity or being currently under fallow.<sup>12</sup> In some ways, the debate is an old one in new language: it is the (often polarized and, when rendered in the abstractions of policy language, often *polarizing*) debate about the sustainability of shifting cultivation that has been going on since the 1950s. But the specific language – attracting investment, land concessions, degradation and improvement, and, perhaps most directly, under-use – should alert us that the issue is not simply one of environmental sustainability in the narrow sense. Ducourtieux et al. (2005:506) quote an anonymous high-level civil servant at MAF who put the matter simply (back in 2001!): “shifting cultivation ‘takes up too much space.’” Taking up too much space and under-productivity are synonymous, and are implicitly comparative: Too much space compared to what? Under-productive compared to what? These related ideas bring an important economic dimension to debates about environmental sustainability and degradation, raising issues not only of farmers’ benefits from productive landscapes (both via direct subsistence and via market engagement) but also of government revenues from taxes on both land and produce destined for markets. NFTP production is an especially important issue because, unlike shifting cultivation, it represents a gray area between farming and collecting – and thus between taxed/certified and untaxed/uncertified land – about which there is a broad consensus attesting to its continued importance. As with the question of compensate-able assets above, landscape-scale development is a big and complex issue, and is often contentious when it comes to particular projects and territorial reorganization activities like village relocation. What is less debatable, especially in the aftermath of the concessions moratorium, is the importance of sustainability analysis, zoning activities and the discourse of environmental degradation, all of which impact development at the project level and at the multi-village scale.

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<sup>11</sup> One project that is better understood than most, Nam Theun 2, provides some data in this regard. Of the \$2 billion in expected government revenues from the project, joint venture profits (from sales of shares issued by the Lao Holding State Enterprise, which represents the GoL in the joint venture and holds 25% of NTPC’s shares) account for 35% (\$700 million), while taxes and royalties account for 65% (\$1.3 billion) (VT 2006b).

<sup>12</sup> Cf. a recent Associated Press article about Vietnamese investment in Lao coffee production (AP 2007), which raises the question of what is meant by “currently uncultivated land.”

**Gap 6: Investigate how land surveys deal – and might deal better – with local decision-making, with the market/regulatory arena, and with villagers’ role in the socially-negotiated category of ‘available’ and ‘degraded’ lands.** Four concrete themes that have been studied to varying degrees are (1) data quality and buy-in: how should suitability efforts use national data sets versus/in combination with on-the-ground data collection? (cf. NAFRI 2007b; STEA-SEM 2007); (2) the instrumental use of the degradation discourse: what are the stakes of having one’s land or land use labeled degraded? (cf. Lestrelin 2007; Barney 2007b); (3) available land as (socially) negotiated versus (physically) objective: when does the existence of available land depend on livelihood decisions by villagers?; and (4) the role of markets and farmer choice: what are the tradeoffs between land surveys that measure *suitability* versus *unsuitability* for certain crops and land uses, and what level of detail is most appropriate for suitability (or unsuitability) analyses? Although the lack of surveying has been widely blamed for poor decision-making and implementation of particular development projects, the presence of land surveys raises a number of questions about what is needed for them to be used *successfully*. How do land surveys deal with the related but distinct issues of physical suitability and social suitability? How are sustainability and degradation assessed, and what are the material implications of these assessments? Are all of the stakeholders sufficiently involved in order to “buy in” to the suitability assessment process at the appropriate time? Does the information in suitability surveys ‘map’ well to the abilities of users? Does it adequately capture livelihood-based land use? In sum, what is needed in order for surveys to get the right information to the right people at the right time?

**Gap 7: Investigate the tradeoffs between general versus project-specific surveying.** In order to work properly, the categories, level of detail, and presentation format contained in land suitability surveys have to be calibrated to the timing in the investment cycle at which the survey will be produced and used, the tasks to which the survey will be put, and the intended users of the survey. These issues intersect with data quality issues in tradeoffs between cost and accuracy: many data sets have intermediate accuracy, meaning that they are good enough for some uses but not good enough for others. While the concession moratorium announcement mentioned the need for additional bio-physical, landownership and zoning data (VT 2007e), discussions of land suitability methodology – both before and since the moratorium – have touched on both general, pre-project suitability inventories (e.g., VT 2007c) and project-specific suitability inventories funded by investors and conducted with local officials (e.g., LPFL). But if and how these two surveying modes will work together, and how to deal with hard-to-see data like land use and landownership, require further investigation

## **6. Other research & data sets**

In addition to research that has explicitly encountered land concessions (gap 1), there exist additional studies and, perhaps more important, data sets that have the potential to tell a great deal about the socioeconomic conditions in areas with land concessions. Three examples are described in Box 2.

**Gap 8: Integrate secondary data into the analysis of land concessions’ effects on livelihoods.** Despite the temptation to generalize when writing for a policy audience, most socially-oriented studies adhere to the standard practice of describing the research sites which form the empirical basis for their conclusions, and many actually provide the names of villages. Thus, although it may seem that land concessions are relatively unstudied (the literature reviewed in this report notwithstanding), many research projects

have produced results – both published studies and raw data sets – whose utility to the project of understanding the social context of land concessions should not be underestimated. Research about social topics ranging from health to nutrition to education to employment – research that, on its face, has little or nothing to do with land concessions – thus provides a potential, and so far largely untapped, opportunity for studying the relationship between livelihoods and land concessions, ranging from baseline conditions to project dynamics to post-project impacts. Overlay analysis – i.e. the search for geographic correlation between multiple pieces of data using a digital (computer-based) or analog (paper- and transparency-based) geographic information system – is one useful and popular method for bringing multiple data sources, as well as contradictory accounts, into ‘conversation’ with each other. Other approaches designed to transcend the limits of place-based correlation are focusing on movement and linkages *between* places, in both social arenas (e.g., migration studies) and natural ones (e.g., downstream pollution studies). Despite these potentials, territorial unwillingness to share findings and data sets, as well as the epistemological hazards of using secondary data, create formidable barriers to using existing research to its full potential. Perhaps these challenges can create new opportunities for collaboration as well.

### **Box 2. Secondary research: Three examples**

**The CFSVA** – The WFP’s Comprehensive Food Security Vulnerability Assessment (CFSVA) collected data about demographics, housing and facilities, assets and access to credit, agriculture, livelihood activities, expenditures, food consumption and sources, shocks, and access to services and community infrastructure in 25 villages in every province. The studies above have connected land concessions to every one of these variables in some way. Results are expected in late 2007.

**The National Business Survey** – The Economic Supervising Committee, affiliated with the NSC, recently conducted a survey of “businesses and enterprises nationwide,” covering “all enterprises operating in Laos, including registered and unregistered sectors, administrative organizations and the offices of both state and private sector operations”, and excluding small family farming activities, “aid agencies, NGOs affiliated with foreign embassies and their projects,” and all enterprises without access to sealed roads (VT 2006c). *The Vientiane Times* was not specific about the types of information collected, but noted that the project “will build an important database to assist in investment policies [and will] assist with government monitoring and managing of investments.” Data collection and analysis was to occur during late 2006 and be completed by mid-2007.

**The socioeconomic atlas of the Lao PDR** – The LMNC’s socioeconomic atlas is, for the first time, mapping data from the 2005 census and the Livelihood Expenditure and Consumption Survey at the village scale. Although data quality issues preclude zooming in to the village scale, the aggregate patterns will nonetheless be of use in understanding how land concessions fit into the social landscape. Draft results are expected in late 2007, with the atlas itself available in 2008.

## Conclusion

More research is needed into the *inventorying of assets*, the *awarding of compensation*, and the relationship between the two. Efforts to achieve sedentary agriculture and rational forest management have profoundly shaped the ways in which land cover, land use and land tenure are classified and inventoried; similarly, the desire for “under-employed” farmers to have permanent jobs influences the ways in which “adequate compensation” is defined and provided. INGO projects, by virtue of their access to on-the-ground details of rural livelihoods and governance practices, have the potential to provide *additional evidence* about the specific ways in which surveying and compensation processes are working or not working properly (what are the timelines of investment activities? what happens during discussions with villagers about potential investments?, and so on), but also – and more importantly – to provide concrete suggestions about how nascent efforts (following the concession moratorium) to better map land use, land tenure and land capability can assist in remedying, rather than exacerbating, the problem of under-compensation due to mismatches between livelihood systems and asset-inventorying methods.

A second area in which more research is needed is alternatives. In agriculture, one thing that is frequently lost amidst the empirical evidence of “impacts” is the underlying logic of land concessions with respect to the poor: Land concessions place the economic risk of land-based production with the person (or entity) who can afford to take it – the investor. While it is often said that concessions are needed in order to lower the risk to the investor in order to attract capital into Laos, sometimes land-based production is a *higher* risk to the investor, especially with crops that are new to a given area. We should thus not lose sight of the wealth of literature on industrial agriculture – and on contract farming in particular – which points to the risk-*shedding* which contract-based production gives to investors. Concession-based production, by comparison, keeps the economic risk with the investor rather than placing it on the farmer. Another key feature of this literature is that “the farmer” is a gross simplification: some farmers can afford certain risks, while others cannot. Despite their best efforts to measure farmer wealth (using indicators like consumption, family size, possession of key assets, and so on), and even when markets are fairly predictable, development experts still have a hard time predicting which farmers are up to the risk of contract farming and which ones are not; add market variability into the mix and things get even more difficult. Additional research on (1) different alternatives for both concessions (e.g., renting land from village(r)s at market rate) and contracting (e.g., letting villagers purchase inputs up front versus giving them on credit, experimenting with different selling conditions), and (2) on the debt-and-credit relations that accompany these configurations, is desperately needed in order to complement the suggestive evidence to date.

A third, undoubtedly more controversial, debate for the INGO community is the question of alternatives in the case of export commodities like minerals and electricity, where – because alternatives to concession-based development are more limited than in the agriculture and plantations sector – “alternatives” generally refers to efforts to bring best practices, corporate social responsibility (CSR) and third-party monitoring *into* concessions-based development. Thus far, calls for “independent” and “third-party” monitoring of development projects come from both INGO and non-INGO actors. But while many development professionals look to INGOs as the natural candidates to carry out such activities, INGOs often regard themselves, at least institutionally, as insufficiently empowered in their *host* countries to play the role of independent observer. Other times, INGOs prefer to stay away from controversial projects for fear of vulnerabilities in their *home* countries. While increasing demands for CSR from both

consumers and host governments will no doubt create pressure on projects with best-practices aspirations to ensure political protection for INGOs that elect to become involved, for example by providing guaranteed mechanisms aimed at fostering transparency and accountability, INGOs will no doubt fare better in this process – both individually and as a group – if they are active players in designing it. Unpalatable as it may sound to those accustomed to dismissing all concession-based development as inherently inimical to rural livelihoods, a clear articulation of what a “best-practice concession” might look like from the perspective of INGO objectives and operations might help move the debate from a polemic *yes vs. no on concessions* into a more constructively critical discussion about *alternatives and options* for dealing with development imperatives in their many forms, and for prying open the black box of “available land for development” a bit more.

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