

MEKONG LAND RESEARCH FORUM

Annual
country
reviews
2017-18

RCS**SD** The Regional Center for Social Science
and Sustainable Development
Chiang Mai University

The Annual Country Reviews reflect upon current land issues in the Mekong Region, and has been produced for researchers, practitioners and policy advocates operating in the field. Specialists have been selected from Cambodia, Laos, Myanmar, Thailand and Vietnam to briefly answer the following two questions:

1. What are the most pressing issues involving land governance in your country?
2. What are the most important issues for the researcher on land?

Responses are not intended to be exhaustive and represent personalized images of the current situation in each country. They serve to inform and inspire discussion on land issues in the Mekong Region. This second edition of the Annual Country Reviews has been compiled at the end of 2017, looking forward into the new year.

To take part in discussions on these and other related topics, join the Mekong Land Research Forum researcher network. To apply, please fill in the form found [here](#)

Our online resource can be found at: www.mekonglandforum.org

(Cover photo: J. Carl Ganter / Circle of Blue)



Current Land Issues

CAMBODIA



1. Land conflicts between ELCs and local communities or between well-connected individuals and communities:

- Since the Sub-Decree on Economic Land Concessions (ELC) was adopted in 2005, the Royal Government of Cambodia (RGC) has granted many ELCs to foreign and local investors. In the process, there has been a general lack of meaningful consultation, Environmental Impact Assessments (EIA), and Free Prior Informed Consent (FPIC) with affected people.
- Despite the RGC's effort to address land conflicts in the past few years, many are still left unsolved, and their negative impacts on peoples' (and companies') economic activities have been chronically extended. Conflict resolution is complicated by factors such as corruption, lack of political will, favoritism to well-connected individuals, political interference and high transaction costs, not to mention the low level of accessibility to existing mechanisms.
- Independent mediation can play a very significant role in filling in this gap. It is potentially less costly, less time-consuming, and more accessible.

2. The lack of land tenure security for many Cambodians living in rural and urban areas:

- Systematic land registration (SLR) has been conducted mostly in lowland areas. It is a non-transparent process, and many areas may be excluded from registration due to conflicts with neighbouring families or overlaps with state land. The pace of registration has been slow. Further, the donating of state land to occupying individuals has only occurred through the Directive 001 campaign, even though it could be included in SLR and inclusive area-based registration activities.
- The government recognizes customary tenure for indigenous peoples' communities (IPCs) and has adopted Sub-decree 83 on collective land registration of IPCs. Several communities have been registered, but the process excludes non-IP living on state land such as forests and protected areas.
- State land registration, following the sub-decree on State Management, has been implemented but focuses on the registration of ELCs, thereby excluding IP and non-IP areas.

An inclusive land registration system is needed, allowing all citizens secure registered land tenure.

The Status of Research

1. Research results are available, but very few of these, if any, have translated into policy changes, or better approaches to land governance.
2. To address the research-policy disconnect, research should be coordinated with the RGC and its line agencies. Only work that is directly supported by government institutions will have the slightest chance of being noticed and used by these institutions. However, it must also be noted that Cambodia does not have a history of evidence-based policy development or consultative development of policies as these are defined at the very top of government.

Author's name withheld due to the current situation in Cambodia

Current land issues

1. Customary practices are found within three types of forests (conservation, protected, and production) as well as uncategorised forest areas. These practices are related to a bundle of rights, many of which are social and environmentally sound. However, knowledge on customary practices are not yet inclusively documented and only some are legally recognised.
2. The land-related data collection system is still not well integrated, transparent, and accessible to all. At present, there is often a mismatch between information at the national and local level, and between different sector organizations.
3. There remains a need for better coordination between different sectors including private-public, and different government departments. As a result, many development plans are not consistent between the relevant sectors, lacking proper implementation, and with insufficient monitoring.
4. There is still a challenge of technical capacities in terms of landscape management and integrated spatial land use planning. This links to customary tenure rights, where critical features such as traditional shifting cultivation may be ignored or lack consideration during (for example) Participatory Land Use Planning (PLUP).



The status of research

1. Customary rights - researchers can help collate information on customary systems in Lao PDR that can inform the policy making level how they can contribute to the use and management of land, forests and forest resources, and positively contribute to national social and economic development.
2. Researchers can provide models to improve cross-sectoral coordination, especially in terms of landscape planning and the implementation of PLUP.
3. Researchers can provide technical training and awareness-raising facilities and tools, for example to government staff to assist with Landscape Management.

In 2016, **Luck Bounmixay** received a Ph.D. in Social Anthropology from the University of Murcia, south Spain. In this, she looked at [communal land tenure among Hmong and Tai Daeng groups in Houaphan Province, north-eastern Laos](#). Amongst other projects, she has worked for Sustainable Forest Management for Rural Development (SUFORD) (as National Consultant on Ethnic Development), Wildlife Conservation Society (WCS) Laos (2013-2014) (National Adviser on REDD+). Currently, she is working for the Forest Carbon Partnership Facility (FCPF) project under the Ministry of Agriculture and Forestry (MAF) involving the National REDD+ Readiness Preparation. It is an interest of Luck to mediate between villagers and policy makers to achieve the sustainable use and management of natural resources, as well as the well-being of local users.



MYANMAR

Current land issues

1. Despite a central committee formed to address unresolved land acquisitions disputes, little satisfactory progress has been demonstrated. There is a noticeable lack of land disputes registered in ethnic conflict areas where the bulk of large-scale land acquisitions have occurred.
2. Despite highly centralized ownership and allocation of rights over land and natural resources fuelling decades of ethnic-based armed conflict, meaningful dialogues on decentralizing control as part of the national peace building process has remained woefully inadequate. There is broad support among ethnic minority civil society and armed rebel leaders on the decentralization of land and resource governance as a crucial aspect of political federalism – a point so far strongly resisted by the military, but with willing dialogue from government.
3. The National Land Use Policy (NLUP), the colonial-era Land Acquisition's Act, the National Forest Law, and agricultural development strategies sponsored by International Financial Institutions remain lacklustre in support of the recognition and protection of customary land and resource use rights, and decentralized governance. The processes within which these laws, policies and development strategies have been drafted are increasingly closed to civil society input, in contrast to spaces opened under the previous government.
4. Civil society, government, and development agencies have uncritically adopted contract farming as the solution to large-scale land acquisitions. But without state support or clearly defined tenure rights security, contract farming arrangements could lead to similar land loss trends as by outright land grabs.



The status of research

Priority fields of study include:

1. Understanding how decentralized land and resource use rights and its management can be more meaningfully included in the national peace process, and what that would look like under political federalism in Myanmar.
2. How customary land and resource tenure regimes could be fully recognized, classified and governed by the state.
3. How the same successes in championing broad support for customary rights inclusion in the land and agricultural sectors can be achieved in the forestry sector.
4. Document trends in contract farming outcomes in different areas of the country, and how to achieve a better enabling environment for more pro-poor smallholder outcomes.

Kevin Woods has recently completed his Ph.D. from UC-Berkeley on the politics of contemporary land and resource reforms in ethnic conflict areas in Myanmar. He has fifteen years of applied research experience in the country. His academic publications include an [article](#) in JPS on “ceasefire capitalism,” and a forthcoming article in Territory, Politics, Governance on Chinese agribusiness investment with narco-militias in Burma. He is senior policy analyst for the INGO [Forest Trends](#) in Washington DC, where he manages the Myanmar program on resource governance decentralization and peace building. He is currently a visiting scholar at the East West Center in Honolulu, Hawai'i.



Current land issues

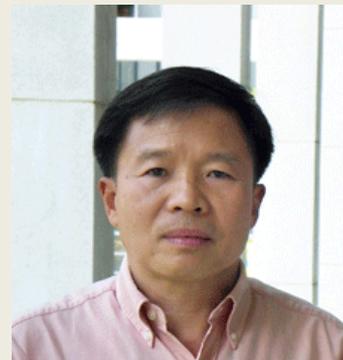
1. According to a report by Oxfam, Thailand ranks third in terms of the most unequal countries, following Russia and India. This problem plays out in land holdings, where it is reported that 61% of title deeds belong to the richest 10% of Thai people, who also possess 79% of national wealth. It appears that three quarters of Thai people do not own land.
2. The military government has acknowledged the problems of inequality, especially for land and forest issues. It has adopted a two-pronged approach. On the one hand, a policy to “reclaim the forest” (Tuang Khuen Phuenpa), focuses on encroachment in forest reserves and protected areas. On the other hand, the National Land Policy Committee has initiated a program to allocate degraded forest land to the landless farmers who already occupy it. However, instead of granting community land titles with ownership rights, as proposed by civil society movements, the military government has opted for 30-year leaseholds with a symbolic fee of 25 baht per rai (0.625 ha). In practice, these policies have inflicted further hardships on the poor who occupy forest land.
3. The legal package known as “4 laws for the poor” proposed by the P-move (People Movement for a Just Society) calls for a justice fund, a progressive land tax, a land bank, and community land titling. It aims to solve land conflict once and for all. Facing resistance from elite lawmakers, only the Justice Fund Bill has passed into law. A Land and Building Tax Law has been proposed to the National Legislature Assembly (NLA). It has been revealed that the majority of NLA members represent the top landlords of Thailand, bringing into question whether they can be expected to promulgate a law that taxes their own property.



The status of research

The economic development of Thailand over the past four decades suggests a move away from agriculture to industrial and service sectors. With exports dominated by industrial products, and high revenues from tourism, some conclude that agricultural advancement and land reform is no longer relevant to development policy. Yet zoom into many corners of Thailand, and landless farmers still struggle with poverty and livelihood insecurity due to insufficient land rights. In many cases, government policy to stimulate foreign investment in Special Economic Zones (SEZs) and energy investment has marginalized such people, expropriating their lands for industrial estates and infrastructure facilities. Research is needed to locate these sidelined groups so that they can share in any development successes for Thailand.

Assistant Professor Dr. Chusak Wittayapak teaches at the Faculty of Social Sciences, Chiang Mai University, Thailand. He has worked and published for many years in natural resource management and land. His latest publication, written with Ian Baird, concerns the impact of [community land titling programmes in northern Thailand](#).



Current land issues

1. The Land Law of 2013 has gradually come into effect. Despite many remarkable improvements, this Land Law has not resolved thoroughly the matter of compensation, support and resettlement for the users of State-recovered land. Specifically, this includes the setting of land prices and transparency in the process of land acquisition.
2. The Government has promulgated Decree 01/2017/ND-CP to amend and supplement the Decrees guiding the implementation of the Land Law. Recently, Circular No. 33/2017/ND-CP instructed Decree No. 01/2017/ND-CP to name all members of the household on the land usage right certificate. This proves a contentious stipulation.
3. Legislators are discussing issues related to land such as: enlarging the land usage quota; the large-scale acquisition for Long Thanh Airport Project, including how to fund compensation, assistance and resettlement for affected local communities; and in general, how to support farmers relocated through land acquisitions.



The status of research

1. Researchers could use their work to help propose a more transparent process for land acquisition, compensation, support and resettlement. They can investigate possible solutions in these areas based on the principles of fairness, transparency and equity.
2. Research could establish the rights of, and offer guidance to those affected by the land acquisition process, their interests placed in balance with those of state and investor. In particular, a core issue is to minimize the disagreement between landlords and local authorities.
3. Researchers could propose solutions related to the land usage quota to harmonize the objectives of industrialization, modernization and the protection of rights and interests of the people, especially farmers.

Phan Trung Hien is a senior lecturer at the Faculty of Law, Can Tho University, Vietnam. In 2007 he received an LLD from the University of the West of England, UK, and in 2014 was nominated by the Vietnamese State Council as an Associate Professor. He specializes in land law, especially the law on land acquisition, compensation, support, and resettlement. Recent papers include a contribution to the [FAO technical guide on valuing land tenure rights](#), and [Striking the right balance between the public and private interests in compulsory acquisition of land in Vietnam](#) presented at the conference Land grabbing, conflict and agrarian-environmental transformations: perspectives from East and Southeast Asia at Chiang Mai University.

