



LAND GOVERNANCE IN MEKONG

In addition to the papers from the member countries of the Land Watch Asia campaign, the Regional Workshop included presentations from three countries in the Mekong subregion—Myanmar, Vietnam, and Lao PDR.

MYANMAR

Overview of Land Conflict, Resources and Resistances in Myanmar

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Context/Current Policies on Land

Myanmar, formerly known as Burma, was a colony of Britain from the early 1800s to 1948. As a result, it has a colonial legal heritage regarding land and forests which persists to this day. Its post-independence experiment with democracy led to a rise in ethnic insurgencies and the communist struggle. Eventually, a military coup by General Ne Win in 1962 resulted in a period of quasi-socialist military authoritarianism until he stepped down in 1988—after which crony capitalism then prevailed. Even when a new government came to power in 2010, new legal tools likewise emerged for dispossession of land and capital accumulation under the banner of ‘neoliberalism.’

In terms of the different actors controlling the rights to and use of land by Myanmar’s people, pre-1988 saw socialist military regimes in power; from 1988 to 2000 (with a big spike in the 1990s), quasi-market reforms still allowed military land grabs and transfer to crony companies; while from 2010 to the present, neoliberalization has added foreign investors to the crony companies.

The country’s current land reform policy is instituted in the following laws:

- Farmland Law
- Vacant, Fallow and Virgin (VFV) Land
- Management Law
- Special Economic Zone (SEZ) Law
- Foreign Investment Law
- Law on Enhancing the Economic Welfare of Farmers

In addition, the land reform policy process is now also heavily influenced by growing foreign agricultural investments and large-scale infrastructure projects.

The VFV Land Management Law contains the following provisions:

- Public citizens, private sector investors, government entities and NGOs can apply to lease VFV lands for agriculture, mining, etc.
- Landless people can now access land under this law.
- Households can register up to 50 acres (20.2 ha).



- Land leases may be granted from 5,000 acres (2,023 ha) to a maximum of 50,000 acres (20,230 ha).
- Leases of up to 30 years may be granted on State land.

Among the positive developments in Myanmar's land reform efforts is the government's establishment of the following bodies:

- Parliamentary Land Confiscation and Enquiry Commission - mandated to gather evidence on land conflicts
- Land Allocation and Utilization Scrutiny Committee – mandated to work on national land use policy via government 'working groups' (Land Core Group and future CSOs to link in)

- Land Acquisition Investigation Commission – generates reports on documented land grab cases, and defines what is 'legal'
- National Land Use Management Committee – resolves land issues recommended by the Commission

Alongside these processes, there has been the formation of farmers' associations for MFA and grassroots organizing.

Key Issues and Concerns


Despite apparently positive measures to safeguard land rights and address land disputes, various types of land grabbing and conflicts continue to take place in Myanmar—through infrastructure development (roads, dams); the establishment

Table 4 : Agribusiness Concessions in Myanmar by State/Region, 2010-2013

State/Region	Allocated	Allocated 2011 / 12	Allocated	Planted 2012/13	% Planted
Naypyitaw	-	7,408	17,554	5,217	30
Kochin	596,180	1,396,575	1,381,165	172,348	12
Kayin	2,161	4,011	34,946	15,867	45
Kayah	-	-	-	-	-
Chin	-	1,542	1,743	118	7
Sagaing	100,057	259,273	533,406	19,543	4
Tanintharyi	671,594	993,887	1,896,970	359,455	19
Bago	19,772	52,238	200,150	91,074	46
Magwe	202,492	211,292	219,578	95,949	44
Mandalay	10,300	6,262	56,046	14,497	26
Mon	-	-	-	-	-
Yangon	30,978	30,980	80,208	76,243	95
Rakhine	-	7,826	131,667	13,176	10
Shon	117,096	160,626	323,833	120,403	37
Ayeyarwady	193,353	285,844	335,331	212,969	64
TOTAL	1,943,983	3,417,762	5,212,597	1,196,859	23

Source: Central MoAI, except for Tanintharyi 2012/2013 from regional office.

Note: Data only includes agricultural concessions allocated by central government.



of Special Economic Zones (SEZs); the entry of extractive industries such as oil, gas, mining, and logging; the granting of industrial agriculture concessions; and military land use.

Two categories of land conflicts were also identified: (1) those involving Burman-dominated areas and (2) those involving the 'ethnic frontier.' The former are under strong government and military control and are financed by large domestic and foreign investors. The ethnic areas, on the other hand, are dominated by cross-border financing facilitated by local ethnic elites and companies; are characterized by labor migration (not local laborers); and are mostly ignored by social movements, the media, and government.

With regard to the VFV Land Management Law, the following gaps have been noted:

- Large areas of land defined as 'vacant' or 'wasteland' (with no formal land-use title registered) are being leased/allocated by government to investors.
- The land registration process is difficult in remote areas due to lack of technical capacity.
- The maximum land grant of 50,000 acres is very large.

- The land lease period of 30 years contradicts articles of FIL allowing up to 50 years' lease.
- Grazing and forest lands cannot be communally titled.
- No independent legal redress is provided in case of conflicts.

Other areas of concern with regard to Myanmar's current land policy are:

- Swidden upland land use/management and ethnic populations are most at risk.
- Swidden agriculture practices, collective practices, and customary land rights are not officially recognized.
- Discrepancies are seen between land use maps and on-the-ground practices.
- The meaning of 'wastelands' is being contested.

With the coming of political reforms to Myanmar in recent years, a 'grassroots groundswell' has been noted, with above-ground networks and social movements emerging. The challenge is to rise above the geographical divides, ethnicities, and specific concerns to arrive at a united voice for common struggles over land and livelihood dispossession.



VIETNAM

Landa: The First Multi-stakeholder Platform Dedicated to Land Governance Reform in Vietnam

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The population of Vietnam (2014) is 94.5 million, ranked 14th largest in the world and third in Southeast Asia. The country's land area totals 331,698 km², including about 327,480 km² land and over 4,500 km² of sea. Flat land accounts for 20% of this, mountains/forests account for 40%, and hills account for the remaining 40%.

Vietnam has 54 ethnic groups, 53 of which are ethnic minorities, accounting for about 14% of the total population of the country. The urban population is 30% of the total, while the rural population is 70%.

Profile of Landa

Land Alliance (Landa) was established in June 2013, and is one of six coalitions participating in Oxfam's Coalition Support Program. It is the first multi-stakeholder platform dedicated to land governance reform in Vietnam. Landa is made up of 19 NGOs, professional organizations, individuals, and social organizations active in the fields of forestry, agriculture, and poverty reduction.

Landa members work on a voluntary basis to contribute to creating opportunities for people to participate in policy development,

manage and use land resources effectively, and contribute to social justice. The Executive Board includes representatives from five member organizations.


Policy and Legal Environment of Land in Vietnam

The Land Law 2013 is comprised of 14 chapters and 212 articles, 4 government decrees, as well as circular guides from ministries and inter-ministerial circular guides. Aside from the Land Law, 20 other laws also have content related to land; along with 22 government decrees, 12 indicators, and 17 decisions of the Prime Minister.

The system of implementation of these laws and decrees includes provincial and district committees and cadastral agencies; the Ministry of Natural Resources and Environment – Officers of Communal Cadastral Administration.

Monitoring is done through a system of elected agencies such as the National Assembly, through the communal people committee; mass organizations; and private citizens who have the right to submit letters of complaint. However, as corruption in land issues ranks second to traffic police corruption, about 70% of the letters of complaint received involve land matters and conflicts of families and communities over land.

Resettlement to give way to hydropower projects is another major problem. Fourteen plants are planned, with the Son La Hydropower plant being one of them – this alone causing the resettlement of 20,000



households and affecting nearly 100,000 people, 83% of which are ethnic minorities whose livelihoods are being disrupted.

In relation to land rights of farmers, indigenous peoples (IPs), and women, it was noted that there is an absence of specific articles addressing the situation of farmers and of women; and while there are articles addressing the rights of ethnic minorities, these are not clear. However, Vietnamese women do have equal rights as men in terms of land, and land use certificates are issued jointly under the names of both husband and wife.

Key Players and Their Roles in the Land Sector

- a. Government – land management overseen by the Ministry of Natural Resources and Environment; system of information management; formulation of policies
- b. Provincial level – lease of land, allocation of land to business
- c. District level – lease of land, allocation of land to families and individuals
- d. CSOs – supervision but there are no specific rules
- e. Local groups - supervision but there are no specific rules

Landa's Advocacy Achievements in 2013-2014

1. Sent "Proposed Amendments to the draft revised Land Law," with the recommendations being based on the results of:

- a. direct community consultation conducted from November 2012 to March 2013 with 1,300 people and nearly 300 local government officials in 22 communes in 11 districts of the four provinces;
- b. direct consultation from August to September 2013 with 3,002 people in 18 communes in six districts of three provinces;
- c. polling of over 4,890 readers on electronic media, including Vietnam-Net, Bloomberg (electronic edition of Economic Times), and Danviet.vn (electronic edition of the newspaper Rural Today).

2. Coordinated with the Vietnam Chamber of Commerce and Industry (VCCI) to propose amendments and supplements to the draft Decree of the Government guiding the implementation of the 2013 Land Law. This is the sum of the results of research and community consultation lessons learned from the successful experience of some localities, to ensure a consistent process of land management from central to local levels.
3. Provided information to the Vietnam Women's Union to raise awareness of its members on the Land Law, and their rights to and obligations regarding land use and access to land use certificates.
4. Researched on "Ensuring the rights of husband and wife named in the certificate of land use rights – Red Book" done from June to September 2014 in 12 communes and six districts of three provinces.

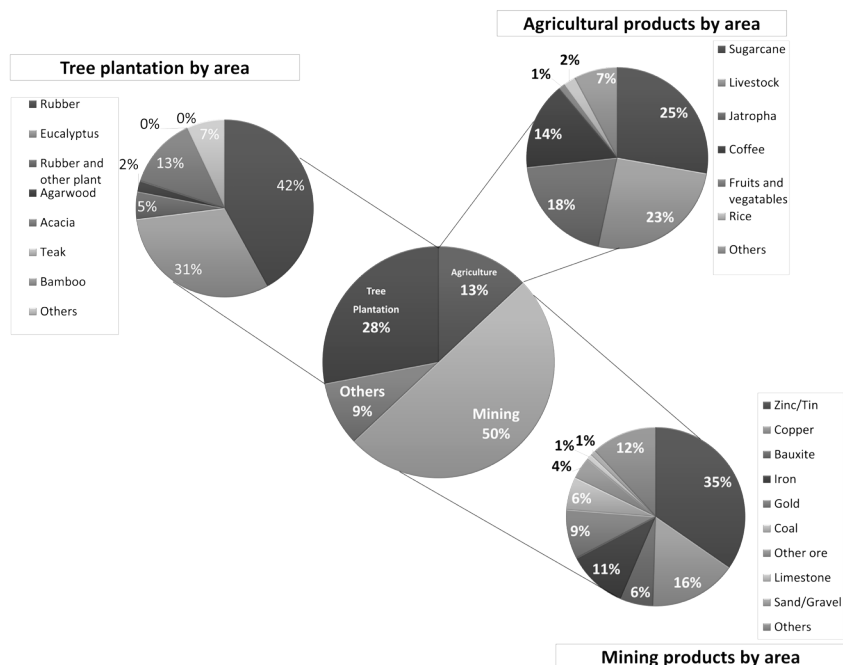


Figure 6 : Characteristics of concessions in Vietnam

Source: Centre for Development and Environment (CDE), University of Bern at LIWG Development Partners Meeting in March 2015.

- Conducted land use planning activities as agreed upon and jointly signed by government and the people. Accordingly, the people took a step by step approach to participate in monitoring land use planning at the local level in two provinces.

Key Policy Recommendations

Landa recommends the formulation of policies and specific legislation on:

- land use planning
- valuation of land and compensation
- resettlement and land use efficiency
- 3-dimensional space
- independent monitoring

Landa’s partnership with other NGOs/ CSOs in Asia towards the promotion of land rights:

- sharing experiences advocacy
- access to new approaches in policy formulation
- sharing of new policy rules
- capacity building
- apply land monitoring initiatives
- protection of rights of access to land by minority groups, the disadvantaged, and women



Significance of introducing the land monitoring initiative in Vietnam

The benefits of the land monitoring initiative for the people include: more methods, tools and skills to protect their rights over land; increased protection of their rights and interests; reduced “red tape” and bribery. The benefits for businesses also include protected rights and interests; reduced “red tape,” bribery, and corruption; as well as greater transparency. For government, there are more tools and information sources of social criticism, an improved confidence of the people in the government, and improving land policy. For Vietnamese society in general, the benefits are reduced complaints, greater social stability and efficient land use, and improving soil quality.

Landa in 2015-2016

Within this two-year period, the Land Alliance shall be involved in:

1. Organizing activities and policy advocacy capacity to monitor the implementation of the Land Law for its member organizations and communities;
2. Promoting the development of the monitoring model via the implementation of the Land Law in the community;
3. Researching on and integrating responses of the people on land management planning and land use planning at the local level; and
4. Leading the advocacy to improve the quality of land use management.

LAO PDR

Land Issues Working Group (LIWG)

Land Issues Working Group (LIWG) is a network comprised mainly of civil society organizations (CSOs) dedicated to awareness raising, training and capacity building, networking and promoting dialogue, providing government policy support, and research and documentation.

The situation of land in Lao PDR is characterized by exploitation of land and natural resources as a means to reach national development goals, with an annual economic growth target of 8%. The current NSEDP is funded up to 60% by foreign direct investments. Legislation on land exists in the form of PM decrees, the National Land Policy (2003), the Land Law (2003), and the Forestry Law (2007).

Major issues for farmers, indigenous peoples (IPs) and women have to do with concessions and contract farming, such as:

- gaps in the legislative base
- land titling programs have not assisted the rural poor to date
- duplication and competition between various ministries involved in land management and administration
- top-down and ill-informed decision making, imbalance of power in negotiations
- no access to information, and limited participation
- limited knowledge of Lao laws and regulations

Major challenges are the sensitivity of the issue of land rights in Lao PDR, and the fact that LIWG is an informal network. Since December 2012, the work context has significantly changed for CSOs.

Key players in the land sector are:

- Government ministries, such as the Ministry of Natural Resources and Environment (MoNRE), the Ministry of Agriculture, Forestry and Fisheries (MAFF), etc.
- The National Assembly
- Development partners (GIZ, SDC, EU, FAO, others)
- CSOs, but mainly international NGOs
- Donors (Mekong Region Land Governance Project)

Land Monitoring Initiatives in Laos

1. Case Study Data Collection by LIWG

- Investments are at the center of Lao development strategy. Thus, fully understanding their impacts is essential.
- Focusing on local communities' perspectives, and their rights as acknowledged by Lao legislation

2. Land Inventory and Recent Land Concessions Mapping by CDE

Key recommendations for National Land Policy in Lao PDR:

- Definition of clear principles for expropriation of land
- Recognition of customary land tenure rights
- Development of a policy on communal land titling
- Ensuring implementation and functioning of grievance mechanisms

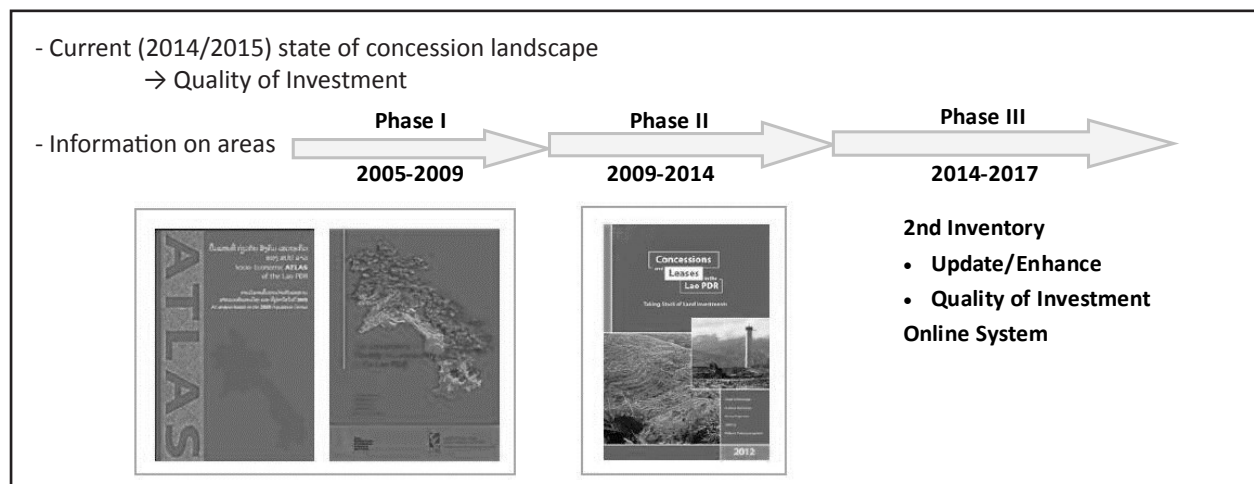


Figure 7: Land Inventory and recent land concessions mapping by CDE.

Source: Centre for Development and Environment (CDE), University of Bern at LIWG Development Partners Meeting in March 2015.