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Impacts of Land and Forest Policies on the Livelihood of Ethnic Minorities in Lao PDR

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TABLE OF CONTENTS

List of Tables	II
Table of Acronyms	II
Acknowledgements	III
Abract	IV
Background	1
Introduction.....	1
Objectives and Scope of Research.....	3
Research Area and Target Groups.....	4
Sekong Province.....	4
Forest Management.....	5
Ethnicity.....	5
Land Loss and Poor Compensation.....	6
Literature Review	7
Land and Forest Policies in Lao PDR.....	7
Forest Law.....	8
Land Use Planning and Land Allocation.....	9
Land Concessions.....	10
Resettlements.....	12
Methodology	13
Research Findings	14
Comparative Village Profile of LUP/LA and Concession Impacts.....	17
Findings on LUP/LA on Village Level.....	19
Findings on Land Titling in the Villages.....	21
Findings on Land Concessions in the Villages.....	22
Conclusions and Recommendations	25
LUP/LA.....	25
Land Concessions.....	26
Bibliography	28

LIST OF TABLES

Table 1: Target villages.....	4
Table 2: Land concessions in Sekong Province.....	6
Table 3: Research methodology.....	13
Table 4: SWOT analysis of LUP/LA with district and provincial government authorities.....	15
Table 5: SWOT analysis of land concessions with district and provincial government authorities....	17
Table 6: Comparative village profile according to village heads and councils.....	18
Table 7: Benefits and shortcomings of LUP/LA as discussed by villagers.....	19
Table 8: Benefits and shortcomings of land concessions as discussed by villagers.....	22

TABLE OF ACRONYMS

DAFO	District Agriculture and Forestry Office
DoF TFP	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

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ABSTRACT

Along with other GMS countries Lao PDR has adopted land and forest policies aimed at reducing poverty. In 1996, the Government of Lao PDR (GoL) officially adopted a nationwide program on land use planning and land allocation (LUP/LA). The aim of the program was to provide villagers with access to additional land resources as well as at safeguarding the nation's forest areas. The LUP/LA program has now been drastically decreased due to budget constraints after having been implemented to varying degrees in most parts of the country. Implementation of LUP/LA varied throughout the country, but studies on the impacts have shown that several of the expected results have not been achieved. 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 in agricultural and forest areas available for use by households living in upland areas. In many cases this has resulted in decreased yields and insecure livelihoods.

“Reassessment of the land-forest allocation programme is needed, particularly as it is applied to upland areas where shifting cultivation is widespread; there are shorter fallow periods and population pressures because of declining yields and the hardship experienced in some upland areas.” (Lao PDR NGPES).

This study confirmed most of the impacts identified in previous surveys.

The GoL's strategy for the development of remote areas has been to push for “economic integration.” This has translated into a policy of swidden agriculture eradication, which is commonly understood to be an important way to develop the uplands. Following the GoL line, swidden is focused on producing a diversity of crops for subsistence which keeps ethnic minorities poor, especially where fallow cycles have been reduced. Thus, the villagers have to be taught how to farm like lowland Lao farmers - 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 the lack of support during the actual move, lack of basic infrastructure in the new villages and difficulties faced by the communities in adapting to new environments, diseases and agricultural practices.

It's not surprising, then that the figures from many studies conducted in Laos show an increase in all poverty indicators, including decreased food production and increased mortality rates in new villages.

In recent years, Laos has experienced an increase in 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.

These land concessions have put further pressure on upland minorities by increasing land scarcity and reducing forest areas which are vital to these minorities' livelihoods. Furthermore, these 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 alternative means of livelihood.

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

Keywords: Land Policy, Land Rights, Land Concessions, Land Titles, Lao PDR

BACKGROUND

INTRODUCTION

The population of the GMS countries 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 upland areas, where much of the region's forests are located. These ethnic minorities are usually classified as poor. For these people, the forest and land play a vital role in their life. Forests are often a significant source of household income. Forest loss and degradation poses 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 within the region. Reduced access to forests is a major factor in forcing them into unsustainable farming practices. In 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 a widespread environmental disaster and massive human tragedy (Jamieson, N. L., Le Trong Cuc, and Rambo, A.T. , 1998).

Ethnic minorities in mountainous regions face poor access to communication, lack of farm land, lack of market opportunities, exploited natural resources (NTFPs, crude oil, minerals, etc.) and a lack of government (or other organizations') assistance, particularly basic infrastructure (such as schools, hospitals, bridges, roads, markets). These issues 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 Laos into three major (rather crude) sub-groups according to the height of the area they usually prefer to reside in. The Lao Lum (Lum = below) and several other ethnic minorities belong to the Thai-Kadai ethno-linguistic family, inhabit the lowlands, valleys and plateaus preferably near streams and rivers (generally at an altitude of 200-400 meters) cultivate paddies 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), they practice swidden upland farming and are often animists. They inhabit the slopes, valleys and watersheds around the plains, at an altitude of between 300 and 900 meters, represent around 26-36% of the country's population and are generally less well organized socially and politically than the Tai, Miao-Yao and Tibeto-Burman groups. The Lao Sung (Sung = high) like to live on the summits of mountain ranges, at an altitude of between 800 and 1600 meters, they belong mostly to the Tibeto-Burman (3-4% of total population) and Hmong-Mien groups (also called Miao-Yao, ca. 6-10%), they practice shifting cultivation of 1 rice, hunting, small livestock raising and, in the past, cultivation of poppy (Chaze, 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 Laos the poverty is characterized by food insecurity (seasonal shortages of the staple food, rice), low income and insufficient savings and investments (in rural areas this is expressed as a shortage of livestock) (UNDP, 2001).

The three major features of the rural livelihood systems in Laos are farming, dependence on forest products and the specific role of NTFPs (UNDP, 2001). The challenges to the development of a sustainable rural livelihood system include (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).

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

The result of these land concessions has been to put further pressure on upland minorities' livelihoods by increasing land scarcity and reducing forest areas which are vital to these minorities' livelihoods. Furthermore, the land has 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 means of livelihood.

Security of land and forest tenure is essential for motivating people to protect and maintain the land and forests 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. Recently all GMS governments, including the GoL, have launched a series of land and forest policies aiming to alleviating poverty. The fact is that ethnic minorities in upland areas who are dependent upon land and forests 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).

Apart from the timber, a forest resource offers a range of other wood and non-wood benefits like protection from soil erosion, protection of water supplies and the 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.

OBJECTIVES AND SCOPE OF RESEARCH

This study seeks to contribute to a better understanding of how institutional arrangements governing ethnic minorities’ rights to access and control over land and forests impacts 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 has 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 has land concession impacted on these minorities’ livelihoods?
4. What has to be done to improve ethnic minorities’ livelihoods in terms of access and control over land and forest resources in an ecologically and economically sustainable way?

RESEARCH AREA AND TARGET GROUPS

The research area consists of 5 villages, comprising 5 different ethnic groups (“Lao Theung”, Mon-Khmer group) in the uplands area of Sekong Province:

Table 1: Target villages

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

All of the targeted villages have been affected by land concessions to Vietnamese rubber companies¹. One village has also been resettled (B. Yuep).

SEKONG PROVINCE



Sekong is among the most remote areas of Laos. However, the province has become much less isolated in recent years with the upgrading of the main road from the Mekong valley city of Pakse and the completion of 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.

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

¹ And are, thus, representative only for those villages situated in the 50% of all arable land of Tatdaeng District have been conceded to foreign investors. They are, of course, also not representative for different ethnic minorities in other areas. The target villages were selected by the government authorities un 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.

Forest Management

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).

Like a lot of other provinces, the Sekong provincial authorities have signed away substantial parts of the 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 covered by the land concession. In areas where the border between farm and forest is blurred the loggers are often found to use the land that originally belonged to the local villagers.

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, all belonging to 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).

Lowland groups have historically often viewed these groups as uncivilized, because these groups practice swidden cultivation rather than paddy, practice 'spiritualism,' rather than Buddhism (ethnic Lao people call it 'black magic'), and because they have no written language, thus lacking several signs of civilization. Furthermore, they do not traditionally recognize political organization outside the village. However, these groups have always been given a place of honor in traditional ceremonies in Laos, because they are considered the original owners of the land. They have always been represented in all major rituals, and even newly-erected palaces of Lao kings could not be occupied until the upland chiefs had ceremonially opened it.

Land Loss and Poor Compensation

The land concessions to Vietnamese companies for rubber plantations have resulted in some people losing almost all their farming land and villages losing all of their reserve and protected forest land. Only the paddy fields, of which there were relatively few, were salvaged along with the village housing areas themselves.

Table 2 below gives an overview of land concessions in Sekong Province.

Table 2: Land concessions in Sekong Province

Company	ha conceded	Conceding Agency	Duration (yrs.)	Activity
Forestry / Plantations				
LVF (Vietnamese)	8.000 ²	GoL	50	Rubber
Lao-Bidina (Vietn.)	9.485 ³	GoL	50	Rubber
Kuangming Chuenya (Vietn.)	1900	GoL	50	Rubber
Investment Continent A (Vietn.)	100	Province	-	-
Other agriculture				
Y&P	100 ⁴	Province	35	-
Mithaphap 206	100	Province	-	-
Kaona Kankaset	72	Province	-	-
Maisavanh Lao	35	Province	-	Mulberry trees
Total	19.792⁵			

² 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.

³ 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.

⁴ Y&P requested a concession of 1.928 ha.

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

Some villagers expressed their confusion and frustration at the loss. 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 one village 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 (in Vietnamese) already signed by the provincial authorities which they were asked to sign as well. They refused to comply, but this did not change anything.

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

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 have to rely on hired work as laborers with the company to earn money to buy rice to eat⁶.

LITERATURE REVIEW

LAND AND FOREST POLICIES IN LAO PDR

All land in Lao PDR is controlled by the State. In 2003, the Land Law⁷ was revised and the following amendments concerning land transactions were made to the Land Law of 1997⁸:

- 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).

⁶ 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 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. (Pinkaew Luangaramsi, Rebeca Leonard, Pornpana Kuaycharoen, 2008)

⁷ (Law on Land, No. 04/NA, 10/21/2003)

⁸ (Law on Land, No. 01/97 NA, 01/12/1997)

FOREST LAW

The Department of Forestry under the Ministry of Agriculture and Forestry (MAF) manages forests, issues permits and controls harvesting of forest resources. GoL is the sole owner and manager of forest resources in Lao PDR⁹.

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 amended the Forestry Law recently as followings:

- Reduced the number of forest types from five to three (Production, Protection and Conservation Forest).
- Reduced the natural forest conversion area from 10,000 ha to 1,000 ha.
- Increased 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.
- Included principles concerning land concessions for plantations.
- Prohibited log and lumber export.
- Prohibited logging permits issuance at the provincial level.

(FAO Tong, 2009)

Changes to forest management policy changes are aimed at revenue generation activities (Sunderlin, 2006). The economic measures adopted in 1986 caused higher levels of harvesting and rapid acceleration in exports. A National Conference on Forestry was organized in 1989 to revise existing policies. This conference encouraged a policy shift 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.

Current forestry trends in Lao PDR are, according to the World Bank (2001), highly unsustainable.

⁹ According to the Forest Law of 1996, Art.5, 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.

The current situation has been described as one in which policies favors large-scale export agriculture (including industrial tree crops) over high-value smallholder crops, NTFPs and other more sustainable options for rural development (WWF, 2007).

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 the poverty line or food security (rice sufficiency), live in upland areas and practice shifting cultivation. It cannot be stressed enough that forest resources constitute a vital contribution to food security for upland families.

LAND USE PLANNING AND LAND ALLOCATION

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.

Recent research¹⁰ suggests the main reason for the failure of land titling in Laos is that it focuses 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 are being issued with land titles. But this is reportedly carried out in a hurried manner, without proper surveying.

¹⁰ Ducourtieux, O., Laffort, J.R. & Sacklokham, S., 2005; Dr Silinthone Sacklokham from the National University of Laos (NUOL) worked on a qualitative survey last year, conducted by NUOL and the University.

LAND CONCESSIONS

The GoL is committed to eradicate poverty and bring the country out of Least Developed Status by 2020, by transforming the country from a traditional agriculture society into an agro-industrial system by turning natural resources into capital. To do so, the Government encourages both local and foreigners to invest in Lao PDR by granting land concession to plant industrial trees and agricultural cash crops. Beside this, the Government receives benefits for the national budget through concessional fees from (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 to possible negative effects. 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 process. 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 and then abandoning the land leaving a devastated ecological system. The consequences of these operations impact on whole communities because villagers lose access to natural resources, the opportunity to produce food and saleable non-timber forest products and places for raising animals and timber resources for home construction (Dwyer, 2007).

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 stated 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).

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 through contract farming in the northern regions. 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.

A comprehensive land inventory is missing¹¹. 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

Villagers have been put under great pressure to hand over their TLUCs to be used as plantations. 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.

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. 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 companies¹².

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.

¹¹ GTZ is currently supporting the development of land inventories in four provinces

¹² 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)

RESETTLEMENTS

Economic development and population growth along with Government policies have put severe pressure on the upland minorities in terms of land use, culture and self-determination. The main GoL 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 cash-crops in order to produce a surplus which will 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 Lao PDR... 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 surprising, the figures from many studies conducted in Laos show an increase in poverty, including decreased food production and increased mortality rates among new villages.

METHODOLOGY

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

Table 3: Research Methodology

Level	Research Method	Data Source
National	Literature review	Literature and secondary data (statistics, books, reports, conference proceedings, legal documents related to land and forest polices etc.)
	Interview	Key informants
Province and District	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
Village	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

The 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) were not objects of data collection, but rather participants in a joint problem analysis and, thus, benefited as much as possible from their participation in the research.

At the village level the team first called a village assembly to present RRDTC and the research objectives. Later 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. A village mapping exercise was conducted in which the village authorities drew a map of their village depicting the village's land use.
- The other part of the research team discussed with the rest of the village the pros and cons of the LUP/LA exercise in the village and the local land concessions. Outputs were visualized on flip charts.

Both groups presented their outputs back to the assembly where they were discussed. The research team then arranged to meet selected households for an interview. The sample consisted of 125 families (mostly male household heads, even though the team tried to interview women whenever possible).

Village transects further helped to understand the village's situation. The same percentage of better-off, middle and poor families in every village was interviewed, based on the Government's poverty ranking of all households.

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 SWOT¹³ analysis. A general need of improved management of land and forest according to the GoL's plan and a need for research, proper surveys and technical support to the concerned authorities were agreed on. In Sekong LUP/LA was conducted as a one-time exercise in 1997-2000 supported by the WB with PAFO administering 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. 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).

Table 4 shows the SWOT analysis of the LUP/LA and the land concession process completed by the participating Government authorities, facilitated by the research team.

¹³ Strengths, Weaknesses, Opportunities and Threats; a PRA tool.

Table 4: SWOT analysis of LUP/LA with district and provincial government authorities

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

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

Apparently the villages targeted for further land titling¹⁴ are those also targeted for land concessions in order to make them eligible for compensation. Thus land titling is not actually targeted at increasing land tenure security. It was stated in the meetings that population increase, lack of proper monitoring and land concessions from the initial LUP/LA exercises were largely obsolete.

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

Apparently the central Government conceded more land than was “degraded” land because local DAFO and DLMA staff were put under pressure to make land available to the investors - which was often neither degraded land as the law would require nor unoccupied land. In fact a lot of the concession land was owned and used by villagers and often planted with high value cash crops like coffee. Table 5 summarizes the participants’ reasoning on the subject.

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 in contradiction of the law no contract has ever been cancelled and no investor has ever been prosecuted due to unclear contracts.

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

¹⁴ Six villages are due to receive TLUCs in 2010.

Table 5: SWOT analysis of land concessions with district and provincial government authorities

Strength	Weakness
<p>Villagers have jobs / daily labor</p> <p>Outside/foreign investment leads to increased incomes</p> <p>Government benefits through concession fees</p>	<p>Fee for land concessions is too low¹⁵</p> <p>Lack of orderly management of land concession process</p> <p>LUP/LA rules were not followed / implemented</p> <p>Lack of monitoring of the concession land use</p> <p>Villagers do not have sufficient land for agriculture</p> <p>Land for production decreased</p> <p>Forest has been destroyed</p> <p>Negative impact on environment and society</p>
Opportunity	Constraint
<p>Villagers get benefits from investment</p> <p>The population has an opportunity for income generation</p>	

COMPARATIVE VILLAGE PROFILE OF LUP/LA AND CONCESSION IMPACTS

Table 6 summarizes the main data collected from the interviews of the village heads and village council.

¹⁵ Apparently the concession fee collected from the Vietnamese investors is only Us\$ 6 / ha / year.

Table 6: Comparative Village Profile according to village heads and councils

	Nyok Thong	Yuep	Palai	Djungbung Nuea	Thon Noi
Land titles	142 TLUC, 2 LSC	None	39 TLUC, 1 LSC, 1 PLT, 61 none	78 TLUC	130 TLUC,
Main income	Paddy, livestock, labor	labor, small livestock	Rice, coffee, labor	Coffee, small livestock, labor	Rice, coffee daily labor
Main production changes after LUP/LA	DAFO promotion of jobs tears (failed)	Training on livestock raising	Promotion of coffee and jobs tears	New road	-
Relevance of LUP/LA	No Land management rules, land insufficient, village has not adhered to LUP/LA outcomes	Because of resettlement no LUP/LA ever conducted, no land titles only some plots allocated for rice production, lack of land,	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
Change of swidden after LUP/LA	LUP/LA rendered irrelevant by concession	LUP/LA rendered irrelevant by concession	LUP/LA rendered irrelevant...	70% decrease due to population pressure, lack of forest land	70% decrease due to increased paddy area
Change in NTFP availability	20% decrease, increased paddy	70% decrease because of lack of available land	Increased paddy	Decrease	Decrease
Change of wildlife availability	No change	Decrease	Decrease	80% decrease	60% decrease
Land conflicts after LUP/LA	50% decrease	80% decrease	90% decrease	Decrease due to land sufficiency	80% decrease
Food security after LUP/LA	70% increase	No change because no LUP/LA	Increase due to selling village land	Improved	Deteriorated through the use of chemicals
Forest management /protection	Deteriorated by 50%	n/a	Improved	80% improvement (increase of paddy area)	Improved (villagers responsible)
Village has land use plan	No change	n/a	No change	Improved through LA	Yes
Benefits of LUP/ LA	No	No	No	Yes	Improved management by village committee and village forestry committee
Village land conceded (all rubber)	n/a	n/a	n/a	Improved management by village forestry council	250 ha, Lao-Bidina, 25 years starting 2006
Participation in concession process	428,11 ha to LVF, 50 years from 2005	150 ha to LVF, 50 years from 2006	450 ha, to LVF for 50 years starting 2005	400 ha, Lao Bidina, 50 years starting 2006	Villagers participated in decision and are happy with the decision because only degraded land was conceded
	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 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	

FINDINGS ON LUP/LA ON VILLAGE LEVEL

The villagers' discussion of the benefits and shortcoming of the LUP/LA process in a facilitated focus group as summarized in Table 7¹⁶:

Table 7: 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	

The old land use maps developed during the LUP/LA exercise depicting the villages' land use on wooden panels had disappeared. Since they have long ceased to depict the actual land use situation - due to population increase, migration and land concessions - the villagers did not really bother to use them. It is apparent from Table 7 that LUP/LA had beneficial impacts in terms of decreasing land conflicts, improving land and forest management and even improving land sufficiency. But in all villages the benefits were rendered obsolete by the land concessions that followed. One village, Ban Yuep, had been resettled after LUP/LA and has thus never experienced the benefits of the process

¹⁶ 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 facilitators constabty had to remind people to refer to a situation of land mangement *before* the concession.

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 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 has increased the land villagers consider their own by 35% (from 2 to 2.7 ha/family in average). It also has 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 respectively) and decreased swidden by 17% (from 0.6 to 0.5 ha/family).

60 villagers (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 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%¹⁷ found they had not been provided with sufficient land to meet their family needs.

Even though new paddy fields were cleared in some villages and this increased food security and was much appreciated by the villagers, villagers were obviously not content with the extension services related to other new crops (jobs tears), for which they said there was no market even though they had been told so by 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 for 46% of the respondents, decreased for 36% and remained unchanged for 18%.¹⁸

39% found that land conflicts decreased after LUP/LA, while 48% did not see any changes and 13% saw an increase in land conflicts.¹⁹

72% think that NTFPs availability decreased after LUP/LA.

Generally villagers stated that they rely more on cash nowadays and had less naturally 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.

¹⁷ Missing percentages to and up 100% are due to indecisive or missing answers.

¹⁸ 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.

¹⁹ 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 respondent held a permanent land title (PLT), 3 (2.4%) had a Land Survey Certificate (LSC), 76 (60%) held a Temporary Land Use Certificate (TLUC) and 44 (35%) claimed to not even have had a Land Tax receipt. Thus the latter group would not officially own any land at all. Even if the 25 interviewees from Yuep village were subtracted, where land titling has never taken place, this would still leave 19 villagers (15%) from other villages without any official title to land even though they were issued with a TLUC in the past.

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

The sole owner of a PLT (who is also the holders of a LSC) used his land title for mortgage and then invested the loan in a banana plantation (and a brothel), but there I no data on which to make a representative statement about the 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 valid, probably because there has been no follow-up after the three year validity period expired. Apart from the 9 respondents who said their TLUCs were valid until 2011 (issued last year) all other TLUCs were issued more than 3 years ago.

Still, 14% of all villagers consider their land tenure very secure and 42% secure, while 34% said they did not know and only 4% felt insecure about their tenure.²⁰

Of the interviewed villagers who said they hold land titles, only 59% said they actually considered the land their own (1.6 out of 2.7 ha per person in average).

While only one respondent confessed to having sold his TLUC, which is actually illegal, it was said to happen regularly within the villages. Also it is difficult to know how the handing over of a TLUC to a 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 what would have been received had the land been sold.

²⁰ Another 5% (6) did not answer the question because they did not have any land title.

FINDINGS ON LAND CONCESSIONS IN THE VILLAGES

The villagers also discussed the pros and cons of land concessions and the results are summarized in Table 8:

Table 8: 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) through the use of herbicides
Company contributed clothes to workers (1 set/ 60 ds work)	Decrease/lack of production land (village without 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 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

After the focus group 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 resource close to the village.

The participation of villagers in the concession process differed from village to village and depended a lot upon 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 mayor²¹, sometimes they tried to coerce the villagers into the concession with the support of Government authorities²² and sometimes they lied to the villagers, promising them infrastructure support for the village (electricity, schools etc. that was sometimes delivered and sometimes not) or employment only for those who relinquished land. For those who lost their land and do not have employment with the rubber company there are few alternatives to sustain their livelihoods. They become dependent upon their original way of life with its 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 20,000-23,000 kip (US\$ 2-2.5) per day. The average number of working days a year for non-permanent laborers (according to those interviewed) was less than a quarter of the working year.

Labor requirements are high in the first year of production, but there is little work available thereafter until the rubber is harvested. The workers' wages are irregular with a tendency to decrease after the first year. Based on the promises of rubber companies about coming riches many villagers indebted themselves, buying TV sets and satellite dishes from local Chinese traders, and then find themselves unable to repay the debt when employment is not as regular and well-paid as promised. Also labor and machinery from Vietnam is sometimes brought in to replace locals.

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 their participation in the concession process.

63% of respondents said they ceded their own land to rubber companies. In one village they even relinquished their TLUC along with their land. The companies told the villagers in all 5 villages that only people signing over their land to the company would be eligible to work for them. The villagers ceded a total of 189.1 ha to the rubber companies (2.4 ha average per hh). 74% of this land was land

²¹ In one village the mayor was promised a Toyota Hilux if he talked his fellow villagers into the concession. After delivering he was only macked by company, though and the villagers elected a new mayor.

²² 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,

the villagers had a title to; the rest was communal land for which they had traditional use rights (mostly swidden).

Thus, a substantial portion of the land conceded to rubber plantations was not 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 concession 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 they 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 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 it.

Asked about the impact of the land concession, 9% said 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 land to the company it had compensated them appropriately.

Even though the respondents generally were generally frustrated with the jobs and wages actually available, and complained about working overtime, physical abuse and health problems after dissemination of pesticides²³, 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 growing rice (6%).

Thus, despite all hardships, the concessions did yield positive results for the villagers in terms of increased cash 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 they missed the natural foods they used to rely on.

67% of the interviewed villagers got employment with the rubber companies.

²³ One villager summarized his feelings about the land concession process by saying he wished to have a bomb to pay back the investors.

CONCLUSIONS AND RECOMMENDATIONS

Even though 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 take the actual reality of the upland minorities into account.

While it is 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 has overwhelmed and frustrated rural ethnic minorities.

Without a more participatory approach to local development planning that takes 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 account, the current development strategies are likely to fail and leave 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 needs.

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.

LUP/LA

A prerequisite to the development of rural areas in Laos is a well managed Land Use Planning and Land Allocation policy, including the disbursement of permanent land titles to villagers and communities in rural areas throughout Lao PDR. Without it 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 should occur in villages (by DAFO).

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

The common practice during LUP/LA of allocating “undeveloped” land parcels and undertaking a monitoring exercise of these parcels within a 3-year period has not been successful. In the 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 in forest areas.

As a general rule, an update of land allocation should be regularly conducted in every village of the district. During this land registration exercise by DLMA staff, all parcels of land taken into permanent use and lacking a use certificate should be registered and a permanent land title issued.

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

Most villagers living in rural areas are unfamiliar with the options for conversion of their TLUCs, e.g. to gain permanent land title. 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 have legally title. 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 are. Indeed, land titles have in the study area been issued rather in areas that were earmarked for concessions. Therefore they do not contribute to tenure security, but only facilitated compensations after the land is grabbed.

International experience has shown that delineation of communal land of ethnic minorities together with anti-eviction legislation is a more efficient way to safeguard this land than individual land titles.

LAND CONCESSIONS

A comprehensive land inventory is only in a nascent state of development²⁴. Such an inventory should contain inter alia relevant data on existing leases and concession contracts and details of land that could be leased. Information about State land is held by 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 in 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 are not always balanced. All contracts reviewed lack clear and enforceable

²⁴ Such an inventory is currently being set up in the first four provinces with the help of GTZ.

clauses for breach of contract, compensation for damage, penalties, termination and dispute settlement clauses. Furthermore, concession fee rates, usage charges for natural resources and royalties set by the law are often not based on supply and demand. Granting land for 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 of reasonable profit is deemed to be a sufficient incentive, and enterprises should not be subsidized by the State.

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 done, 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 would make the following recommendations:

- Ensure by regulation that proper Environment and Social Impact Assessments (ESIA) are prepared before a concession project is approved.
- 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).
- Revise legal Decrees to set concession fees, usage charges for natural resources, and royalties on supply and demand 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 system).
- Decentralize monitoring and enforcement responsibilities.

Generally the benefits of large scale monoculture plantations have to be questioned especially given 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 the land concessions and resulting plantations are supposed to be beneficial - and to whom - especially compared with the 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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