
Introduction to Lao Land Issues

Managing Land, Forests and Natural Resources

Growing in Equity or Growing Inequity?



This document aims to contribute to an understanding of the main developments, trends and opportunities surrounding land, forests and natural resources in Lao PDR, with a focus on current issues in land management and concessions.



1. Centrality of Natural Resources to Lao Society

Exploitation of land and natural resources is a means to reach national development goals

The government of Lao PDR's 7th National Socio-Economic Development Plan (NSEDP) and National Growth and Poverty Eradication Strategy (NGPES) both emphasise the promotion of economic growth that is sustainable and ensures security, peace, stability and continuous social progress and equity. To achieve the targeted GDP growth rate of at least 8% annually, the 7th NSEDP aims to rely heavily on Foreign Direct Investment (FDI). The FDI in industries such as mining, hydropower and plantation sectors that make use of Lao PDR's natural resources has increased rapidly in recent years.

Policy of turning land into capital

There are two main drivers of change in the transformation of land and natural resource management in Laos. One can be referred to as the "push" factor and relates to various Government policies and programs. The development of land-intensive industries is one of the cornerstones of Laos's long-term development strategy; turning land into capital. It has been promoted by both the Government and some development partners. Large land areas combined to a low population density have encouraged granting concessions and bringing land use under more economically productive forms contributing to GDP growth. Besides concessions, contract-farming and open market arrangements have been largely promoted to boost agricultural commercialization.

Another main driver of change in land and natural resource use, perhaps even stronger than the push factor described above, is the so called "pull" factor. It refers to the market demand in neighboring countries. The large investments flowing into Laos from China, Vietnam and Thailand reflect the need for a production base for agricultural products in high demand in the international trade. Access to cheap land and cheap labor has worked as an incentives for regional investors, often in cooperation with domestic investors, to take advantage of Laos' natural resources.

Targets and directions of the 7th NSEDP (2011-2015)

1. Ensure continuation of national economic growth with security, peace and stability, and ensure GDP growth rate of at least 8% annually and GDP per capita to be at least USD 1,700.
2. Achieve the Millennium Development Goals by 2015, and adopt appropriate technology, skills and create favourable conditions for graduating the country from the Least Developed Country (LDC) status by 2020.
3. Ensure the sustainability of development by emphasising economic development with, cultural and social progress, preserving natural resources and protecting the environment.
4. Ensure political stability, peace and an orderly society.

Concessions - definition

In international law, a *concession* is a territory within a country that is administered by an entity other than the state which holds sovereignty over it. The terms of the concession contract define the timeline and the indemnity sum (cf. leased territory).

The economy grew more than 7% annually between 2001 and 2011. This high GDP growth, however, has become increasingly capital intensive, limiting the creation of livelihoods and jobs for Lao workers and leading to a significant rise in income inequalities in recent years; a significant part of the population have not partaken in the benefits accruing from the economic growth. There is often a divergence between the intended outcomes of the policy and the reality at local levels.

There is growing risk of negative impacts

Pursuing different forms of FDI and concessions has resulted in significant alterations of human and natural environments. The very same natural resources relied on for FDI are also relied on for livelihoods, food security, and social and cultural security by a majority of Lao citizens. Around 75-80% of the country's population is rural, equivalent to around 5 million people. These communities rely on forests not only for their food but also fuel, building materials and medicine. Non-timber forest products (NTFP) are also an important source of cash income for families. There are growing competing interests over land and natural resources between large-scale investment projects and local communities.

Plantations have reduced local access to resources through enclosing common areas, and have ultimately led to massive changes in the livelihoods of large numbers of people living near the concessions. Many have lost their agricultural and forest lands, or conditions of production, making it difficult to maintain their former semi-subsistence livelihoods. Due to lack of other opportunities many are compelled to take up employment with the same companies that displaced them, despite frequently having to work for low wages and under poor and irregular conditions. In comparison to concession, land management and market engagement through contract farming and open market arrangements do not involve physical displacement like some of the concessions, but they do replace traditional food security systems, cause environmental degradation, and in worst cases putting people into unsustainable debt.

"In earlier days we had cows and buffaloes... since we started growing corn we sold them all. We don't have grazing lands anymore... We also don't have time..."

Quote from *Farmers' Voices*, by LEAP (2010).

Access to land and the *Right to Adequate Food* are closely linked

Food security is achieved when all people, at all times, have physical, economic and social access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life (World Food Summit, 1996).

There are four pillars of food security:

1. Availability; refers to the quantity of food available
2. Access; refers to how the food is obtained
3. Utilization; refers to consumption patterns and cultural aspects
4. Stability; refers to how the above exist over time (may change e.g. due to climate change)

The term "*Right to Adequate Food*" is derived from the International Covenant on Economic, Social and Cultural Rights (ICESCR) as follows: "The right to adequate food is realized when every man, woman and child, alone or in community with others, have the physical and economic access at all times to adequate food or means for its procurement." This is a rights-based approach to food, as opposed to the needs-based approach of the term food security. *The Right to Food* includes concepts such as human dignity, accountability, participation empowerment, non-discrimination, transparency, and rule of law.

It calls for responsible action from all members of society, including the private sector, which has so far been more on the periphery of social development programmes. Given the centrality of land and natural resources for Lao people's livelihoods and food security, sufficient access to these resources is essential to ensure communities' rights to food.

Lax or non-existent enforcement of environmental and labor laws and regulations have attracted short-sighted investments that have led to socially and environmentally destructive practices. Due to lack of control and monitoring, the loss of biodiversity, impoverishment and displacement of affected communities have become critical issues throughout the country.

Two possible paths for rural communities

Opening up of rural areas as a result of private investment creates two possible paths for rural communities. In one direction, as stated in national policies, is improved access to services, expansion of local employment opportunities, and more equitable participation in the development process.

"Our own thinking, and way of thinking, is changing a lot."

Quote from *Farmers' Voices*, by LEAP (2010).

In the other direction is reduced access to land by smallholders who are pushed aside by large investors, a rapid outflow of young people, wildlife and forest products, and a consequent erosion of natural capital, human resources and cultural identity, creating a path towards an unsustainable extractive economy. Action is urgently needed by all stakeholders to prevent this process from further happening.

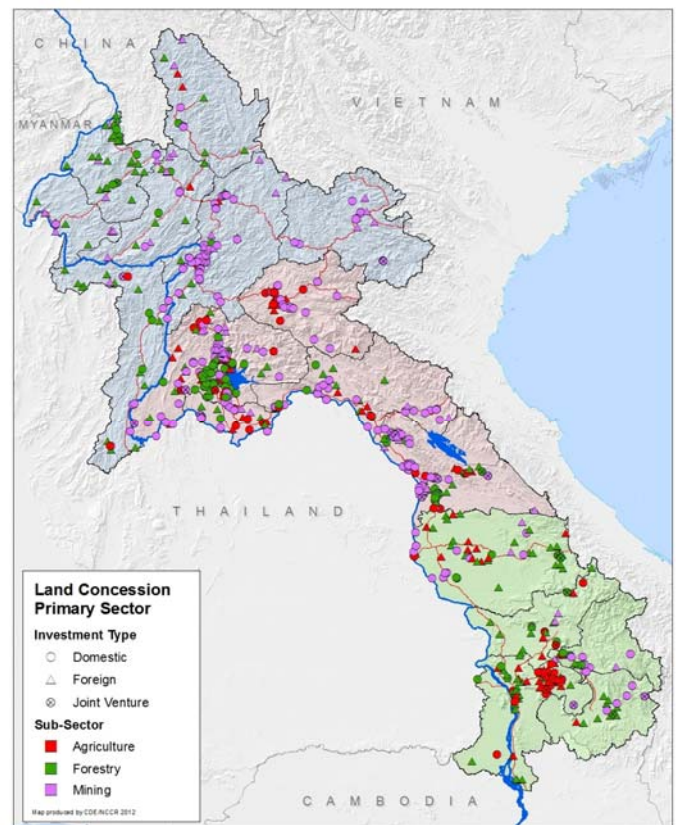
Read more:

- Environmental and Social Impacts of VLRC Rubber Plantation, Bachieng, by François Obein, AFD (2007).
- Rural Land Management and Land Administration (Policy Brief No. 2), by Sub-Working Group on Upland development, MAF (2008).
- Turning Land into Capital, Turning People into Labour: Primitive Accumulation and the Arrival of Large-Scale Economic Land Concessions in the Lao PDR, by Ian Baird (2011).

2. Land Concessions and Plantations

Significant land areas have been granted in concessions

Commercial plantations, especially rubber financed by Chinese and Vietnamese companies, began to be established on a significant scale about ten years ago, and have been increasing ever since. Guidelines for the selection of land for concessions are not fully developed, and monitoring mechanisms are too weak to ensure a meaningful evaluation of the positive and negative impacts of concessions. Based on a recent (partial¹) inventory of land concession agreements, conducted by the Ministry of Natural Resources and Environment (MoNRE – former National Land Management Authority NLMA), approximately 1,1 million (M) hectares of land have been conceded. This estimation does not include mining exploration areas, nor the most recent concessions granted by the Govt. The absolute figures may not sound high but when considered that the rice cultivation area in Laos is 0,98 M ha the impact of concessions on land use is better understood. About 3.600 deals have been compiled in the MoNRE inventory, potentially affecting about 18% of all villages in the country. The mere fact that



Source: Concessions and Leases in the Lao PDR: Taking Stock of Land Investments, Centre for Development and Environment.

¹ The Concession Inventory is estimated to include data on maximum 70% of all land deals.

no reliable account of all conceded land can in itself be considered a serious problem. Almost three quarters of the investment area are FDI. The largest foreign investors are Vietnam and China, followed by Thailand. To simplify, it can be said that northern parts of the country are dominated by Chinese investments whereas Vietnamese projects dominate the south.

According to the Land Law (2003) different authorities are in charge of granting land leases, concessions or developing contract farming, depending on the land size (see table below). Concessions are typically granted by provincial authorities with little involvement and monitoring at the central government level. Concessions are also granted by the central level without sufficient consultation at the local levels to ensure that land in an appointed area is actually available. Sometimes concession companies have cleared village agricultural land that was not agreed to in concession agreements.

Land size	Authority
< 3 ha	District authority
3-100 ha	Province authority
100-10.000 ha	Central Government / Prime Minister
> 10.000 ha	Approval by the National Assembly

"Before, there was much land. But now we have nowhere to farm."

Quote from *Farmers' Voices*, by LEAP (2010).

Several concession moratoriums have been introduced by the Government

By early 2007 the negative effects of plantations had become serious enough for the Prime Minister to attempt to impose a ban on granting concessions of larger than 100 ha. Despite this, only shortly after the policy announcement, new large scale concessions were granted. Subsequently, in 2009, the moratorium was followed-up with another on mining concessions. In 2011 the government decided to set limits on rubber plantations (300.000 ha) and the ceiling was reached the same year. The latest moratorium dates from June 2012 and implies that no new investment proposals in mining or land concessions for rubber and eucalyptus plantations will be considered before the end of 2015.



Contract farming allows for more control over the land but bears its own risks

Contract farming (2+3 and 1+4 models) can potentially offer more autonomy to the farmers, and it is a commonly used practice in particular in the northern parts of the country. However, the majority of contract farming ventures is informal, and can suffer from the disparity in economic and

political power between the large operator/company and smallholders. The problem could be overcome if the smallholders are able to establish an association or act in cooperation.

"Now we eat well, but are in debt. Before we did not eat well, but had no debt."

Quote from *Farmers' Voices*, by LEAP (2010).

Under the Government's 2+3² investment scheme, farmers provide land and labor, while investors provide funding, materials and access to markets. The aim is to ensure mutual benefits for both investors and local communities. However, some investors claim that Laos can't provide sufficient skilled labourers to work on plantations and prefer to hire foreign workers. Hence in agribusiness an increasing number of migrant workers are moving into Laos, especially to work on the rubber plantations. Implications to the local employment are to be considered, as well as the social effect of large number of foreign workers moving into the country.

Read more:

- Concessions and Leases in the Lao PDR: Taking Stock of Land Investment by Schoenweger, Heinemann, Epprecht, Lu, Thalongsechanh (2012).
- Foreign Direct Investment (FDI) in Land in the Lao PDR, by GTZ (2009).
- Land Concessions, Land Tenure, and Livelihood Change: Plantation Development in Attapeu Province, Southern Laos, by Miles Kenney-Lazar (2010).

Land Facts and Concession Statistics*

- No exact figures are available but it is estimated that only 4-5% of land in Lao PDR is arable.
- Lao National Forest Strategy envisages 500.000 ha of land to become commercial tree plantations by 2020.
- Diversity of concessions in terms of crops is extremely low: in agribusiness four crops (sugarcane, jatropha, coffee and cassava) represent 75% of all concessions. In forestry concessions, it is up to 93% about only three crops: rubber, eucalyptus and acacia.
- 65% of all concessions deals are 100% Lao but they are small in size. For example, in agricultural concessions the average Lao concession is 200 ha, average Chinese concession 600 ha, and average Thai concession 1.500 ha.
- Land concessions don't mainly take place in remote poor ethnic villages yet a considerable share of such villages is affected.
- Concession areas are most often <2h travel away from provincial capital, located close to roads and rivers. Where concessions take place plays an important role in considerations of policy and impacts.
- What land cover do the concessions take place in is a key question related to food security. Over 80% are in the so called "unstocked forests" and forests. 8% are on agricultural land.
- Land issues are the most frequently deliberated legal cases, and land disputes are among the most common petitions submitted by the general public to the National Assembly.

**Concession statistics based on the MoNRE Concession Inventory.*

3. Land Use Reforms

Land Use Planning and Allocation program has been improved by new instruments

Since the early 1990s, a Land Use Planning and Land Allocation (LUPLA) program has been implemented throughout the country as a key governmental land reform program. By increasing land tenure security, LUPLA was expected to encourage agricultural intensification, favor private investments and, importantly, stabilize shifting cultivation and preserve natural resources. LUPLA has been combined with the focal site approach of bringing villages closer together. However, the unintended result of the policy was increased hardship for the poorest households. The classification of forest land has been open to exploitation by the private sector; forest lands have been re-classified to production forests for logging and plantation purposes, and as a result, farmers have been pushed off their land. Village land use maps, and land and forest management agreements produced by the LUPLA program have either been disregarded or used insufficiently in consultations at district and village level when land is allocated for concessions.

Case example:

Plantation as a Cause of Deforestation and Depletion of Natural Resources

Lao Kha village is a village in Central Laos with a population of 729 people and 131 families. Figure 1 (p.8) dates from 1999 when a plantation company undertook land use planning in the village as part of their process of planting industrial tree plantations in the village. Figure 1 was a map presented by the company during a workshop on plantations in February 2007. In 2007 the map in Figure 1 was shown in the company presentation as an example of “best practice” plantations and how land use planning maps can be developed to undertake plantations. A total area of 234 ha is recorded as being reserved for plantations.

In Figure 2 (p.8) we can observe how, despite the statements made at the 2007 workshop, the company has ignored the forest zonings conducted under the Land Use Planning, and has cleared areas of both conservation forest as well as regeneration forest and grasslands used for cattle grazing. According to this data a total plantation area of 629 ha has been planted.

LIWG members have confirmed with Lao Kha and neighboring villagers that conflicts are now taking place between villages because of the loss of natural resources. This is just one of many similar case studies documented by LIWG members.

New LUP instruments have emerged reflecting the shortcomings of the earlier program, as well as the emerging issues and changing concerns. Since the mid-1990s, LUPLA mandate has gradually expanded by including village level LUP, as well as individual land allocation procedures and monitoring. More recently, Participatory Land Use Planning (PLUP) has emerged in replacement to LUPLA in order to provide a more participatory and integrated planning process at the village cluster level. However, PLUP activities risk repeating the mistakes of the past with inappropriate on-the-ground practices. Limited facilitation skills and implementation capacities of land-use planners together with the absence of constructive feedback loops impose considerable limits to local communities' participation.

Read more:

- Land and Forest Allocation in Lao PDR : Comparison of Case Studies from Community-Based NRM Research, Society & Natural Resources, by Yayoi Fujita and Khamla Phanvilay (2008).

Fig 1: Lao Kha Village (Khammouane) Land Use Planning Map. Source: Slide from Company Presentation during NLMA/MAF workshop, Feb 2007

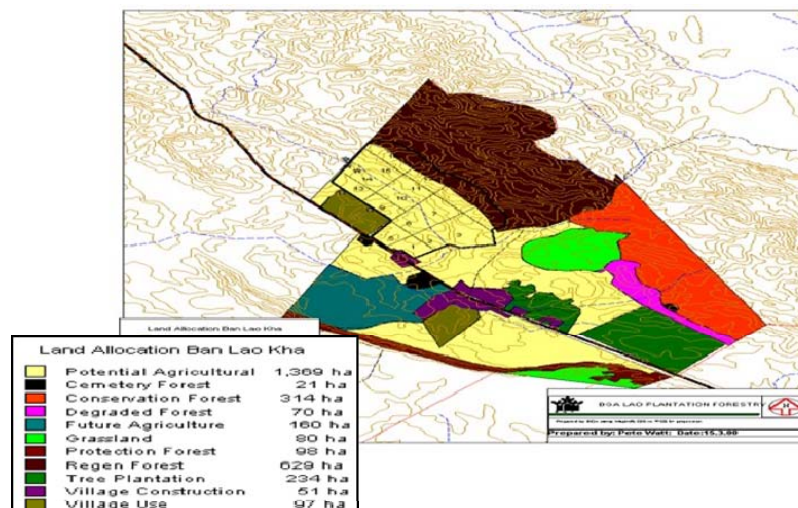
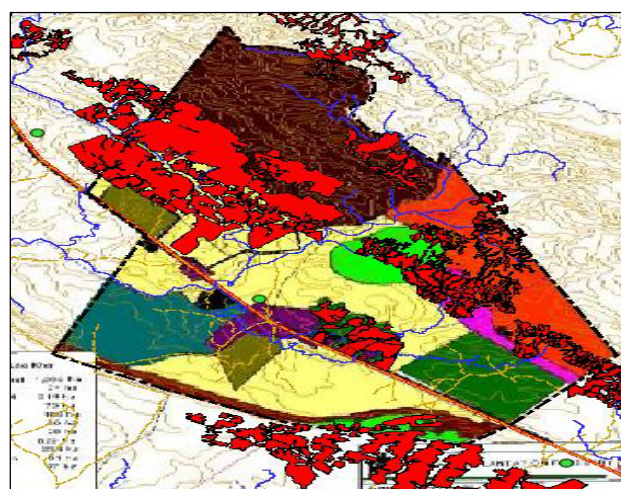


Fig 2: Lao Kha Village (Khammouane) Land Use Planning Map with plantation area overlaid. Source: Plantation data from MoNRE/NLMA land concession inventory



4. Forests, REDD+ and Shifting Cultivation

Forest cover has decreased in the past decades

In 1940 Lao forest cover was estimated to be around 70% whereas in 2002 the forest cover was estimated to be down to 41% and further to 40% in 2010. The national goal as set in the National Socio-Economic Development Plan (NSED) and the Forestry Strategy is to increase forest cover to 65% of the total country's area by 2015, and to 70% by 2020. However, with the current rates of reforestation these goals cannot be reached. There are three categories of national forest lands: conservation, protection and production forests. These three categories of forestlands cover the regeneration forestland, dry forestland, degraded forestland or barren forestland and village use forestland.

Legal measures have been taken against illegal logging

Despite the decreased forest cover Laos still has some of the last intact tropical forests in the Mekong region that retain great biodiversity. These forests are seriously threatened by uncontrolled over-exploitation causing further deforestation and risking the well-being of Lao people dependent on forest resources for their food security and livelihoods. Besides plantations, mines and hydropower projects also infrastructure development causes deforestation. Furthermore, the need to feed the timber processing industries in Vietnam, China and Thailand, from where finished products are exported to main markets in US and Europe, causes unsustainable illegal logging practices.

To protect its invaluable remaining tropical forests the Lao Government has taken important steps and introduced a variety of regulations. When it comes to timber trade, a series of measures have been taken to prevent the export of unprocessed wood. Export of raw logs was banned by a Prime Minister Decree in 2002, stating that only *processed* timber products can be exported. The Decree was further refined in 2007 to allow only *finished* timber products to be exported. The Forestry Law (2007) allows logging only inside the so called Production Forest Areas (PFA) with approved sustainable forest management plans. This means that logging is banned in protection and conservation areas, as well as PFA's without management plans.

According to the Forestry Law (2007), concessions can be given out on two types of forestland: degraded or barren. In practice the definitions are unclear (see table next page), and new plantations are often illegally developed on forestland and are another key driver of deforestation. Some companies use permission to develop a plantation as a means to obtain timber and in some cases once the logging has taken place the land is abandoned with no plantation being developed.

Type of Forestland - definitions	
Degraded Forestland	Forestland areas where forests have been heavily and continually damaged and degraded causing a loss of balance in organic matter, which may not be able to regenerate naturally or become a rich forest again.
Barren Forestland	Forestland areas without trees caused by natural or human destruction.

In reality, forest governance is weak and laws that protect the interest of the nation as a whole are regularly violated. It is estimated that the illegal log trade between Vietnam and Laos is 500,000 m³ yearly (EIA, 2011).

Shifting cultivation is sometimes wrongly considered a main driver of deforestation

Shifting cultivation is a dominant agricultural system for upland communities in Lao PDR but there are a lot of misperceptions related to it. It is estimated that up to 25% of Lao population is engaged in shifting cultivation, and the share could be even higher.



There is significant diversity in the shifting cultivation systems depending on factors such as soil and vegetation category, climate conditions, land tenure system, level of integration into the market economy, as well as cultural beliefs and traditions. Two types of shifting upland cropping systems are to be distinguished: rotational and pioneering. In rotational shifting cultivation, the most common type in Laos, swiddeners rotate their cultivated plots in the same land areas according to an alternation between cropping and fallow phases. In pioneering shifting cultivation systems, swiddeners move to new sites, mainly because the used forestland has become exhausted.

During the cropping phase (1-2 years) the farmer's main objective is to produce what he needs for food, feed and income, sometimes incorporating cash crops into the swidden system. During the fallow phase the main objective is to regenerate the soil's fertility and quality by allowing the vegetation to regrow while exploiting the land by other practices closely related to shifting agriculture; e.g. animal husbandry, hunting, and NTFP (non-timber forest product) and timber collection. It is estimated that rotational shifting cultivation is an environmentally sustainable practice provided that the fallow cycles are long enough (minimum 7-8 years).

"We have limited land for production. We do not rotate the fields as before. We keep using it over and over. The land is losing its quality."

Quote from *Farmers' Voices*, by LEAP (2010).

REDD+ (Reduced emissions from deforestation and degradation)

Deforestation is thought to generate up to 20% of global carbon emissions. REDD+ is a system designed to use financial incentives to reduce the emission of greenhouse gases from deforestation and forest degradation, initiated by the UN and the World Bank.

Lao PDR is one of the piloting countries of the scheme and is involved in developing REDD+ policies and pilot projects. REDD+ represents an opportunity to place forests on a more sustainable footing and provide financial rewards for doing so through the PES (Payments for Ecological Services) and carbon credit mechanisms.

However, in contexts where enforcement of the justice system is weak, forest tenure is unclear, and people's participation in governance is low, the expected objectives of REDD+ may remain unrealized. Better law enforcement and fully functioning safeguard mechanisms need to be in place before local communities can expect to benefit from REDD+ and in order avoid any negative impacts on them.



The Lao government's objective, since early 1980's, of reducing and stabilising shifting cultivation is well known throughout the country. It is related to the movement of the people from more isolated upland areas to lowlands closer to infrastructure. However, due to difficulties in introducing sedentary systems in upland areas shifting agriculture continues to be the main form of agriculture in mountainous landscapes. For example, the terracing method would require appropriate irrigation systems impractical or impossible to put in place in the uplands. Shifting cultivation also has major cultural significance to many upland communities.

Land use planning and allocation has been used as a national tool to stabilize shifting cultivation. Granting land to private sector development projects, population growth, and resettlement policies increase pressures on land use and regulate villagers' access to natural resources. Generally these processes result in shorter fallow periods, alter animal husbandry practices, hunting and collection of NTFP's, and also move shifting upland cropping to hinterlands. An in-depth understanding of the existing production system is required to formulate recommendations if any changes are to be induced.

Read more:

- Crossroads: The Illicit Timber Trade Between Laos and Vietnam, by Environmental Investigation Agency, EIA (2011). As of Sep 2012 new EIA report Checkpoints available.

5. Legal Framework and Land Tenure System

Regulatory environment has significantly improved

Land, forest and natural resources management are interlinked, and therefore the national strategies and policies can and should be addressed concurrently. Over the past 20 years different laws, government decrees and policy announcements have created an extensive regulatory framework reaching from land tenure and environmental protection to timber exports. While some laws are in need of revision, in general, many laws reflect international good practice. There are now also greater mechanisms for feedback e.g. through the National Assembly.

A range of issues still need to be addressed

However, policy change at the central level does not necessarily result in a positive change at the local level. The greatest problem is that in reality the laws and regulations are widely subverted or ignored. Executive and legislative branches' capacity for reviewing and monitoring laws is far from sufficient and law enforcement is weak. Citizens are often not aware of their rights and responsibilities, local authorities are under pressure and not informed of new regulations. Sanctions for companies, projects or individuals violating the laws are rarely imposed. Furthermore, the legal aid system is underequipped, and lacks capacity in both human and financial resources. Powerful interest groups take advantage and can largely benefit from the current situation.

Decree No. 192/PM (2005) on Compensation and Resettlement of the Development Project

The Decree 192 defines principles and rules to mitigate adverse social impacts and to compensate damages that result from involuntary acquisition or repossession of land, including change in land use and restriction of access to natural resources affecting community livelihood.

The decree aims to ensure that project affected people are compensated and assisted to improve or maintain their pre-project incomes and living standards, and are not worse off than they would have been without the project.

Decree No. 112/PM (2010) on Environmental Impact Assessment

The Decree 112 has the objective to ensure that all public and private investment projects, both domestic and foreign, which create or may create adverse environmental and social impacts, are designed with the correct and appropriate environmental and social impact prevention and mitigation measures or environmental management and monitoring plans (EMMP) and social management and monitoring plans (SMMP).

The aim is to effectively prevent, minimise and resolve adverse environmental and social impacts derived from investment projects.

Resettlement potentially brings people closer to services but undesirable consequences occur

Resettlement is not an official policy, but it is used to reduce shifting cultivation, bring people closer to infrastructure and social services, and to integrate rural people. Communities are also displaced due to infrastructure construction and mining and hydropower projects. Concentration of populations has led to a variety of land issues. Inequalities have been observed between different ethnic groups and there has been confusion, even disputes, over land occupancy between original and new settlers. Many resettled households have lost their livelihood around upland farming and collection of NTFP's without adequate opportunities and support for alternative livelihood activities.

Implementation of Lao laws and regulations would address a range of destructive environmental and social effects of plantations, agribusiness and FDI projects that are known to be occurring. However, to address the problems both political will and technical capacity would need to be adequate.

Number of land conflicts is on the increase

Growing competing interests over land, lack of monitoring of private projects, imbalance of power and the lack of voice of those affected, lead to top-down, non-participatory decision-making. This leads to growing number of land conflicts. Land issues are the most frequently deliberated legal cases, and land

*"It is our own land, our own forest.
We have to ask them for money to
work on our own land."*

Quote from *Farmers' Voices*, by
LEAP (2010).

disputes are among the most common petitions submitted by the general public to the National Assembly. For communities affected by land grabbing or being granted inadequate compensation, access to justice is complicated, costly, and hazardous; often imposing risk of intimidation or even wrongful incarceration. It is essential and urgent to clarify and strengthen land conflict redress mechanisms.

According to the Lao law conflict cases related to implementation of land concessions may only be handled by state organizations and government agencies assigned as contract parties. As a general rule it is the MoNRE, together with relevant line agencies, mandated to solve conflicts. If the MoNRE is unable to solve the dispute, the case should be settled through the justice process. But any independent judiciary body seems to be a very rarely used recourse even when clear breach of laws is based on strong evidence – possibly due to lack of confidence, or higher costs.

In general the recourse and resolution process remains unclear and embedded in a cycle of conflictual interests. Usually first attempts are made at local level (district, province) where cases are rarely solved in a satisfactory manner. Then a case can be brought up to the central level executive body (Prime Ministry Office) or the legislative (National Assembly Petition Unit). But even then, the process more often than not reverts back to provincial authorities.

Clarifying land tenure has the potential to improve rural communities' well-being

According to the Land Law (2003) land of the Lao PDR is under the ownership of the national community (as prescribed in the Lao Constitution). The state is charged with the centralized and uniform management of land. Three types of land are identified: state land, individual (or private) land and communal (or collective) land.

The below table summarizes the six forms of land documents known in Laos, granting different property rights. Not all of them include the right to receive compensation in case of acquisition of land for state purpose or for a private investment project (adapted from Schöenweger and Ullenberg, GTZ (2009)).

Document	Contents	Recognised as a basis for compensation?
Land Title	The highest level of ownership. Includes all rights known in the Lao land legislation: to use, inherit, lease, sell, mortgage, and exclude others. In use only in urban and peri-urban areas.	Fully recognized
Land Survey Certificate	The only official document proving land ownership in rural areas, sometimes referred to as the “rural title” providing the owner with all property rights, despite its lack of cadastral mapping. In addition to use and inherit it can be used to sell and mortgage land. Issued by either the District Land Office or by the Provincial Land Management Agency (PLMA). No systematic certification is in place, and mostly certification is only sporadic.	Generally yes
Temporary Land Use Certificate	Issued by the District Agriculture and Forestry Office, being valid only for three years. The certificate only states that the land has been started to be used in a permanent way. The land is, however, still considered to be state land and therefore cannot be sold or mortgaged.	No
Land Tax Declaration	Generally used in rural areas. Only allows for use and inheritance. Issued by the District Land Tax Division.	Generally yes
Land Tax Receipt	Given by local authorities to evoke a basis for taxation. Most rural land users possess a Land Tax Receipt. Even though the Land Law prohibits disposal, it can be observed that Land Tax Receipts are used by villagers when land is sold or leased.	Usually not
Village Head's Certificate on Land Ownership	An ownership certificate issued by the village head (naiban). Mainly used as additional proof/security in combination with the Land Tax Declaration when people apply for a Land Survey Certificate to get access to a bank loan.	Usually not

Communal titling presents an opportunity to improve community management of resources

The first communal land titles were issued as recently as in 2011, for bamboo forest areas in Sangthong District, Vientiane Province. Communal land titling in Laos presents an opportunity to increase the tenure security of rural communities, to improve community management of natural resources, to improve food security, and to increase productive use of village land as a key poverty reduction strategy.

In contrast to individual land management, many rural communities in Laos practice communal land ownership therefore posing communal land titling in some contexts as a preferred option, aligned with existing customary tenure. Because of the associated costs and complex administrative and legal procedures of individual tenure, often it is not an option for local people. One of the current obstacles for communal land titles to become a widespread option for land titling in other districts and provinces is that the format and detailed technical procedures are not yet fully developed. Communal tenure will likely play a significant role in the policies and actions for climate change mitigation; with the emergence of REDD+ initiatives, governance and benefit sharing of carbon finance become critical questions in defining who owns the carbon stocked in forests.

Read more:

- Communal Land Titling and Registration Policy Recommendations - Lessons from the Field, by LIWG (2012).
- Study on land conflicts and conflict resolution in Lao PDR: Land policy study No. 9 under LLTP II, by GTZ (2007).

6. What the development community can do

All Development Partners' cooperation is urgently needed

The development community has an important role in supporting the Lao Government and the National Assembly to creatively seek models of human development which besides the focus on GDP growth emphasise the importance of increasing quality of life and well-being in the society.

Acknowledgement of the problem of land conflicts and the necessity for a resolution mechanism has become urgent. For sanctions to be effective the Government and the National Assembly first would have to know about an violation of the law or regulation, then have the means for collecting sufficient evidence to make a case, be willing to impose the sanction, and take the necessary follow-up action if it is ignored or the offence repeated. Commitment and sufficient human and financial resources are needed to do this effectively.

Civil society, backed by development partners can potentially support the Government and the National Assembly in these actions. They can bring urgent cases for resolution to the awareness of relevant governmental agencies so that all actors, whether national or foreign, respect the national legislation that has been set by the Lao Government to protect the people.

The below table summarizes main themes and issues around land and natural resources management, and highlights some of the recommendations for the development community.

Theme/subject	Main issues	Recommendations
Concessions	<ul style="list-style-type: none"> • “Informal” concessions and increasing land grabbing phenomenon • Weak enforcement of existing rules and regulations, e.g. in relation to conducting Social and Environmental Impacts Assessments • No accurate information available on granted land concessions • Lack of capacity to evaluate and monitor concessions • Participation of and consultation with affected communities are minimal 	<ul style="list-style-type: none"> • A publicly available database of land-related deals would support evaluation and monitoring activities • Set conditions for better concessions (smaller sizes, better contracts, better law enforcement) • Identify and support alternatives for large-scale land concessions, e.g. agroforestry and smallholder farming • Support cross-sectoral cooperation within the Govt. for better planning, monitoring and evaluation of concessions • Set higher standards for corporate social responsibility, and focus on their implementation
Contract farming	<ul style="list-style-type: none"> • Lack of clear models and guidelines • Unclear contract arrangements, often based on informal agreements • Significant difference in negotiation powers between investors and farmers 	<ul style="list-style-type: none"> • Refinement of contracts and the contracting process • Support the capacity of farmers to negotiate and make appropriate decisions by educating them with new knowledge and skills • Support farmers’ associations • Provide debt relief in cases of crop failure, health crises or other major crises
Land disputes	<ul style="list-style-type: none"> • Conflicts between investment projects and affected communities are on the increase • Lack of awareness of land rights among the impacted populations • Limited channels and opportunities for people to raise their concerns or seek grievance redress 	<ul style="list-style-type: none"> • Ensure rights awareness for rural people • Support people’s participation in decision-making • Strengthen existing governmental grievance redress mechanisms • Support establishment of independent conflict resolution mechanisms, e.g. Ombudsman scheme • Support better separation of Govt. functions (identification, approval, monitoring)
Land use planning and rural land tenure	<ul style="list-style-type: none"> • Top-down land use planning processes risk to undermine the livelihood needs of communities • Lack of land tenure security • Land titling programs have not fully 	<ul style="list-style-type: none"> • Support sound and standardized village level land use planning, including communal land titling as a widespread option for land tenure

	<p>met the objectives of assisting rural poor</p> <ul style="list-style-type: none"> Communal land titling not yet fully introduced as an option of ownership 	<ul style="list-style-type: none"> Promote villagers right to land and forests in rural areas Focus on protection of community interests with considerations on Right to Food Recognize and promote women as land owners and decision-makers in the use of natural resources
Village resettlement and consolidation	<ul style="list-style-type: none"> Pressures on land use and confusion over land occupancy Risk of decreased food security of resettled populations Difficult to get an overview of recent and planned resettlement Planning development interventions becomes difficult if there is a risk that target area becomes resettled 	<ul style="list-style-type: none"> Secure access to land of any resettled community Identify alternatives to resettlement Ensure that development projects are not used as an incentive to resettle
Shifting cultivation stabilization	<ul style="list-style-type: none"> Misinterpretation of policy intentions Inadequate agricultural extension support Increased degradation of lands due to permanent agriculture 	<ul style="list-style-type: none"> Distinguish the rotational form of shifting agriculture from the so-called pioneering form Promote the valuation and recognition of the multi-functionality of shifting cultivation landscapes Strengthen agricultural extension support
Forests	<ul style="list-style-type: none"> Concessions and illegal logging threaten remaining forests and put pressures on natural resource use Loss of forests results in decreased food security, decreased incomes and reduced access to traditional medicinal plants/herbs, etc. REDD+ has the potential to improve tenure security but there are risks of negative impacts on local people 	<ul style="list-style-type: none"> Promote transparency, accountability and public participation at all levels. Ensure rights of communities through safeguard mechanisms which uphold the principles of Free Prior and Informed Consent (FPIC)

A list in chronological order of recommended reading in the land sector in Laos. All documents can be downloaded on the LIWG website: www.laolandissues.org.

- Aiding or Abetting? Internal Resettlement and International Aid Agencies in the Lao PDR, by Ian G. Baird and Bruce Shoemaker (2005).
- Study on land conflicts and conflict resolution in Lao PDR: Land policy study No. 9 under LLTP II, by GTZ (2007).
- Environmental and Social Impacts of VLRC Rubber Plantation, Bachiang, by François Obein, AFD (2007).
- Rural Land Management and Land Administration (Policy Brief No. 2), by Sub-Working Group on Upland development, MAF (2008).
- Study on Women's Land and Property Rights under Customary or Traditional Tenure Systems in Five Ethnic Groups in Lao PDR, by Elizabeth Mann and Ny Luangkhot, GTZ (2008).
- Foreign Direct Investment (FDI) in Land in Lao PDR, by Oliver Schoenweger and Alfons Ullenberg, GTZ (2009).
- The socio-geography of mining and hydro in Lao PDR, by Nina Fenton and Magnus Lindelow, World Bank (2010).
- Turning Land into Capital, Turning People into Labour: Primitive Accumulation and the Arrival of Large-Scale Economic Land Concessions in the Lao PDR, by Ian Baird (2011).
- Concessions and Leases in the Lao PDR: Taking Stock of Land Investment, by Schoenweger, Heinemann, Epprecht, Lu, Thalongsechanh (2012).
- Land and Forest Allocation in Lao PDR : Comparison of Case Studies from Community-Based NRM Research, Society & Natural Resources, by Yayoi Fujita and Khamla Phanvilay (2008).
- Land Concessions, Land Tenure, and Livelihood Change: Plantation Development in Attapeu Province, Southern Laos, by Miles Kenney-Lazar (2010).
- Crossroads: The Illicit Timber Trade between Laos and Vietnam, by Environmental Investigation Agency EIA (2011).



Photo from Xe Kaman River, Attapeu Province. By Marcus Rhinelanders.



The **Land Issues Working Group (LIWG)** is part of the iNGO Network. It consists of representatives from nearly 40 different civil society organisations operating in Laos.

The LIWG promotes awareness and understanding of the social, economic and environmental impacts of land-related projects, and enhances civil society involvement in land management decision-making. LIWG gathers and disseminates information, facilitates dialogue and carries out studies.

We work towards greater community control over their land, forests and natural resources. The LIWG cooperates with civil society organisations, communities, government, development partners, and the private sector.

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