

## Women's Land Rights Study in Laos

### Key Messages

- Women's land rights are **closely linked to customary gender-based power systems**.
- However, those rights are also **subject to change** due to many local and external factors.
- In all the research villages, **women had lost access to and control over land. This is part of the phenomenon of de-agrarianization and de-feminization in agriculture**, triggered by policies fostering monoculture farming and transfer of land to investors. This has caused a reduction in land and forest being used for animal raising, firewood, and collection of non-timber forest products, all of which results in food insecurity.
- **The socio-cultural changes** in agrarian transformation, like the division of labour, **threaten women's land rights** with increasing gender inequality, loss of socio-cultural identity, and rising inter-generational conflicts.
- Protection of women's land rights in matrilineal, patrilineal and bi-lineal communities requires first and foremost **a deep understanding of customary gender-based power systems**. This is a prerequisite for adequate gender and women's land rights awareness raising activities and meaningful participation of women in local land governance.
- **Women's land rights have been weakened in the new Land Law (2019)** by the removal of dual names (wife and husband) on land titles (from the 2003 Land Law, Article 43).
- Reinforcing the customary inheritance land rights of women in matrilineal communities will help to **strengthen the protection of women's land rights**. In patrilineal and bi-lineal social systems, women have weaker customary land rights and are at risk of losing them. This is due to traditional norms which limit their participation in local land governance and thus cause unequal power relations in decision-making over family property;
- State and customary laws should be applied with the purpose of ensuring protection of women's land rights.



A woman feeding her pigs and chicken in a upland hamlet, Nyot Ou, Phongsaly  
© CCL/AG

## Women's Overall Land Rights Situation in Laos

Since the 1990s, with Laos transitioning from a subsistence to a market economy, secure land rights for women have become crucial.



A woman planting rice on the rice field in Oudomxay province © CCL

### State law: New Land Law 2019 weakened women's land rights

The past decades have shown an enormous rural transformation process, and pressure on land and natural resources are catalyzing a change in land use and land management in Lao PDR. This, in conjunction with new land policies, threatens and undermines livelihood systems and customary rights that secure land tenure for women and men.

While the 2003 Land Law had a specific stipulation about women in Article 43 on land registration, stating that **both the husband and wife must be included in the Land Register Book in the case of matrimonial property**, the revised Land Law (2019) no longer includes this protection clause for married women.

***“Joint ownership of husband and wife in cases of matrimonial property is omitted, which is a set-back for securing land rights for women.”***

The reference to joint ownership of husband and wife in cases of matrimonial property is omitted, which is a set-back for securing land rights for women. Such circumstances indicate that titling may not add significant benefits to the protection of land rights for women.



## Customary law: the roots of women's land rights

Customary laws have been established over many centuries and women's land rights are mainly determined by whether a village is matrilineal or patrilineal in social structure. The former has women as the main land rights holders. Indeed, customary inheritance rights favor women over men and/or youngest daughters over sons. **In the patrilineal societies, customary law systems exclude women in land inheritance patterns. Indeed, customary private land rights favor men or sons and limit women's ownership of, access to and control over land.** Women in these systems gain land rights via men but can lose these rights when marriages dissolve or a husband passes away.

These customary land laws apply as well when it comes to decision-making about access to and use of land, but also in regards to the protection of land rights for women. Above systems are also influenced by many other local and external factors. Therefore, there can be exceptions and unique conditions in some cases.

A common form of customary land law in Laos is collective or village land ownership, which is greatly used by women.

Local arrangements are made and acknowledged by all other residents, and enable access to and use of those lands by the whole community. This is essentially a community inclusive social agreement. **Collective tenure systems vary depending on ethnic group customs and local ecological conditions.** Although the Lao Land Law (2019) recognizes customary land rights, those remain only for individual use. Collective land use rights are recognized only for public utility lands in villages (which do not include lands collectively used for shifting cultivation, grazing, etc.).



A woman collecting dried cardamom in Namor district © LIWG

## Women's land rights in the community

The concept of formal rights from a legal perspective is not well understood in most rural villages; there are however significant differences in women's understanding of formal rights depending on different factors: ethnicity, village location, whether the land is located in an economically dynamic area, and the level of education of women.

Between villages with matrilineal, patrilineal and bi-lineal structures, ethnic groups with a matrilineal inheritance structure tend to have a greater understanding of their legal rights related to land.

Women from a patrilineal structure, living in low land peri-urban areas, have a better understanding of their formal land rights than women from a patrilineal structure located in rural up-land areas. **Ethnic women's understanding of their rights based on their own customary law system is high, being practiced and being passed to the next generation in all villages.** What differed was that more rural villages rely almost exclusively on customary land governance whereas peri-urban/urban villages see a mix of formal and customary land governance.

## Formal protection of women's land rights

An important aspect for a land rights holder is the ability to protect those rights against any threat of revocation. **The revised Land Law (2019) does not require both spouses name on land titles, which appears to be a shortcoming for the protection women's land rights.** This is especially true for women living under a patrilineal inheritance system. Without legislation requiring spousal titling, women risk losing their customary land rights in cases of divorce or death.

***"I would like to have a land title for my homestead land. This title will make me feel that no-one can steal my land and I can open a noodle shop in front of my house for family income."***

Lao-Tai Woman from Phonsong village, Viengkham district, Vientiane province

Depending on the circumstances, decision-making about division of land holdings may or may not involve arbitration outside the household (clan leaders, village authorities or court).



A group of women carrying firewood collected from the village forest. Ngoi district, Lungprabang © LIWG



## Changes in women's land rights in the context of agricultural transition

### Changes to women's access to land

***“We don't know what our children's future will look like when they don't have land since our living is so much dependent on land and open fields.”***

Nalaidong village chief, Atsaphangthong district,  
Savannakhet province

In all seven villages women have lost access to and control over land from the expansion of roads, construction of buildings, resettlement, concessions to rubber plantations and leasing out land for sugarcane production. In the matrilineal villages the loss of private customary paddy land owned by women resulted in de-feminization in agriculture.

Women are expected to work more than men to make a living and buy food for the family. **Losing inherited land causes a further gender-based cultural breakdown.** In patrilineal villages many women lost access to collective land (upland fields), and in bi-lineal villages women lost their collective and reserved land which they used for subsistence farming.

This has had a huge impact on food security. **Losing access to land also affects the youth who become less self-confident and express concerns about their future.**

### Changes to women's family roles

By losing access to land, Women's roles in the family are slowly changing, especially where it concerns activities related to conversion of collective and private lands and gender-based division of labor. **Household work and caregiving are viewed as women's work** and considered a light task in matrilineal, patrilineal and bi-lineal community. Community activities, heavy work and productive work are seen as men's work.

**These norms produce unequal gender stereotypes; women are given lower-valued tasks as a housewife and care giver.** These norms and beliefs have pushed women into the position of a follower and limit their control over family property, including land, participation in public events, and land governance discussions in the community.



A Kher family preparing young cardamom seeds to grow at their old village because they do not have enough land to grow in the new village. Phongsaly © Phetsakhone

## Recommendations

### To the Government

- **Sub-legislations to the Land Law should specify and protect the land rights of women** by reinforcing matrilineal customs and supporting women's land rights in patrilineal communities.
- **Budgets from concerned ministries (PoNRE, MAF, LWU, LNFC) should be gender inclusive** to ensure that women's land issues are taken seriously within the government system. Such budgets should be allocated to line offices at the provincial and district levels.
- **Prioritize systematic land titling rather than sporadic land titling** in order to make titling available to all, including women. This should only be done with the consent of villages, and only after a village has approved a land use plan with due recognition of women's perspectives on collective land rights and with sensitivity to upland livelihoods so as to not negatively impact food security. The land use plan should also recognize the customary land tenure rights of upland villages on equal footing with formal titling.
- **Land titling projects should be gender sensitive** - responsive to women's land rights and ensure meaningful and inclusive consultations in relevant project activities. A specific budget for this purpose should be allocated. Gender should be included as part of a specific social safeguard process.
- **Collective land under State land should be given full legal recognition under the name of the village as a legal entity** as rural households, specifically women and the poor, depend more on collective resources. This should only be done after effective consultation with communities, after approval of a land use plan with the consent of the whole village, and where land use regulations are used to strengthen women's land rights.
- The Lao Women's Union and the Commission for Advancing Women should encourage each office working in the land sector to **recruit and retain female staff in their land technical teams**, including in decision-making positions.
- The Lao Women's Union and the Commission Advancing for Women should support government policies promoting gender equality as indicated in current Gender Equality Law.

### To donors of Land Titling projects

- **Donors of land titling projects should promote women's land rights and use creative piloting efforts in order to set positive examples for government**, such as pre-adjudication analysis of women's land rights, awareness raising for government staff, recognition of customary tenure of individual and collective land rights, and reducing the exclusion of women in patrilineal systems.
- **Budget of land titling projects should be gender inclusive**, providing resources to DoNRE to strengthen their capacities relative to gender and women's land rights
- **Inclusion of the Lao Front for National Construction (LFNC) in gender awareness trainings and activities**, as it has a key role in villages to promote ethnic unity and conflict solving, including land conflict at the village level.
- **Land titling projects should include gender equality and women's land rights awareness raising activities** in communities – for women, men and mixed groups.
- **Women's rights to land need to be analysed from the perspective of both formal legislation and customary law**, as they co-exist and interact.
- **Land projects should strengthen the inclusion of women in the local land governance structures** (e.g. village land tax position, village land committee) by providing women's leadership skills training, and supporting government offices (LWU and LFNC) to find solutions for vulnerable women and disadvantaged groups (poor, persons with disability and single parents) living in land-insecure situations.





*"I would like to have a land title for my rice field because if I lost my rice field I wouldn't have land to grow rice and I won't have food for my family."*

A bru/katang woman, Nalaidong village, Atsaphangthong district, Savannakhet province © LIWG





## About the Land Information Working Group

The Land Information Working Group (LIWG) is a civil society network that was set up in 2007. The LIWG consists mostly of international and local civil society organization staff and other individuals working on land issues in Lao PDR. The group has over 80 Core Members representing nearly 40 organizations, and over 180 individual Supporting Members. The LIWG activities are implemented through the LIWG Secretariat which is overseen by the Committee, elected from among the member organizations.

The group was established so that its members could inform one another about land matters, especially in view of increasing land related foreign direct investment (FDI) projects and concerns over the negative impacts on the livelihoods of rural communities, as well as to develop common initiatives to address some of these issues. The LIWG does this by cooperating with a wide variety of stakeholders: civil society, government, development partners, private sector, and, importantly, the communities themselves.

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This Briefing Note is a summary of a research report commissioned by the LIWG and done by a team of local and international consultants in 2019.

The full report is available at: <https://bit.ly/2IFHAEJ>

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