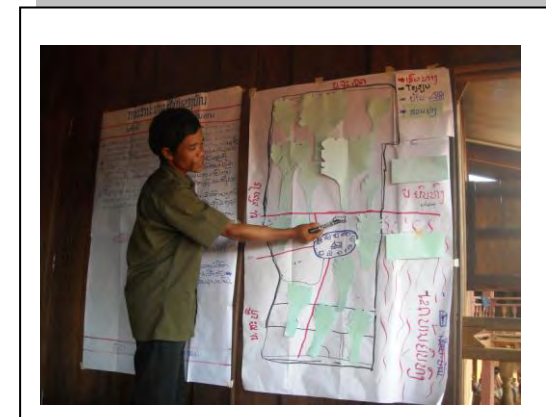




## IMPACTS OF LAND AND FOREST POLICIES ON THE LIVELIHOOD OF ETHNIC MINORITIES



THIS RESEARCH HAS BEEN CONDUCTED BY RRDTC'S ACTION RESEARCH UNIT (SYVAY GERVANG, SIMON FREUND) AS PART OF ITS PARTICIPATION IN THE MEKONG INSTITUTE'S RESEARCH CYCLE 2009.

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## TABLE OF ACRONYMS

DAFO	District Agriculture and Forestry Office
DoF	Department of Finance
DDoL	District Department of Lands (under Finance)
DLMA	District Land Management Authority
DPI	Department for Planning and Investment (District)
FDI	Foreign Direct Investment
GoL	Government of Lao PDR
IFI's	International Foreign Investors
LSC	Land Survey Certificate
LT	Land Title
LTD	Land Tax Declaration
LTR.	Land Tax Receipt
LUC	Land Use Contract
LA	Land Allocation
LUP	Land Use Planning
LUP/LA	Land Use Planning and Land Allocation
MAF	Ministry of Agriculture and Forestry
MOF	Ministry of Finance
NAFRI	National Agriculture and Forestry Research Institute
NAFES	National Agriculture and Forestry Extension Service
NLMA	National Land Management Authority
NTFP	Non-Timber Forest Product
NRM	Natural Resource Management
REDD	The United Nations Collaborative Program on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
PAFO	Provincial Agriculture and Forestry Office
PLMA	Provincial Land Management Authority
TLUC	Temporary Land Use Certificate

## ABOUT RRDTC

The Rural Research and Development Training Center (RRDTC) is an independent, non-political Lao Not-for-Profit-Association (NPA) which is locally managed. The Center provides training, research and resources for rural community development in Lao PDR. Since April, 2004, RRDTC has been operating under the umbrella of the Lao Union of Science and Engineering Associations (LUSEA).

RRDTC has been involved in land rights issues since 2006, mainly by providing training to villagers on land rights issues and related advocacy and land dispute procedures (on behalf of the Canada Fund and the McKnight Foundation). Recently RRDTC has begun to set-up Village Networks to enable villagers to safeguard their land from land-grabbing and provide them with a representative body to jointly manage natural resources and negotiate with investors and government.

## ACKNOWLEDGEMENTS

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## ABSTRACT

Along with the other GMS states Lao PDR has in the previous decade adopted land and forest policies with the aim of poverty reduction. In 1996, the Government of Lao PDR (GoL) officially adopted a nationwide program on land use planning and land allocation (LUP/LA). The program aimed at providing villagers with individual access to additional land resources as well as at safeguarding the nation's forest areas by delineating various forest categories during land use zoning exercises at village level. Implementation of LUP/LA has varied throughout the country, but studies on the effects and impacts have shown that several of the expected results have generally not been achieved. The LUP/LA program has now been drastically decreased due to budget constraints after having been implemented in varying degrees in most parts of the country. In the past years several authors and organizations have attempted to analyze the main impacts of the LUP/LA program on rural livelihoods and the environment. It is reported that in general, LUP/LA has been beneficial in the delineation of village boundaries and resource use zones, has helped to reduce land conflicts and improve forest protection. On the other hand, land allocation has led to a reduction of agricultural and forest use area available to the households living in upland areas. In numerous cases this has resulted in decreased yields and insecure livelihoods.

“Reassessment of the land-forest allocation programme is needed, particularly as it applies to upland areas where shifting cultivation is widespread; shortened fallow periods, together with population pressures, have resulted in declining yields and hardship in some upland areas.” (Lao PDR NGPES)

The results of this study confirm most of the impacts identified during previous surveys.

The main Lao government strategy to develop remote areas has been to push for “economic integration.” This has translated into a policy of swidden agriculture eradication, which is commonly understood as an important way to develop the uplands. Following the main government line, swidden is focused on producing a diversity of crops for subsistence, and this keeps ethnic minorities poor, especially where fallow cycles are being reduced. Thus, the villagers have to be taught how to farm like lowland Lao – to focus on a narrow range of crops in order to produce a surplus which will generate cash, increase market linkages, and decrease poverty. Recognizing that many upland areas are unsuitable for paddy cultivation, and given the remoteness of so many upland minority villages thousands of villages have been resettled – often with disastrous consequences due to a lack of support during the actual move, lack of basic infrastructure in the new villages and difficulties of the communities to adapt to new environments, diseases and agricultural practices.

Not surprisingly, then, figures from numerous studies conducted in Lao show an increase in all the poverty indicators – including decreased food production and increased mortality rates – among new villages.

In recent years, Lao PDR has experienced an increased demand for its main national resource, the country's land. Huge areas of land have been conceded to foreign investors, mainly to Chinese and Vietnamese rubber plantations.

The results of these land concessions have put further pressure on upland minorities' livelihoods by increasing land scarcity and reducing forest area which is vital to these minorities' livelihoods. Furthermore, villagers' lands have often been conceded to the foreign investors – sometimes without any or with too little compensation - leaving villagers as day laborers on their own land with no alternatives.

This study intends to contribute to a better understanding of how institutional arrangements governing ethnic minorities' rights to access and control over land and forest impact on their livelihoods, based on a field study in 5 ethnic minority villages in Sekong province.

*Key words: land policy, land rights, land concessions, land titles, Lao PDR*

# IMPACTS OF LAND AND FOREST POLICIES ON LIVELIHOOD OF ETHNIC MINORITIES IN LAO PDR

## BACKGROUND OF THE RESEARCH PROJECT

### INTRODUCTION

The population of the GMS states is made up of people from various ethnic groups and cultures. Of the sub-region's estimated 300 million people, about 75 million belong to about 200 ethnic groups (ADB, 2007). Most of these ethnic minorities make a living in the GMS countries' upland areas, where much of the region's forest is located and are usually classified as poor. For these people, forest and land play a vital role in their life. Forests are often a significant source of household income. Forest loss and degradation pose a severe risk to the livelihoods of these minorities. Large-scale clearing of forests for commercial logging, or industrial plantations (for instance rubber) has displaced and marginalized these minorities across the region. Reduced access to forests has also been a major factor forcing them into unsustainable farming practices. Generally, the upland areas are widely recognized as undeveloped, particularly in areas where ethnic minority groups live. In the recent decades, the upland areas have been in a state of deepening environmental and social crisis. Unless current trends are reversed, there is a real danger of widespread environmental disaster and massive human tragedy (Jamieson, N. L., Le Trong Cuc, and Rambo, A.T. , 1998).

Ethnic minorities in the GMS' mountainous regions face poor access to communication, lack of farm land, lack of market opportunities, exploited natural resources (NTFPs, crude oil, minerals, etc.) and lack of government (or other organizations') assistance, particularly basic infrastructure (such as schools, hospitals, bridges, roads, markets). This further negatively impacts on their livelihood.

Laos comprises approximately 131 different ethnic minorities and sub-groups from four major ethno-linguistic families that are commonly divided by the Lao into three major (rather crude) sub-groups according to the height they usually prefer to dwell in. The Lao Lum (Lum = below) and several ethnic minorities belong to the Thai-Kadai ethno-linguistic family, inhabit the lowlands, valleys and plateaus preferably near streams and rivers generally at 200-400 meters altitude, cultivate paddy and are mostly Theravada Buddhists. This group comprises approximately 60 % of the national population (with the actual Lao Lum constituting 35% of the total population and 58 % of the Tai family). The Lao Theung (Theung = upper) belong mostly to the Austro-Asiatic language family (Mon-Khmer group), practice swidden upland farming and are often animists. They inhabit the slopes, valleys and watersheds around the plains, at between 300 and 900 meters altitude, represent around 26-36 % of the country's population and are generally less well organized socio-politically than the Tai, Miao-Yao and Tibeto-Burman groups. The Lao Sung (Sung = high) like to



dwell on the summits of mountain ranges, between 800 and 1600 meters altitude, belong mostly to the Tibeto-Burman (3-4% of total population) and Hmong-Mien groups (also called Miao-Yao, ca. 6-10%), practice shifting cultivation of normal rice, hunting, small livestock raising and, in the past, cultivation of poppy. (Chazée, 2002)

The national poverty rate is 34.7 %. The poverty rate of the Mon-Khmer groups (51%) and the Tibeto-Burman and Hmong-Mien groups (44%) is significantly higher than the poverty rate within the Tai-Kadai populations (26%). (Epprecht et al., 2008).

In Lao PDR, the poverty profile experienced within household livelihood systems is characterized by food insecurity (seasonal shortages of the staple food, rice), low income and insufficient savings and investment (in rural areas this is expressed as a shortage of livestock). (UNDP, 2001)

The three major features of rural livelihood systems in Lao PDR are farming, dependence on forest products and the specific role of NTFPs (UNDP, 2001). In relation, some challenges to the development of sustainable rural livelihood systems exist (UNDP, 2001 and MAF, 2005):

- Declining productivity in swidden-based upland farming systems
- Declining productivity of non-timber forest resources
- Failure of alternative income sources to transform the rural economy
- Loss of access to forest

Utilization and management of forest resources are considered important in fulfilling the policy target of poverty eradication. Sustainable forest utilization, forest protection and reforestation, with strong involvement of the local community are crucial strategies for government in forest management and poverty alleviation.(FAO Tong, 2009)

Security of land and forest tenure is considered essential for motivating people to protect and maintain the land and forest as well as for sustainable development of these resources. It is an incentive for people to invest in land and forest management and reduces incentives for resource over-exploitation. In the recent decades, the governments in all GMS countries, including the government of Lao PDR (GoL) therefore, have launched a series of land and forest policies aiming to alleviate poverty. However, the fact is recognized that ethnic minorities in upland areas, who are land and forest dependent-people, are still poor. (Hobley, 2007)

“This security [of land and forest tenure] must also have the force of law behind it in order to protect those with few resources at their disposal from those with plenty of resources who seek still more. Those seeking more may do so for a number of reasons, but the most common is economic gain. Government policy and the law that emanates from it must address this matter with some urgency. In addressing this issue, governments must recognize the legitimacy of customary land rights and must give them the full protection of law. Without such recognition, any solution will at best be a temporary reprieve, the problem later returning in a significantly magnified state.”(FAO, 1997)

Integral with the issue of tenure is recognition of the multiplicity of benefits that accrue from the forest. To date most governments have only recognized the commercial benefits which are usually

measured in terms of commercial timber volumes. Apart from the timber benefits a forest resource offers, there are a range of other wood and non-wood resources produced, and there are the on and off site protection benefits that accrue. These include protection from soil erosion, protection of water supplies, and protection of biodiversity. In addition governments must recognize that forest resources have an intrinsic or existence value. Some commercial benefit may be derived from this, for example through tourism, but in general the mere existence of the forest should be recognized as having value. The upcoming REDD initiatives might substantially contribute to this recognition<sup>1</sup>.

## OBJECTIVES AND SCOPE OF RESEARCH

This study intends to contribute to a better understanding of how institutional arrangements governing ethnic minorities' rights to access and control over land and forest impact on their livelihoods, based on a field study in 5 ethnic minority villages in Sekong Province, Tatdaeng District.

The main research questions are:

1. How have Land Use Planning and Land Allocation impacted upon the selected ethnic minorities livelihoods?
2. How have (the lack of) permanent land and forest land titles impacted on these people's livelihoods?
3. How have land concessions impacted on these minorities' livelihoods?
4. What are the requirements to improve the ethnic minorities' livelihoods in terms of access and control over land and forest resources in an ecologically and economically sustainable way?

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<sup>1</sup> For the time being, however, it still remains to be seen if rubber and other plantations are eligible for carbon trade REDD within the REDD initiative, which could be counterproductive.



## RESEARCH AREA AND TARGET GROUPS

The research area consists of 5 villages, comprising 5 different ethnic groups in the uplands of Sekong Province:

Table 1: Target villages

Village name	Ethnic group	Number of households / families
<b>Ban Nyok Thong</b>	Soi 70%), Arak (30%)	113 hh / 144 families
<b>Ban Yuep</b>	Katu	74 hh / 101 families
<b>Ban Palai</b>	Alak (93%), Katu (4%), Nge (4%)	39 hh / 39 families
<b>Ban Djunghung Nuea</b>	Alak (70%), Katu (30%)	65 hh / 78 families
<b>Ban Thon Noi</b>	Alak (70%), Nge (20%), Lao Lum (10%)	107 hh / 130 families

All of the target villages have been affected by land concessions to Vietnamese rubber companies and are, thus, representative only for those villages situated in the 50% of all arable land of Tatdaeng District that have been conceded to foreign investors. One village has also been resettled (B. Yuep). The target villages were selected by the government authorities in Tatdaeng District, Sekong Province, who facilitated the team's field work and also joined the research team with 4 research-assistants from PAFO, DAFO, PLMA and DLMA.

## SEKONG PROVINCE

Sekong is among the most remote areas of Laos; even some of its largest villages are virtually inaccessible by road for at least half of the year. This isolation has meant that forest cover, biodiversity, and ethnic traditions have changed less in recent years than in other areas in Laos. However, the province has become much less isolated in recent years, with the upgrading of a major road up from the Mekong valley city of Pakse, plus two major road projects connecting Sekong to Vietnam to the east. Road infrastructure backed by the Vietnamese is part of a regional development strategy spearheaded by Hanoi called the Development Triangle Initiative, aiming to develop links between Vietnam and neighboring underdeveloped provinces in Cambodia and Laos. (Online)



Sekong's poverty rate of 47 % (rural: 53%; urban: 29 %) is significantly higher than the national average (Epprecht et al., 2008).

## FOREST MANAGEMENT

Remaining forest cover in Sekong Province has been high. Government figures classify over 50% of the province's land area as forest, the majority of it being mixed deciduous and semi-evergreen forest, but with pockets of dry dipterocarp forest along the Sekong river valley, and pine forest in the Dakchung highlands. Much of the natural forest in Sekong has never been subject to commercial logging, but this is changing fast. Commercial timber extraction has been expanding rapidly over the past decade in the province. There is tremendous and growing pressure on Sekong to log its forests – both from Vietnamese interests (where the wood furniture sector averaged 70% growth per year during 2000-2004) and from Lao companies (who face wood shortages because of dwindling stocks in lowland forests). (Online)

Like a lot of other provinces, Sekong provincial authorities have signed away substantial parts of its land to – mainly Vietnamese – investors. Since land surveys, land use planning and land titling are rather in a nascent state investors – like Vietnamese rubber companies – have a hard time actually finding the land they got the land concession for. In areas where the borders between farm and forest are blurry this often means they use the same land that originally belonged to the local villagers.

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## ETHNICITY

Sekong is ethnically diverse. Only about 3% of the population is ethnic Lao. The vast majority (97%) come from one of at least 14 distinct ethnic minority groups. The Alak (21% of the provincial population), Katu (20%), Tarieng (19%) and Nge/Krieng (11%) are the main ethnic groups. The Lao government classifies them as “Lao Theung” (mid-slope Lao), but a more accurate categorization, based on ethno-linguistic families, groups them under the Austroasiatic family. Within this broad family, the ethnic groups of Sekong fall into two linguistic branches: the Katuic (including the Katu and the Nge/Krieng) and the Bahnaric (Alak and Tarieng).

These groups have always existed on the margins of society. Lowland groups – be it the Lao-Tai majority in Lao PDR, or the Vietnamese over the border – have traditionally viewed them as uncivilized, for several reasons. First, their agriculture is more focused on swidden cultivation than paddy rice cultivation, a powerful symbol of civilization for lowland societies. Second, since swidden is a form of forest management, and because forest products are so important in their livelihoods, they have always existed in close relation to the forest – a wild and unpredictable place full of spirits (good and bad) in the minds of lowlanders. Third, they do not practice Buddhism, another benchmark of civilization. Rather they practice ‘animism,’ or what can be translated as ‘spiritualism,’ and they are believed to wield powers (ethnic Lao people call it ‘black magic’) used to deal with the dangerous spirits resident in their villages and forests. Furthermore, they have no written language, another sign of civilization. Finally, they do not traditionally recognize political organization outside the village. Thus to lowland Lao these Austroasiatic groups have traditionally represented savagery, godlessness, witchcraft, illiteracy, and anarchy. However, these groups have always been given a place of honor in traditional ceremonies of the Lao state, because they are considered original owners of the land. They have always been represented in all major rituals, and even newly-built palaces of the Lao kings could not be occupied until the upland chiefs had ceremonially opened it.

These views – and the fear engendered as a result, the fear of peoples who have mastered the wild periphery – has in some ways worked to the advantage of the minorities. They have enjoyed relative autonomy over the centuries, as the power of great kingdoms of the lowlands (Cham, Khmer, Vietnamese, Lao) changed hands, and ebbed and flowed. Historically, their lands have been an important buffer zone between powerful and often warring lowland groups – alternatively a staging point or hideout for rebellions or retreats, with minorities acting as essential guides through the forests and mountains. Therefore, these groups have been a part of many of the great battles of mainland Southeast Asian history; but not until the French colonial takeover in the 1890s were their lands ever totally claimed by an outside power.

This is when the first substantial organizational push beyond the village level – including collaboration with lowland groups – occurred. Many rebellions against the French were organized from the time of French conquest in Laos. Ultimately, a great number of minorities joined the Pathet Lao communist movement during the resistance war against the French, and then later the American-backed Royal Lao Government forces. Though they were fighting for “independence,” in a very real way this was the beginning of the end of autonomy for Sekong’s ethnic groups. Many moved as a result of the heavy bombing in Sekong (the Ho Chi Minh trail runs through the province), and many remain today in the settlements made then.

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## LAND LOSS AND POOR COMPENSATION

The land concessions for rubber plantations to three Vietnamese companies resulted in some people living in the research area losing almost all their farming land and villages losing all their reserve and protected forest land. Only the paddy fields, of which there were relatively few, were salvaged along with the village housing area. Most of the areas which have been included in these land concessions are swidden fields and crop fields.

Some villagers expressed their confusion and frustration at their loss of land. One explained “In the beginning, villagers didn’t understand what a land concession was. The village authorities and the upper authorities came to explain the benefits that the villagers would gain. For example, they explained that the villagers would gain work with the companies and get a monthly wage. The entire land of our village is in the land concession area. There was no point in saying if we were satisfied or not satisfied, because the concession is in accordance with the national government’s policy.” In Ban Phia Mai, where RRDTTC conducted a PRA, villagers reported they had not been informed of their land having been signed away to a Vietnamese rubber company and finally were confronted with the contract already signed by the provincial authorities which they were asked to sign as well. They refused to comply which did not change anything.

In general, compensation was made to the people who lost their land, but there were several exceptions and the rates were exceedingly low.

Table 2 below gives an overview about the current situation of land concessions in Sekong Province.

Table 2: Land concessions in Sekong Province

Company	ha conceded	Conceding agency	Duration (yrs.)	Activity
<b>Forestry / Plantations</b>				
LVF (Vietnamese)	8.000 <sup>2</sup>	GoL	50	Rubber
Lao-Bidina (Vietn.)	9.485 <sup>3</sup>	GoL	50	Rubber
Kuangming Chuenya (Vietn.)	1900	GoL	50	Rubber
Investment Continent A (Vietn.)	100	Province	-	-
<b>Other agriculture</b>				
Y&P	100 <sup>4</sup>	Province	35	-
Mithaphap 206	100	Province	-	-
Kaona Kankaset	72	Province	-	
Maisavanh Lao	35	Province	-	Mulberry trees
<b>Total</b>	<b>19.792<sup>5</sup></b>			

<sup>2</sup> LVF requested a land concession of 10.000 ha, got a concession for 8.000 but is currently only using 3.000 ha according to contract while another 5.000 ha could not actually be conceded because the land was not available.

<sup>3</sup> Lao-Bidina got a concession for 9.485 ha but is currently only using 5.000 ha according to contract while another 4.485 ha could not be actually conceded because the land was not available.

<sup>4</sup> Y&P requested a concession of 1.928 ha.

<sup>5</sup> The companies were really provided with 10,307 ha. 9,485 ha were additionally conceded on paper but the land was simply not available.

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## LIVING UNDER GREATER VULNERABILITY

The livelihoods of the villagers who lost land to the company changed.

From being a community that used to make their living from swidden farming, cropping, raising cattle and buffaloes, and finding food in the pha khoke forests, villagers now rely on hired work as laborers with the company to earn money to buy rice to eat. From a survey of 189 interviewees in 6 villages, it was found that the people who grew enough rice to eat for 11-12 months in a year fell from 4 in 5 in 2003 to 1 in 5 in 2007. There was a stark increase in the number of months without home grown rice, and the overall number of households lacking rice to eat in 2007. (Pinkaw Luangaramsi, Rebeca Leonard, Pornpana Kuaycharoen, 2008)

## LITERATURE REVIEW

### LAND AND FOREST POLICIES IN LAO PDR

All land in Lao PDR is controlled by the state. In 2003, the Land Law<sup>6</sup> was revised and the following amendments concerning land transactions have been made compared to the old Land Law of 1997<sup>7</sup>:

- The modified Article 3 on land ownership no longer states that “no person or organization can take land as a commodity for the purpose of buying and selling.”
- The rights of land users now include the “right to possess land” (Art. 53).
- The old land law limited the right to transfer land to plots that have already been developed and put to use. The new land law does not specify which type of land can be sold and explicitly mentions the options of sale and exchange of land (Art. 57).

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6 (Law on Land, No. 04/NA, 10/21/2003)

7 (Law on Land, No. 01/97 NA , 04/12/1997)

## FOREST LAW

The Department of Forest under the Ministry of Agriculture and Forest handles forests, issues permits and controls harvesting of forest resources. GoL is the sole owner and manager of forest resources in Lao PDR<sup>8</sup>.

The Ministry of Agriculture and Forestry is the leading agency in coordinating all relevant sectors and local authorities to conduct forest surveys and allocation, to categorize the forest areas and to monitor changes to forest areas. The rights of individuals and organizations to use forests are limited to the category of degraded forests and shall be allocated according to the labor and financial capacity, but not exceeding three ha/labor in a family (Art. 13). It is prohibited to transform forests for other purposes; exceptions must be based on the interest of the public good (Art. 14). Exploitation of wood and NTFPs may be undertaken specifically in production forest and in areas, where forestry exploitation has been planned (Art. 25). Article 30 recognizes customary uses of forests within the limits of the law.

The MAF has amended the Forestry Law recently with the following main changes:

- Reducing the number of forest types from five to three (Production, Protection and Conservation Forest)
- Reducing the natural forest conversion area from 10,000 ha to 1,000 ha
- Increasing degraded forest area for allocation to plantation establishment from 3 to 10 ha for each project at the district level and from 3-100 ha to 10-500 ha at the provincial level
- Inclusions of principles concerning land concessions for plantations
- Prohibition of log and lumber export
- Prohibition of logging permits issuance at the provincial level
- Clear responsibilities and mandates for the Forest Inspection Organization

(FAO Tong, 2009)

The government adopted various forest management policies with different impact on people and forests. Policy thrusts behind forest management have been aimed at revenue generation activities (Sunderlin, 2006). The economic mechanism adopted in 1986 caused higher levels of harvesting and rapid acceleration in exports. Considering policy impact of state-controlled forest causing higher rate of forest degradation, a National Conference on Forestry was organized in 1989 to rethink on

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<sup>8</sup> According to the Forest Law of 1996, natural forests and forested lands are property of the national community, which the state represents when allocating individual use. Individuals and organizations shall have the right to possess and use forests and their resources only with prior approval from authorized agencies (Art. 5).



existing policies. This conference became the basis for policy shifts towards providing space for community participation (Manivong, K. & Sophathilath, P., 2007). Since then, attempts have been made to decentralize local resource management, including the management of forest-based resources.

The plantation sector in Laos has an important role in the Countrywide Forest Strategy for 2020 as stated at the 7th Round Table Meeting in September 2000. The Ministry of Agriculture and Forestry was assigned as the lead agency to preserve and increase the density of forest cover to 53% by the year 2010 and 70% (1 million ha) in 2020 “Forestry Strategy to the Year 2020” (MAF, 2005). As of 1989 forest cover was only 47% and in 2008 it now falls between 35-40% (MAF Update, 2008). A significant weakness of the policy is the inclusion of tree plantations as forests, this has only encouraged the spread of plantations. Other issues involving plantations include the low land concession fees and a shortage of domestic labor. The National Economic Research Institute has shown that rubber plantations currently cover about 200,000 hectares and if other industrial tree and agro fuel crops are included this exceeds 300,000 hectares. In the future Laos will face labor shortages and will assess impacts of concessions. The GoL has, thus, limited the plantation areas and is emphasizing livestock breeding and small agricultural practices (Pongkao, 2008).

The current forestry trend in Lao PDR is according to the World Bank (2001) highly unsustainable. As a result of the government policies and practices, forest degradation is high, at 5.6% between 1992 and 2006. The coverage of natural forests has dropped to 41.2% in 2001 from 70% in 1947 and 47% in 1992 (DOF, 2003). The density of forests has decreased drastically and forest fragmentation has increased (Phanthanousy, B. & Sayakoummane, S., 2005). With this bleak trend and continuation of existing policy, tenure and institutions, the government’s target of expanding 60% of land under forest may remain a distant dream.

During the process of development, natural assets including forests have been exploited for their economic value although benefits in terms of poverty alleviation have not always been achieved. The current situation has been described as one in which policies favor large-scale export agriculture (including industrial tree crops) over high-value smallholder crops, NTFPs and other more sustainable options for rural development (WWF, 2007). Foreign direct investment (FDI) and regional infrastructure connections are alone unlikely to provide significant poverty reduction, and it is suggested that complex and holistic development interventions are needed to protect village livelihoods (Hunt, 2007).

In Laos the importance of forests in the economy is self-evident: in 1998, wood and wood products comprised 34 per cent of total exports. Forests have also filled—and continue to fill—a central livelihood role for rural families. But because of the low visibility of forest exploitation this role, for many years, went either un- or under-reported. It has been estimated that the average rural Lao family consumes the equivalent of US\$280 of NTFPs per year, equal to 40 per cent of total rural family income (World Bank, 2001).

Studies show that the majority of poor households, whether delineated according to poverty line or measures of food security (rice sufficiency), live in upland areas and practice shifting cultivation. A participatory poverty assessment (PPA) undertaken by the ADB in 2000 across 84 rural villages, for

example, revealed that 90 per cent of poor villages were dependent on swidden agricultural systems (ADB, 2001). Characteristically, these villages experience rice insufficiency for six months—or longer—of the year. This, it should be emphasized, is the norm—not the exception. It cannot be stressed enough that forest resources constitute a vital contribution to upland families' food security that would otherwise be lacking.

## LAND USE PLANNING AND LAND ALLOCATION

In 1993, the Government of Lao PDR (GoL) officially adopted a nationwide program on land use planning and land allocation (LUP/LA). The program aimed at providing villagers with individual access to additional land resources as well as at safeguarding the nation's forest areas by delineating various forest categories during land use zoning exercises at village level. Implementation of LUP/LA has varied throughout the country, but studies on the effects and impacts have shown that several of the expected results have generally not been achieved. In the past years several authors and organizations have attempted to analyze the main impacts of the LUP/LA program on rural livelihoods and the environment. It is reported that in general, LUP/LA has been beneficial in the delineation of village boundaries and resource use zones, has helped to reduce land conflicts and improve forest protection. On the other hand, land allocation has led to a reduction of agricultural and forest use area available to the households living in upland areas. In numerous cases this has resulted in decreased yields and insecure livelihoods. The GoL uses the LUP/LA program as a tool to enforce policy issues, such as the eradication or stabilization of shifting cultivation, the elimination of poppy cultivation and the relocation of settlements or village consolidation. Other objectives are the promotion of decentralized and community-based management of natural resources, the increase of investment in land and of the national tax base and the general improvement of living conditions. (GTZ, Soulivanh et al., 2004).

National funds were made available to the provincial authorities in support of the LUP/LA program. Provincial and District LUP/LA Steering Committees under the chairmanship of the Vice-Governor supervised the training activities, selected priority areas and coordinated implementation. While the Provincial and District Agriculture and Forestry Offices (PAFO and DAFO) were responsible for the overall organization of LUP/LA activities, it was mainly the forestry staff, which took a leading role in the implementation of the program. In numerous cases, and due to the lack of staff at DAFO, other institutions such as the Office of Finance (DDoL), the Army and sometimes the Police were requested to second additional staff to the LUP/LA teams. In recent years, the LUP/LA program was continuously reduced due to lack of funds, after having been implemented to varying degrees in most of the country.

In most districts the teams conducted LUP/LA activities quite systematically village by village depending on the financial resources made available. Usually, activities started in more accessible villages and were implemented during a period of 3 to 5 working days by a team of 4-6 people. Generally, this time period is not sufficient to finish all 6 working stages foreseen in the first part of the LUP/LA process. Generally, LUP/LA is seen as a one-time exercise, with very ambitious targets, which have to be fulfilled. At the end of these intensive periods of land use planning, which saw a

varying degree of participation by the local population, the land allocation follows and Temporary Land Use Certificates (TLUC) are issued to households (GTZ, Soulivanh et al., 2004).

A recently conducted research's preliminary findings<sup>9</sup> indicate the main reason for the failure of land titling in Laos was that land titling focused disproportionately on urban areas, particularly land used for commercial and residential purposes. Land titles have yet to be introduced for agricultural land. This means villagers' access to credit and their ability to invest productively is limited. Only the owners of rice fields and vegetable plots in large villages were being issued land titles. But this is reportedly carried out in a hurried manner, without proper surveying.

Poverty reduction is an overarching agenda of GoL, and land reform and tenure security are measures adopted to achieve this goal (Ducourtieux, O., Laffort, J.R. & Sacklokham, S., 2005).

The impact of land-forest allocation policy has been described as counter-productive, though, as it has created food insecurity and poverty (Hobley, 2007, Sunderlin, 2006). It has had negative social impacts by marginalizing the poorest farmers and adversely affecting the forest condition and agricultural modernization (Ducourtieux, 2005).

The GoL has a policy of encouraging villagers who practice shifting cultivation to adopt sedentary forms of agriculture. The aim is to reduce the area of steeper sloping land being used for crop production through the adoption of permanent crop production and maintenance of forested land. The strategies for doing this are:

- Allocating agricultural land on a temporary basis (usually 3 years) to provide farmers with land security.
- Encouraging farmers to invest in inputs to improve the productivity of allocated land.
- Increasing the area of land developed for wet rice production.
- Encouraging the planting of annual and permanent economic crops.
- Increasing villager participation in commercial tree planting and wood production.

The current rationale for promoting sedentary farming is a consequence of changes in upland agriculture. These changes include reduced fallow periods, and more intensive cultivation of sloping land. The effect of this more intense land use is that more top soil is being lost, soil fertility is declining and productivity is beginning to decline. (Jones, P. & Sysomvang, S., 2004)<sup>10</sup>

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<sup>9</sup> Dr Silinthone Sacklokham from the National University of Laos (NUOL) Faculty of Agriculture's Nabong Campus worked on an AusAID-funded qualitative survey last year, jointly conducted by NUOL and the University of Sydney.

<sup>10</sup> Takeda (2003) further argues that as another impact of LUP/LA on upland livelihoods in marginal mountainous areas of Lao PDR many NTFPs are being lost by the reduction of shifting cultivation because a lot

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## THE LUP/LA PROCESS

Although originally intended as a participatory planning approach, the GoL used LUP/LA mainly as a tool to implement and enforce regulations and policies at village level. Therefore it would be misleading to describe the general approach as participatory in nature. In those cases where LUP/LA is directly supported by donor-funded projects, the approach tended to be much more people- and needs-oriented, took longer and generally produced better results<sup>11</sup>.

The LUP/LA approach in Lao PDR can be described as follows:

- LUP/LA focuses at the village level and is applied systematically village by village.
- The LUP/LA approach is conducted by a group of 4-6 trained district staff (DAFO, Finance etc.) in 5 days on average (only “one time” exercise).
- The original methodology proposed in the manual and the technical guidelines have been adapted in consideration of limited funds and staff capacities.
- Major stages are the village boundary delineation, land use zoning and land allocation to households.
- Village LUP/LA Committees are established, a Village Forest Management Agreement (VFMA) is signed and TLUC are handed over at the end of the exercise; village leaders sign pre-defined village regulations (by DAFO).
- TLUC are issued only for additional land allocated to families, such as home gardens, commercial crop areas, orchards, new paddy, tree plantation, and sometimes swidden agriculture plots.
- In many areas villagers have systematically been allocated only 3 plots per family for rotational shifting cultivation.
- Land use plans are usually hand drawn on the basis of enlarged topographic maps; enlarged aerial photos (1:10.000 scale, 1999) are used in project supported LUP/LA; a land use zoning map is drawn on wooden boards and erected in the village.
- Copies of TLUC and the maps are kept at DAFO; the Office of Lands is supposed to get copies; keeping of records is a serious problem.

(GTZ, Soulivanh et al., 2004)

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of these are directly dependent on human disturbance of the forest cover and the variety of habitats thus created.

<sup>11</sup> Recently MAF and NLMA have released the Participatory Land Use Planning (PLUP) Manual with support from GTZ and the Land Issues Working Group (LIWG).

## WORKING STEPS

From the beginning of the program, official guidelines suggested eight stages for the implementation of LUP/LA at the local level. This work plan, although rarely carried out completely, comprises the most important guidance for LUP/LA-staff at district level. Stage 1-4 wraps up the land use zoning and land use planning activities, while stage 5 and 6 are the core steps for land allocation. Villages are required to establish a village LUP/LA-committee, including representatives of all mass organizations. Monitoring is done on a sporadic basis by the villagers themselves. The LUP/LA-committee, however, has ceased to exist in many villages – likewise have the land use zoning maps.

Table 3 below shows the original LUP/LA working steps.

Table 3 Working Steps of LUP/LA in Lao PDR

Stages	Main Activities	
	Eight-stage procedure (1997)	Modified ten-stage procedure (2001)
Stage 1	Preparation for the implementation of LUP and LA activities (training of staff/ preparation of materials, villager consultations)	LUP and LA preparation
Stage 2	Village boundary survey, land use zoning, forest surveys and land use mapping	Village boundary delineation and land use zoning
Stage 3	Data collection and analysis concerning land tenure, socio-economic conditions and needs	Data collection and analysis
Stage 4	Village land use planning and land allocation meeting	Village land use plans
Stage 5	Agricultural field measurements	Forest and agricultural land allocation decisions
Stage 6	Preparation of forest and agricultural agreements and transferring rights to villagers	Field measurements of agricultural lands
Stage 7	Land use management extension	Forestry land agreements and transfer of rights to villagers
Stage 8	Monitoring and evaluation	LUP and LA information storage
Stage 9	-	Agricultural land allocation records
Stage 10	-	Monitoring and evaluation

(GTZ, Soulivanh et al., 2004)

## LAND CONCESSIONS

The Party and Government of Lao PDR is extremely committed to eradicate poverty and bring the country out of Least Developed Status at any costs by 2020, by transforming the country from a traditional agriculture system into an agro-industrial system, with the aim of producing sufficient food for consumption and export and by turning natural resources into capital. To do so the government encourages both local and foreign sectors to invest in Lao PDR by permitting land concession to plant industrial trees and agricultural cash crops. The government also guarantees investors property rights by approving regulations and giving priority to their business such as the 1986 law on promoting foreign investment (amended 2004). Beside this, the government receives benefits for the national budget and expenditures through tax collection from the (foreign) investors. They also claim that investors provide job opportunities for unemployed local workers to upgrade their living conditions (CIDSE, 2009).

However, due to the lack of an effective management and monitoring system in the land concession process, the government has not given adequate consideration about possible negative impacts. As a consequence, the land concession policy contains numerous shortcomings regarding social, economic and ecological balance with the livelihoods of local villagers. Increasingly and repeatedly there are reports emanating from concession areas in the countryside of uncompensated losses of the natural resources of forest dependent villagers (such as non-timber forest products), out-migration, decreased food security and loss of biodiversity. Investors have cleared land for concessions, which were under crops and trees owned or utilized by villagers. In some cases these are high value crops (coffee and teak) and frequently villagers are not consulted nor informed about the clearing. There is a serious lack of transparency and participation from communities in the concession processes. This has resulted in increased conflicts between local authorities and villagers and villagers loss of faith in the government. Some concessionaires also clear private (villagers') assets without paying suitable or any compensation to the owners. In some cases, "investors" also used concessions as a cover for logging operations in natural forest areas, clearing an area, then abandoning the land leaving a devastated ecological system. The consequences of these operations effects whole communities because villagers lose access to natural resources resulting in the lack of food and saleable non-timber forest products, as well as places for raising animals and timber resources for home construction (Dwyer, 2007).

After the increasing visibility of the negative impact to local people and natural resources caused by large scale land concessions for industrial tree and agro fuel crops plantations, in May 2007 Lao Prime Minister Bouasone Bouphavanh announced a moratorium on further concessions. He urged the investors to proceed carefully and adequately study and evaluate local values and environmental impacts prior to starting their business. He also said that investment must be in accordance with the laws and policies of Laos including the 2+3 (contract farming) policy (Dwyer, 2007). However, in reality, some provinces continued to approve land concessions without using the 2+3 policy but instead use 4+1 (i.e.: community land is acquisitioned). In some cases local people have become temporary workers and forced to give up their land to investors for long periods of time with unfair or no compensation (Pongkao, 2008).

Klaus Deininger of the World Bank (2003) notes that the failure to integrate and adapt legal forms of land and resource tenure with the reality of local livelihood practices almost invariably leads to conflict.

“There is a significant and growing body of evidence, drawn from the Mekong region and elsewhere, that large-scale plantation and forest land concessions do not contribute to effective local poverty alleviation, but rather undermine viable, alternative approaches to rural development which respects the moral, customary, and in some cases legal claims of rural communities to their historical lands.” (Barney, 2007)

Key problem areas for plantation concessions in Lao PDR include the zoning of swidden fallow lands and village-managed landscapes as “degraded forest” available for commercial plantation developers, and a lack of local rights to participation and representation in the landzoning process. The eradication or stabilization of swidden through commercial tree planting continues to represent official state policy in Lao PDR. While there are initiatives underway which could act to strengthen communal claims to upland forest land (GTZ, Seidel, K. et al., 2007), there are also strong forces behind plantation investments into Lao PDR, which have the potential to override what have been to date rather ad hoc efforts behind sustainable management and regulation of this sector.

GTZ (2006) reports on a range of other plantation schemes in the country. It is likely that there will be continued pressure on capital-short Lao State agencies over the coming years to allocate land for concession-style developments for foreign direct investments, although the legal-institutional framework for managing and regulating this process is still very much under development.

Since 2006 the small landlocked South East Asian nation of Laos has seen an explosion of small, large and medium scale plantations, particularly rubber, eucalyptus and biofuel crops. This increase in industrial tree plantations has not come about by itself however, but has been promoted by IFI's over the past decade as a means to increase Lao GDP. Foremost among the promoters of plantations development in Laos is the Asian Development Bank. Despite being one of the most corrupt countries in the world (Laos ranked 163 out of 171 in 2007 on Transparency International's Corruption Perception Index), the Asian Development Bank has been fervently promoting agro-forestry investment for many years. Their sordid history of plantations promotion is perhaps best known for the disastrous 11 million dollar loan project running from 1996 to 2003 with the express purpose of promoting plantations in Laos. That project alone has left large numbers of impoverished farmers with an unpayable debt, has nearly bankrupted the government run Agriculture Promotion Bank, and has facilitated large scale plantation operations in Laos (Lang, C. and Shoemaker B., 2006).

The expansion of the rubber industry in Laos, is directly related to the growth of the Chinese car industry. China has now become the biggest rubber consuming country in the world. Companies from China have expanded their rubber crop area in Laos, mostly in the northern region where the two countries share a border, mostly through contract farming. Commonly, the Chinese trader or company will provide capital, seedlings and will buy the produce from the farmers, while the land and the labor are supplied by the farmers; however many variations in arrangements exist. Vietnamese and Thai companies have also invested extensively in rubber, predominantly in the central and southern regions. These companies have acquired land through a land concession



model. Currently, there are five Vietnamese companies in the south of Laos, four of which are companies from the major Vietnamese Rubber Group (Viet-Lao, Dau Tieng, Quang Minh, Quasa Geruco) and another provincial state company called the DakLak Rubber Group. In total, the area where they have been authorized to grow rubber in Laos is 42,050 hectares. (Luangaramsi P., Leonard R., Kuaycharoen P., 2008)

Some of these concessions were apparently made to Vietnamese companies in order to repay a loan for the SEA Games, which took place in Laos in the end of 2009 (Vientiane Times, 2009).

A comprehensive land inventory is missing. Such an inventory should contain inter alia relevant data on existing lease and concession contracts and details on land that could be leased. Instead, bits and pieces of information about state land are with a number of line ministries, departments and divisions at central and local levels. Since these shortcomings slow down investment approvals, investors might have to search for suitable land on their own or to give up their investment plans in Lao PDR altogether. Model agreements meeting international leasing standards are currently available only for concessions on hydropower. Other contracts for leases and concessions using state land lack clarity and consistency. While ‘lease’ and ‘concession’ are not clearly distinguished terms, rights and obligations of both parties seem not always to be balanced. All contracts reviewed lack clear and enforceable clauses on breach of contract, compensation for damage, penalties, termination, and dispute settlement. Furthermore, concession fee rates, usage charges for natural resources, and royalties set by law are not based on supply and demand. Different approaches applied in the provinces to determine fee rates do not seem to meet market standards. Granting land free-of-charge should be restricted to joint ventures when the land offered constitutes the GoL contribution to the project, but is entirely dispensable in the case of other domestic or foreign investments because the prospect for reasonable profit is deemed to be a sufficient incentive and enterprises should not be subsidized (GTZ, 2006).

“Very low earnings from state land leases and concessions indicate that GoL has not yet fully developed this income source. In 2004-2005, total revenues from state land assets amounted to US\$ 7.2 representing only 0.24 % of GDP.”(GTZ, 2006)

Despite efforts to clarify and determine the land rights of the people, confusion reigns even among those who were allocated land certificates under the Land and Forest Allocation Program. Villagers were under great pressure to hand over their certificates to allow in the plantations. As in many countries around this region, the swidden fields, pa khoke areas or other forest area where the villagers collect their food and other products of the forest, raise their livestock, etc, are considered under the law as land of the state.

The value and benefit of these lands to the local people are well- studied but are rarely taken into account in planning and decision making. The losses of these lands and forests to the people are devastating<sup>12</sup>.

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<sup>12</sup> Based on a research report by Pinkaew Luangaramsi, Rebeca Leonard, Pornpana Kuaycharoen (2008), “Socio-economic and Ecological implications of large scale industrial plantations in the Lao PDR, Case Study on Rubber Plantation”, Chiang

Yet in a country where government salaries are only \$30-50 a month, and capacities of government staff to monitor concessions are weak, natural resource loss and the disruption of traditional livelihoods has invariably accompanied plantations development. Reports by the German Development Agency GTZ reveal a near total lack of regulation of land concessions in Laos. Among the many damning findings of a 2006 GTZ report are that there is little to no understanding of the extent of concessions that have been issued across the country due largely to a decentralized and unregulated process of handing out land concessions. Not only are different government agencies able to grant land concessions, but both national, provincial and district branches of the government have been able to allocate land for plantations development without consolidating this information in any one place. This aspect alone has led to a situation whereby concession areas allocated to different companies now overlap with one another meaning that plantation companies are now scrambling to secure their concession areas before they are lost to other companies<sup>13</sup>.

Despite the extraordinary growth of agro-forestry investments in recent years, the process for allocating land for concessions remains woefully inadequate. Reports from some disgruntled government staff and from villagers themselves indicate that companies are in effect allowed to allocate themselves land by putting local government officials on the company pay role, with the express purpose of securing land for the company. And in a system where there are many more impoverished officials to replace those that can't or won't find land, it is not surprising that there are frequent reports of manipulation, exaggeration of benefits, and forced coercion of villages to hand over land to plantation companies. The Land Management Authority has been assigned overall responsibility for land registration, monitoring of land concessions and land taxes. Hopefully this will lead to an improved land management in the future.

While theoretically the previous forestry law stipulated that only "degraded land" could be used for plantations development, time and time again dense tropical forest has been logged to make way for plantations development (providing handy income from log sales at the same time). For the rural communities who remain largely dependent on forest resources for their livelihoods the picture is grim. Village communities presently have no secure land tenure under the law, as all forest land is recognized as the property of the state. Plantations development has been used by the government of Laos for many years as a tool to physically disrupt shifting cultivation systems curtailing fallow periods and reducing food security. Furthermore, rural communities, despite often losing hundreds of hectares of forest land to plantations often derive only very minimal benefit from plantations operations. Tree planting periods coincide with the rice planting season meaning that jobs often go

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Mai University, English edition forthcoming. Based on research work cooperation between the Centre for Information and Research on Land and Natural Resources, Laos National Land Management Authority, Office of the Prime Minister; Foundation for Ecological Recovery and Faculty of Social Sciences, Chiang Mai University, Chiang Mai, Thailand.

<sup>13</sup> As the German news-magazine "Der Spiegel" puts it: "Because of the political sensitivity of the modern-day land grab, it is often only the country's head of state who knows the details. In some cases, however, provincial governors have already auctioned off land to the highest bidder, as in the case of Laos and Cambodia, where even the governments no longer know how much of their territory they still own." (Der Spiegel, 2009)

to outside contract laborers. When work is available to villagers it is mostly irregular and mainly only accessible to a small number of villagers at any one time.

Provincial authorities have had the right to approve only projects that require not more than 100 hectares of land. Projects needing larger areas must seek approval from the central government. The existing decree, issued in 2004, does not specify, as intended, that each 100 hectares of land approved by a province must be used for a different project, and that each project should be separated by a minimum distance.

If, for example, an investor requested an area of 500 hectares, some provinces simply approved five 100-hectare adjacent plots.

Under a recently introduced decree, provincial authorities can approve an area of not more than 150 hectares for the production of valued-added agricultural exports, and 500 hectares of scrubland for planting trees.

It remains unclear how many hectares of land throughout the country have been allocated for foreign-run projects. But 2007 figures showed more than 1,000 projects were approved by authorities.

The Ministry of Industry and Commerce and Land Management Authority of Champassak province stated, that currently, an area of 167,000 ha has been transferred to foreign companies under large scale land concessions in the central and south regions of Laos. Of these, 48% or 80,000 ha are dedicated to rubber, and 28% of 46,600 ha are allocated to growing eucalyptus. However, the total area for growing rubber throughout the country has increased to 182,900 ha. Other sources again refer to an amount of 200.00 ha conceded for rubber plantations and 300.000 ha of total land concessions. While the National Land Management Authority refuses to share data on the status quo of land concessions it is questionable if the GoL actually knows how much land it has / has been conceded.

## RESETTLEMENTS

Economic development and population growth along with government policies have put severe pressure on the upland minorities' livelihoods in terms of land use, culture and self-determination. The main Lao government strategy to develop remote areas has been to push for "economic integration." This has translated into a policy of swidden agriculture eradication, which is commonly put forward as an important way to develop the uplands. Following the common government line, swidden is focused on producing a diversity of crops for subsistence, and this keeps ethnic minorities poor, especially where fallow cycles are being reduced. The solution is to teach them how to farm like lowland Lao people – to focus on a narrow range of crops in order to produce a surplus which will generate cash, increase market linkages, and uplift them out of poverty. Recognizing that many upland areas are unsuitable for paddy cultivation, and given the remoteness of so many upland minority villages thousands of villages have been resettled – often with disastrous consequences due

to a lack of support during the actual move, lack of basic infrastructure in the new villages and difficulties of the communities to adapt to new environments, diseases and agricultural practices.

“Over the last decade, tens of thousands of ethnic minority people in eastern Asia's Lao PDR (Lao People's Democratic Republic) have been resettled from remote highland areas to the country's lowlands and near major roads. International aid agencies have supported this internal resettlement in the name of poverty alleviation, rural development, and environmental protection. But the outcome for indigenous communities has been devastating and long-term impacts on their livelihoods, food security, and environment have been negative.”(Ian G. Baird and Bruce Shoemaker, 2005)

Not surprisingly, then, figures from numerous studies conducted in Lao show an increase in all the poverty indicators – including decreased food production and increased mortality rates – among new villages. (Online)

## METHODOLOGY

Several techniques have been employed for triangulation including qualitative and quantitative methods. Secondary data and literature review, primary data collection such as focus group discussion, semi structured interview with key informants and structured interview with the target group (household survey) were conducted.

Table 4: Research Methodology

Level	Research method	Data source
<b>National</b>	Literature review	Literature and secondary data (statistics, books, reports, conference proceedings, legal documents related to land and forest polices etc.)
	Interview	Key informants
<b>Province and District</b>	Literature and secondary data review	Literature and secondary data (statistics and documents on LUP/LA, land titles and land concessions in Sekong Province and Tatdaeng District)
	Interview	Key informants
	Focus group discussion/workshop and SWOT analysis	Staff from PAFO, DAFO, DLMA and PLMA

<b>Village</b>	Semi-structured interview	Key informants (village heads and committees)
	PRA tools (village transect, village mapping, Focus group discussion on pros and cons of LUP/LA and land concessions)	Village assembly
	Household survey	120 households in 5 target villages have been interviewed using a standardized questionnaire

A main objective of the methodology was to not just collect data but to use participatory approaches wherever possible to ensure that the people participating in the research (government staff and villagers alike) are not objects of data collection but participants in a joint problem analysis and, thus, benefit from the participation in the research as much as possible.

On village level the team first called a village assembly to present RRDTTC and the research objective. Afterwards the assembly was split into two working groups:

- One part of the research team interviewed the nai ban (mayor) and the village council using the village profile form. Afterwards a village mapping exercise was conducted in which the village authorities drew a map of their village depicting the villages' land use.
- The other group discussed with the rest of the village the pros and cons of the LUP/LA exercise in the village and in a second step the pros and cons of the local land concession. Outputs were visualized on flip charts.

Both groups presented their outputs back to the assembly where they were discussed. Afterwards the research team arranged to meet the households selected for an interview.

The Questionnaire in the household survey consisted of four parts:

- (1) Profile and livelihood assets of household
- (2) Impact of the LUP/LA process on the families' livelihood
- (3) Impact of land title on the families' livelihood
- (4) Impact of land concessions on the families' livelihood

Village transects further helped to understand the village's situation.

## SAMPLING

Due to time and budget constraints the team interviewed 25 families per village<sup>14</sup>, regardless of village size. It was made sure to interview the same percentage of better-off, middle and poor families in every village, based on the government's poverty ranking of all households.

The interviewees were mostly male household heads, but the team tried to also get female interviewees wherever possible.

- Sample size of the study is 126 respondents
- Due to the size and type of data, the data was analyzed in SPPSS using descriptive statistics only.

## RESEARCH FINDINGS

In an initial workshop with government authorities of the governor's office, DLMA, DAFO and DPI from Tatdaeng District and PLMA and PAFO from Sekong Province the situation of land use, status quo of LUP/LA and land concessions was assessed in a focus group discussion and a SWOT analysis. A general need of improved management of land and forest according to the GoL's plan and a need for research and technical support to the concerned authorities was agreed on. In Sekong LUP/LA was conducted as a one-time exercise in 1997-2000 supported by WB with PAFO administrating land use and advising the government on land use. Approximately 60% of all villages were covered before activities were stopped due to a lack of funding. Some additional land titling was conducted in 2004.

Apparently the villages targeted for further land titling<sup>15</sup> are the same that are targeted for land concessions in order to make villagers eligible for compensation. Thus land titling is not actually targeted at increasing land tenure. It was stated in the meeting that due to population increase, lack of proper monitoring and land concessions the outcomes of the initial LUP/LA exercises were largely obsolete.

According to PLMAs statistics 10,081 parcels of land have been allocated in Thatdeng District, amounting to 5,176 ha and generating 20,413 US\$ tax revenue. 3,093 out of 3,905 families have been issued land (have paid tax for it).

The meeting agreed that there have been negative impacts on ethnic minorities through land concessions. In Tatdaeng District 6.000 ha out of 12.000 ha of arable land available were said to have been conceded to foreign investors. The bulk of these land concessions was signed away by the central government in Vientiane to mainly Vietnamese companies for rubber plantations (s.Table 2).

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<sup>14</sup> Plus one additional family to better represent all wealth groups in the first village.

<sup>15</sup> Six villages are due to receive Land Survey certificates in 2010.

Apparently the central government conceded more land than “degraded” land locally available which put local DAFO and DLMA staff under pressure to make land available to the investors – which was often neither degraded land as the law would require nor unoccupied. In fact a lot of the concession land was owned and used by villagers, often growing high value cash crops like coffee.

Table 5 below shows a SWOT analysis that the participating government authorities conducted, facilitated by the research team.

Table 5: SWOT analysis of LUP/LA with district and provincial government authorities

Strength	Weakness
<ul style="list-style-type: none"> <li>- Villagers use their land efficiently / yield good results from their land use</li> <li>- Society has justice and peace</li> <li>- The villagers got to know their own village boundaries</li> <li>- Villagers get to think about/ develop concepts how to be responsible for the use, protection and development of their land</li> <li>- Villages’ land management is according to the law</li> <li>-The villagers know how to use their land according to the regulations</li> <li>- The government transferred responsibility for land and forest management to increase the efficiency of natural resources use in the long term</li> </ul>	<ul style="list-style-type: none"> <li>- The implementation was not yet good enough</li> <li>- Land use not according to goal / plan and lack of follow-up and monitoring</li> <li>- Sense of responsibility for natural protection is not yet high</li> <li>- The law has not been enforced every where</li> <li>- The methodology of LUP/LA does not correspond with the people’s needs</li> <li>- Lack of follow-up and monitoring of the impact of LUP/LA</li> <li>- No experience in monitoring</li> </ul>
Opportunity	Constraint
<ul style="list-style-type: none"> <li>-Promotion of business and marketing for economic growth</li> <li>-Villagers can use their land according to their own needs</li> <li>-Most people believe in/trust the government’s development plan</li> <li>-Possibility to attract investment in development</li> </ul>	<ul style="list-style-type: none"> <li>-Villagers’ understanding is still limited</li> <li>-Rules are not implemented</li> <li>-Villagers do not use their land according to plan</li> <li>-Lack of information</li> <li>-If village boundary delineation was not done properly, conflicts are created</li> <li>-The law has not yet been implemented everywhere</li> <li>-Not all families have been allocated land</li> <li>-Some villages not satisfied with boundary delineation</li> <li>-The population does not yet fulfill its land management role / lacks ownership</li> </ul>



All participants agreed on the need for improved monitoring and follow-up activities but also agreed that technical capacity and lack of funds were an obstacle to this.

Table 6: SWOT analysis of land concessions with district and provincial government authorities

Strength	Weakness
Villagers have jobs / daily labor	Fee for land concessions is too low <sup>16</sup>
Outside/foreign investment leads to increased incomes	Lack of orderly management of land concession process
Government benefits through concession fees	LUP/LA rules were not followed / implemented
	Lack of monitoring of the concession land use
	Villagers do not have sufficient land for agriculture
	Land for production decreased
	Forest has been destroyed
	Negative impact on environment and society
Opportunity	Constraint
Villagers get benefits from investment	
The population has an opportunity for income generation	

Apparently the concerned agencies do realize the shortcomings of the concession process and indeed expressed their need for technical input on land registration and land use monitoring procedures several times.

Confusion reigned as to how to enforce contracts: even though the foreign investors were said to violate contracts and pretty much assign themselves their land and use it contradicting the law no contract has ever been cancelled and no investor ever been punished due to unclear contracts.

Actual data on either the LUP/LA process or the land concession situation was hard to come by. Actually, DAFO and DLMA should have a copy of all LUP/LA documents (TLUCs and land use plans and regulations). However, the only data the team could gather at DAFO on LUP/LA was a handwritten and hardly legible list summarizing the land use areas in ha for 32 villages (out of 57 villages in the district = 56%) dated from 1998. DLMA had a land tax register dated from September

<sup>16</sup> Apparently the concession fee collected from the Vietnamese investors is only US\$ 6 / ha / year.

2008 available, according to which 3.093 families out of a total of 3.905 families (79%) apparently have been issued with some kind of land title – mostly TLUCs - because they have paid taxes (an average of 433,000 KIP/ha). In the initial workshop the responsible authorities mentioned that LUP/LA had been conducted in 60% of all villages during 1997-2000.

Even though PLMA had just recently compiled a whole book on the status quo of land concessions in the province including GPS data, the research team’s request for a copy was declined due to the report not having been approved by the authorities yet. Similarly, the teams request to the national land management authority in Vientiane was rejected because of the confidentiality of the data.

**COMPARATIVE VILLAGE PROFILE AND LAND USE IN THE TARGET VILLAGES**

Table 7 below summarizes the main data collected from the interviews of the village heads and village councils. Table 8 depicts current land use in the 5 villages.

Table 7: Comparative Village Profile according to village heads and councils

	Nyok Thong	Yuep	Palai	Djunghung Nuea	Thon Noi
<b>Better-off/middle/poor families</b>	12/123/9	8/18/12	3/38/30	13/60/5	27/86/70
<b>Resettled (by GoL)</b>	No	1998	No	1974	No
<b>Families</b>	144 families	101 families	39 families	78 families	130 families
<b>Land titles</b>	142 TLUC, 2 LSC	None	39 TLUC, 1 LSC, 1 PLT,	78 TLUC	130 TLUC,
<b>Main income</b>	Paddy, livestock, daily labor	Daily labor, small livestock	Rice, coffee, daily labor	Coffee, small livestock, labor	Rice, coffee daily labor
<b>Main production changes after LUP/LA</b>	DAFO promotion of jobs tears	Training on livestock raising	Promotion of coffee and jobs tears	New road	-

<b>Relevance of LUP/LA</b>	No Land management rules, land insufficient, village has not adhered to LUP/LA outcomes  LUP/LA finally rendered irrelevant by concession	Because of resettlement no LUP/LA ever conducted, no land titles only some plots allocated for rice production, lack of land, LUP/LA finally rendered irrelevant by concession	Land management rules existed, but land allocated insufficient due to population increase  LUP/LA finally rendered irrelevant by concession	LUP/LA finally rendered irrelevant by concession	LUP/LA finally rendered irrelevant by concession
<b>Change of swidden after LUP/LA</b>	20% decrease, increased paddy	70% decrease because of lack of available land	70% decrease because of increased paddy (extension services)	70% decrease due to population pressure, lack of forest land	70% decrease due to increased paddy area
<b>Change in NTFP availability after LUP/LA</b>	No change	Decrease due to population pressure	Decrease due to population pressure	Decrease due to population pressure and reduced forest available	Decrease due to population pressure and reduced forest available
<b>Change of wildlife availability after LUP/LA</b>	50% decrease due to population pressure	80% decrease due to population pressure	90% decrease due to increased hunting	80% decrease due to depletion of forest	60% decrease due to increased hunting

<b>Land conflicts after LUP/LA</b>	70% increase	No change because no LUP/LA	Increase due to people selling village land	Decrease due to land sufficiency	80% decrease
<b>Food security after LUP/LA</b>	Deteriorated by 50%	n/a	Improved	80% improvement due to increase of paddy area	Deteriorated through the use of chemicals / health hazards
<b>Forest management /protection after LUP/LA</b>	No change	n/a	No change	Improved through LA	Improved because villagers were made responsible themselves
<b>Village has land use plan?</b>	No	No	No	Yes	Yes
<b>Benefits of LUP/ LA</b>	n/a	n/a	n/a	Improved management by village forestry council	Improved management by village committee and village forestry committee
<b>Village land conceded</b>	428,11 ha to LVF for rubber, 50 years from 2005	150 ha to LVF for rubber, 50 years from 2006	450 ha, to LVF for 50 years starting 2005	400 ha, Lao Bidina, 50 years starting 2006 (rubber)	250 ha, Lao-Bidina, 25 years starting

<b>Participation in concession process</b>	onwards		(rubber)		2006 (rubber)
	Request was submitted to village council, after survey the land was conceded even though the village disagreed	Village was informed by District authorities that they were to concede land to the investors and would get 1,000,000 kip/person/month, electricity, village fund and health centre. None of it was delivered.	Former village head was bribed	Village was informed by District and Province authorities that they had to concede their land to the government who in turn gave it to company	Villagers participated in decision and are happy with the decision because only degraded land was conceded

Table 8: Land use per village in ha as summarized by the village heads (numbers in brackets represent original LUP/LA data from DAFO)

Land use	Nyok Thong	Yuep	Palai	Djunghung Nuea	Thon Noi
<b>Paddy</b>	65,4 (35.5)	n/a	46,7 (39.36)	65	91
<b>Upland/swidden</b>	58 (85.2)	n/a	27,66 (93.8)	24	0 (35.16)
<b>Industrial crop (coffee)</b>	10 (10)	n/a	7,93 (70.45)	114	30 (52.72)
<b>Short-term-crop (cassava, maize)</b>	2 (2)	n/a	3	13	0
<b>Production forest</b>	(329)	n/a	1,000 (239)	0	0
<b>Protected forest</b>	(1,331)	n/a	0 (719)	14	20 (850.8 <sup>17</sup> )
<b>Reserve forest</b>	(446,95)	53	0 (455.89)	0	10
<b>Concession land</b>	428,11	150	450	400	250
<b>Total</b>	2,186.56 (2,405)	203	1,650 (1,650)	620 (784)	382 (1,846 <sup>18</sup> )

There is a very obvious discrepancy between LUP/LA data which was available at DAFO and actual land use as reported by the village heads. The only fact that all village heads (and villagers) could easily recall by heart was the amount of land conceded to the rubber companies. Obviously the villagers understanding of land use and land allocation in the villages is not really consistent with the authorities' data on planned land use. Some village councils claimed that no reserve land and hardly any protected forest land was left for the village due to the land concession.

<sup>17</sup> At DAFO only the LUP/LA total of Djunghung Nuea (North) and Djunghung Thai (South) together were available for protected forest.

<sup>18</sup> At DAFO only the LUP/LA total of Djunghung Nuea (North) and Djunghung Thai (South) were available.

## FINDINGS ON LUP/LA ON VILLAGE LEVEL

The villagers discussed the benefits and shortcoming of the LUP/LA process in a facilitated focus group discussion as summarized in Table 9 below:

Table 9: Benefits and shortcomings of LUP/LA as discussed by villagers

Pros	Cons
- Communities know village boundaries and resource use zones	- LUP/LA outcomes were rendered obsolete when village authorities permitted Vietnamese company to grow rubber on village land
- Government provided training to village on jobs tears production (1 village)	- Lack of market to sell products promoted by government extension service (jobs tears)
- Village committee set up rules for land and forest management with DAFO team	- Rules of forest management were not always enforced (hunting, forest protection)
- Provided land was sufficient (incl. forest land and NTFP) (2 villages)	- Families from other villages (without LUP/LA) requested land for farming
- Reduction of land conflicts	- Population increase led to insufficient production area
- Improvement of forest management	- Assigned land parcels too small (1 village)
- Village committee set-up rule of forest and land protection (1 village)	
- Better cooperation on land use between villages	

Facilitating the discussion on LU/LA and retrieving appropriate answers on related questions in the questionnaires was not easy, because LUP/LA was conducted in 1993 in most target villages. Most people offered their opinion about current land issues / land concession problems so the facilitator constantly had to remind people to refer to a situation of land management *before* the concession. The old land use maps developed during the LUP/LA exercise that depicted the villages' land use on wooden panels had disappeared or got broken in all villages. Since they had long ceased to depict the actual land use situation – due to increase of population, migration and land concessions – the villagers did not really bother. It is apparent from Table 9 above that LUP/LA had beneficial impacts in terms of decreased land conflicts, improved land and forest management and improved land sufficiency. But in all villages the benefits were rendered obsolete by the land concessions that followed later. One village, Ban Yuep, had been resettled after LUP/LA and has thus never experienced the benefits of the process while experiencing the full impact of land concessions: because no land title has ever been issued to this village, the Vietnamese investors (LVF) had an easy

time with grabbing the villagers' land and grow rubber on it while the villagers now have to beg in surrounding villages for excess land to farm.

Overall LUP/LA increased the land villagers consider their own by 35% (from 2 to 2,7 ha/family in average). It also increased paddy fields (through extension services) by 110 % (from 56.7 ha total and 0.5 ha average per family to 119 ha total and 0.9 per family) and decreased swidden by 17% (from 0.6 to 0.5 ha/family).

60 villagers completing the questionnaire (48%) said they participated in the LUP/LA exercise, while 66 (53%) claimed they did not. While it is conceivable that the interviewee himself might sometimes simply have been too young when LUP/LA was conducted the only thing that even people who participated were able to remember was a consultation meeting with DAFO staff.

40% considered the land allocation during LUP/LA sufficient for their needs while 44%<sup>19</sup> found they had not been provided with sufficient land to meet their families' needs.

While agricultural extension services were only provided to 14 interviewed families before LUP/LA it increased to only 17 instances afterwards. Even though new paddy fields were cleared in some villages which increased food security and was much appreciated by the villagers, villagers were obviously not too content with extension services related to other new crops (jobs tears), for which they said there was not market even though they were told so by the government staff.

29% of respondents said food security increased after LUP/LA, while 16% found it decreased and 56% could not see any change.

Income increased according to 46% of the respondents, decreased for 36% and remained unchanged for 18%.<sup>20</sup>

39% found that land conflicts decreased after LUP/LA, while 48% did not see any changes and 13% saw an increase of land conflicts.<sup>21</sup>

72% think that NTFPs available have decreased after LUP/LA.

Generally villagers stated that they relied more on cash nowadays and had less naturally available food (NTFPs and wild animals) at their disposal.

LUP/LA led to an improved management/protection of forests according to 38% of the villagers while 21% did not state any changes and 41% (52) found it got worse which might again be due to current issues related to the land concessions.

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<sup>19</sup> Missing percentages to add up to 100% are due to indecisive or missing answers.

<sup>20</sup> Again, it is questionable if the stated changes can all be attributed to LUP/LA or if the villagers might have referred to changes after LUP/LA, as well.

<sup>21</sup> This, of course includes 25 respondents of a village where LUP/LA never has been conducted.



## FINDINGS ON LAND TITLING IN THE VILLAGES

Only one interviewed villager held a permanent land title (PLT), 3 respondents (2.4%) had a Land survey certificate (LSC), while 76 (60%) held a Temporary Land Use Certificate (TLUC). 44 villagers (35%) claimed to not even have Land Tax receipts, thus, they officially would not own any land at all. Even if the 25 interviewees from Yuep village are subtracted, where land titling has never taken place this still leaves 19 villagers (15%) from other villages without any official title to land even though they were issued a TLUC in the past.

The respondents paid an average of 33.000 KIP/ha as taxes on the land they held a title for.

Even though the sole owner of the PLT (who is also one of the holders of a LSC) used his land title for mortgage and then invested the loan in a banana plantation the data does not allow a representative statement about a correlation between land titles and investment.

Confusion reigned about the tenure of land ownership with a TLUC only. Quite a few villagers believed their TLUC to be permanently valid, probably because no follow-up after the three year validity period occurred. Apart from 9 respondents who said their TLUCs were valid until 2011 (issued last year) all other TLUCs were issued more than 3 years ago and, thus, invalid.

Still, 14% of all villagers considered their land tenure very secure and 42% secure, while 34% said they did not know and only 4% felt insecure about their tenure.<sup>22</sup>

The interviewed villagers said to hold land titles only for 59% of all land they actually considered their own (1,6 out of 2.7 ha per person in average).

While only one respondent confessed to have sold his TLUC, which is actually illegal, it was sad to happen regularly within the villages. Also, it is questionable how the handing over of the TLUC to the rubber company along with the conceded land, as observed in one village, is to be termed. The only difference to selling the TLUC is that the compensation received is a lot less than a sale would have fetched and the land is gone for good just as well.

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<sup>22</sup> Another 5% (6) did not answer the question because they did not have any land title or land and thus the questions did not apply to them.

## FINDINGS ON LAND CONCESSIONS IN THE VILLAGES

The villagers also discussed the pros and cons of land concessions as summarized in Table 10 below:

Table 10: Benefits and shortcomings of land concessions as discussed by villagers

Pros	Cons
District and Village authorities supervised / managed the process	Villagers were not sufficiently informed / could not participate in the concession process
Vietnamese company provided electricity to village (1 village)	Environmental and health problems (death of fish and other animals, almost-death of villagers)
Company contributed clothes to workers (1 set/60 ds work)	Decrease/lack of production land (1 village without any land titles came up with NO land for production)
Company co-financed village festival (1 village)	Labor shortage
Company contributed some books and medicine, co-financed hospital service and repaired a school	Decrease of water from local stream – increase of slash and burn because of lack of irrigation water
Villagers have a source of income	Villagers were beaten up by company workers (2)
	Company forced villagers to work overtime (uncompensated)
	Decrease of income from sale of produce
	Compensation for conceded land inappropriate – some villagers were not compensated at all
	Company did not stick to contract (clean water provision; health center; village fund and electricity were promised/granted but not provided)
	After initial employment for two years, available wage decreased (after planting seedling the company introduced machines and workers from outside the village)
	Company workers killed village animals
	Company workers harassed the villages' women
	Forest land was cleared for agriculture because the villagers production land had been conceded

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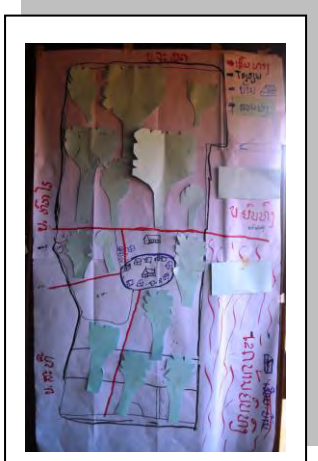
The company encroached on village land (incl. protected forest)

The company did not cooperate with the village

The government gave too much land to the company

Labor allowance too little for workload

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After the focus group discussion summarized above, the village council was asked to draw a map of the land use in their village. All these maps showed villages with tiny gardens and some coffee fields surrounded by rubber plantations. People were frustrated about having to walk long distances to clear new swidden fields and the lack of forest and its free food resources close to the village.

Apparently, participation of the villagers in the concession process differed from village to village and depended a lot on the capacity of the village authorities. While some villages kept their TLUCs and actually leased their land (for 50 years) with the theoretical option of getting it back after the concession period, some villages conceded their land titles (TLUCs) to the company for good (even though it is legally not possible to sell TLUCs). Sometimes the investors bribed the mayor<sup>23</sup>, sometimes they tried to coerce the villages into the concession with the support of government authorities<sup>24</sup> and sometimes they lied to the villagers promising them infrastructure support for the villages (electricity, schools etc. that was sometimes delivered and sometimes not) or promising employment only for those who conceded land without telling the villagers that after planting the rubber seedlings most of them would not actually be needed for a couple of years and that workers and machinery would be brought in from elsewhere to replace them in the plantations. For those who lost their land, if the rubber company does not hire local people to work, there are few alternatives left to sustain their livelihoods. They become dependent only on one source of income, which makes them much more vulnerable than their original way of life with diversified livelihoods. Villagers are hired on a daily basis rather than on a permanent basis. The companies pay differing wages, but generally pay an average daily wage of 20,000-23,000 kip (US\$ 2-2.5) per day. The average number of working days a year for non-permanent laborers amongst those interviewed worked out as less than a quarter of the working year.

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<sup>23</sup> In one village the mayor was promised a Toyota Hilux if he talked his fellow villagers into the concession. After delivering he was only mocked by the company, though and the villagers elected a new mayor.

<sup>24</sup> When a village refused to concede their land the company came back with the District governor, then with the Province governor until the villagers finally complied,

Labor requirements are high in the first year but there is little work available thereafter until the rubber is harvested. The workers' wages were irregular with a tendency to decrease after the first year. Due to initial promises of the rubber companies about coming riches a lot of villagers indebted themselves, buying TV sets and satellite dishes from local Chinese traders, and then found themselves unable to repay the debt, when employment did not turn out to be as regular and well-paid as promised.

Asked if they agreed with the concession, only 33% answered "Yes" and only 51% said they participated in the decision-making process, even though the law would require the villagers' participation in the concession process.

63% of the interviewed villagers said they conceded their own land to the rubber companies. In one village they even conceded their TLUC along with their land. The company told the villagers in all 5 villages that only people conceding land to the company would be eligible to work for them. These respondents conceded a total of 189.1 ha to the rubber companies equaling an average of 2.4 ha per person. 74% of this conceded land was land the villagers had a title for; the rest was communal land for which they had traditional use rights (mostly swidden).

Thus, a substantial portion of the land conceded to the rubber plantations was not at all degraded land but either agricultural land that the villagers could or would not pay the taxes for (21%), that they did not use (12%) or land under agricultural use (mostly coffee) which made up 21% of the conceded land.

Those who were compensated for their land received an average of 575,000 KIP ranging from less than 60,000 for a swidden field in traditional ownership to 2,000,000 for good agricultural land with a TLUC.

Since 33 villagers said to have not been compensated at all for their land (91.5 ha), the total average compensation per person is actually only 245,000 KIP / ha which is ridiculously low.

49% of the uncompensated land was communal village land under customary use (mostly swidden) while the remainder was agricultural land with land title (TLUC) but often without land taxes paid.

When asked how big their loss through the concession was, the concerned villagers estimated their financial loss at 10,400,000 per person in average, comparing the lease fee with the price fetched if they could have sold the land.

Asked about the impact of the land concession 9% of the affected villagers answered their land was now insufficient and they would not have enough rice to eat, 6% said that available wildlife and NTFPs had become insufficient and 84% said that their land and overall income had become less than before. Only 8% remarked that even though they had lost good land to the company it had been compensated appropriately.

Even though the villagers generally were rather frustrated with the labor and wages actually available, because daily labor availability sharply decreased after the first 1-2 years, and complained about working overtime,

physical abuse and health problems after dissemination of pesticides<sup>25</sup>, wages for daily labor in the rubber plantations accounted for 59% of the average cash income of the villagers (3,896,000 KIP) followed by coffee (13%), the sale of livestock (10%) and rice (6%).

Thus, despite all hardships, the concessions did also yield positive results for the villagers in terms of increased income. It was remarked by quite a few villagers that they found the change from a forest based livelihood to a cash-based one quite demanding and missed the natural foods they used to rely on.

Only 67% of the interviewed villagers got employment with the companies, though.

## CONCLUSIONS AND RECOMMENDATIONS

Even though generally it has to be stated that land and forest policies in the Lao PDR have been aimed at poverty reduction and economic integration these policies have failed to sufficiently take the actual reality of the upland minorities into account.

While it is absolutely conceivable that foreign investment, plantations and a change from swidden to sedentary agriculture might help people to escape poverty the speed and mismanagement of the process have overwhelmed and frustrated rural ethnic minorities.

Without a more participatory approach to local development planning that seriously tries to take indigenous concepts of a good life, customary land use and ownership (including communal land) as well as access and use rights to natural resources into accounts the current development strategies are likely to fail and leave behind a substantial part of the population disenfranchised and frustrated.

The recently announced MAF instruction 22 "to prepare for the complete stopping of the slash and burn, and shifting cultivation in 2010." is therefore likely to fail if it does not consider local conceptions and livelihood systems.

Recent research by the International Rice Research institute in Thailand has, for instance, shown that even upland people who have escaped poverty continue to grow upland rice.

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<sup>25</sup> One villager summarized his feelings about the land concession process by saying he wished to have a bomb to pay back the investors.

A prerequisite to the development of rural areas in Laos is a well managed Land Use Planning and Land Allocation including the disbursement of permanent land titles to villagers in rural areas throughout Lao PDR. Otherwise development of rural areas is likely to disregard the interests of the concerned villagers.

A simple Land Use Planning and Land Allocation Record System should be initiated, and regular monitoring and follow-up assessment be conducted in the villages (by DAFO).

Land ownership should be assessed and monitored by the LMA in close cooperation with village authorities. Currently land ownership is increasingly difficult to track because of the transfer of TLUCs, land concessions and local arrangements due to migration and population increase.

The common practice during LUP/LA to allocate “undeveloped” land parcels and to prescribe a monitoring exercise of these parcels within a 3-year period has not been successful. In future only land already under cultivation should be allocated and registered. One important criteria is that this land is located in land use zones classified as suitable for agricultural production and not e.g. in forest areas.

As a general rule an update of land allocation should be conducted in every village of the district at least once every 3 years. During this land registration exercise by DLMA staff, all parcels taken into permanent use and lacking any use certificate will be registered and a Land Survey Certificate (LSC) would be issued.

This 3-yearly exercise would be an opportunity for a general review of the land use certification process in each village, after which no land under permanent cultivation should be left without a clear “owner”. This would also be the opportunity for villagers to request the conversion of TLUCs into more permanent land certificates (e.g. LSC) or the Permanent Land Title (under sporadic adjudication).

In the long term, priority must be given to the provision of more opportunities outside the agricultural sector, while at the same time strengthening extension services to make more effective use of the cultivated land. Ultimately, strategies to stabilize the population growth are needed.

Most villagers living in rural areas are not familiar with the options for conversion of their TLUCs e.g. to a permanent land title. Even if information on such opportunities reaches the village, it is unlikely that the potential increase in tenure security of a more permanent land certificate or a land title entices them to actively request registration by approaching district line agencies. Most interviewed villagers felt pretty secure about their land tenure. The common lack of investment in land is therefore mostly due to other factors.

The validity of TLUCs should be extended for up to 10 years after the date of issue.

Furthermore communal land has to be legally provided for. While individual land titles only turn land into capital, thus turning them into a market commodity it is easily conceivable that this entitlement does not necessarily protect an ethnic minority villager from losing his/her land. The upland

minorities are, after all, not the strongest market participant there is. Indeed, land titles have in the study area been issued rather in areas that were earmarked for concessions. Therefore they did not contribute to tenure security but only facilitated compensations after the land grab.

International experience has shown that delineation of communal land of ethnic minorities together with anti-eviction legislation are way more efficient in safeguarding this land than individual land titles.

## LAND CONCESSIONS

A comprehensive land inventory is missing. Such an inventory should contain inter alia relevant data on existing lease and concession contracts and details on land that could be leased. Instead, bits and pieces of information about state land are with a number of line ministries, departments and divisions at central and local levels. Since these shortcomings slow down investment approvals, investors might start to search for suitable land on their own or to give up their investment plans in Lao PDR altogether.

Model agreements meeting international leasing standards are currently available only for concessions on hydropower. Other contracts for leases and concessions using state land lack clarity and consistency. While ‘lease’ and ‘concession’ are not clearly distinguished terms, rights and obligations of both parties seem not always to be balanced. All contracts reviewed lack clear and enforceable clauses on breach of contract, compensation for damage, penalties, termination, and dispute settlement.

Furthermore, concession fee rates, usage charges for natural resources, and royalties set by law are not based on supply and demand. Different approaches applied in the provinces to determine fee rates do not seem to meet market standards. Granting land for the current low fees should be restricted to joint ventures when the land offered constitutes the GoL contribution to the project, but is entirely dispensable in the case of other domestic or foreign investments because the prospect for reasonable profit is deemed to be a sufficient incentive and enterprises should not be subsidized.

DSA and OSA, responsible for contract management, have so far not succeeded in establishing a proper filing, monitoring, and reporting system because there is a lack of communication between central and local levels (including between local divisions and departments). However, efforts to improve reporting procedures from local levels to DSA are under way.

Inspection and monitoring of sites by line ministries and divisions is not conducted on a regular basis, and if so, the information is not being shared with OSA. Therefore, breaches of contractual obligations to develop the land and prevent environmental damage seem to be widespread, however, there are no arbitration or court cases pending.

As to technical management of the concessions, the study team makes the following main recommendations:

- Ensure regulation *before* concession projects through proper Environment and Social Impact Assessments (ESIA)
- Provide model contracts for leases and concessions that meet international standards (e.g. balancing rights and obligations of contract partners and contain clear and enforceable clauses)
- Use business valuation methods to identify land rental value, and as a preliminary measure, revise legal Decrees setting concession fees, usage charges for natural resources, and royalties on a regular basis (e.g. every three years)
- Improve management of state assets (e.g. the filing, monitoring and reporting system for leases and concessions and establish an IT-based land inventory)
- Decentralize monitoring and enforcement responsibilities

Generally the benefits of large scale monoculture plantations have to be questioned especially considering that the often stated existence of vast areas of unused or underused land in Laos is a myth. Apart from technical difficulties in managing the concessions, it has yet to be demonstrated how exactly the land concessions and resulting plantations are supposed to be beneficial – and to whom - especially compared to existing alternatives like contract farming.

*“A self-regulating market turns human beings and the natural environment into commodities, a situation that ensures the destruction of both society and the natural environment.”*

Karl Polanyi, "The Great Transformation" (1944)



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