Land Policy and Farming Practices in Laos

Olivier Ducourtieux, Jean-Richard Laffort and Silinthone Sacklokham

ABSTRACT

The government of Laos has identified the eradication of poverty as a priority. Given the primarily agricultural character of the country, it has selected land reform as a core policy to reach this goal. The policy has two major aims: to increase land tenure security in order to encourage farmer involvement in intensive farming, and to eliminate slash-and-burn agriculture to protect the environment in a country still rich in forest resources. State intervention takes the form of land allocation, a process which combines the protection of some areas of village land with the formal recognition of private ownership in authorized farming areas. In a country with different types of geography, the effects of the policy are variable, but the research presented in this article demonstrates that the land laws have shortcomings which allow for differing interpretations depending on the local social relationships. Since local specificities are not taken into account, the reform is proving counter-productive for both forest protection and agricultural modernization, as well as having a negative social impact by marginalizing the poorest farmers.

LAND REFORM AND POVERTY IN LAO PDR

Landlocked in Southeast Asia, Laos is a small country of 236,800 km$^2$, with a population of five million. It is one of the world’s poorest nations, with GDP in 2003 of US$ 350 per inhabitant (Lao PDR, 2003). Some 83 per cent of its population is rural, made up of numerous ethnic groups with varying farming and land tenure practices; the agricultural sector accounts for over half the national wealth produced — 52 per cent of GDP (ibid.). Eradicating poverty is one of the priorities of the Lao government, which aims to take the country out of the list of least developed countries before 2015 (ibid.). In countries where agriculture plays a major role in the economy, a classical tool for modernization is reform of the land system. Reform is supposed to consolidate land security and hence to increase productivity and make farmers more responsible for the management of natural resources (Deininger, 2003; Maxwell and Wiebe, 1999). Many countries in Southeast

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Asia have carried out land reform in the recent past, some within a context of decollectivization, such as the Chinese People’s Republic, the Socialist Republic of Vietnam, the Kingdom of Cambodia or the Lao People’s Democratic Republic.

Since economic transition in China and, to a lesser extent, Vietnam are relatively well documented, we focus our study on the agrarian transition in Laos. Such a study is of much wider interest than the small size of the country might lead one to expect. Lao PDR has several points in common with its larger northern and eastern neighbours: a history of colonial or civil wars, a few decades of planned economy and collectivization, followed by a move to a market economy without political liberalization. However, Laos also has a number of specific characteristics, including its limited land area, its mainly mountainous landscape, with little in the way of wide paddy rice plains, its low population density (21 inhabitants per km$^2$), and an ethnically diversified population with a dominant, but just, majority group. Land reform in Laos also has a wider significance because of its impact on natural resources, especially forests and water for hydropower, which are in increasing demand from the neighbouring economies (ADB, 2003; ADB and CPC, 2004; Dufumier, 2004).

Since the early 1990s, the Lao government has undertaken substantial land reform, challenging existing land access and farmer practices. As the constitutional landowner, the State differentiates between forest, from which farmers are in principle excluded, and farmland, which has been redistributed and is used under supervision. In this article, we study whether such a reform is effective in addressing the issues of poverty alleviation and environment conservation. This is done, first, by analysing the aims and principles of the reform, and then by assessing its consequences through an examination of its implementation in different regions of Laos. The conclusion reached is that this is not an effective policy tool.

**Research Methodology**

Most of the material used in the article derives from the research work of the three authors, who have studied different regional agrarian systems in Laos. The methodology is a three-step field survey: (1) zoning by transects; (2) interviews of key-witnesses (old farmers) within each zone, in order to understand the transformation of agriculture and to assess present socio-economic differentiation; and (3) interviews with sample farmers in order to reach a technical and economic characterization of each identified family.

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1. To compare with neighbouring countries: Thailand has a population of 110 inhabitants/km$^2$, China 135 inhabitants/km$^2$, and Vietnam 220 inhabitants/km$^2$.
2. The Lao group represents 52.5 per cent of the population (Sisouphanthong and Taillard, 2000).
group within the three zones (Dufumier, 1995; Mazoyer and Roudart, 1997). The authors applied the methodology in a four-year field survey, during which they interviewed more than 800 farmers living in 105 villages in the three case-study regions of Sayabury, Vientiane and Phongsaly (see Figure 1).

Figure 1. Map of the Lao People’s Democratic Republic
LAND REFORM IN LAO PDR IN HISTORICAL CONTEXT

Divided between the Siamese and Vietnamese empires until the end of the nineteenth century (Evans, 2002; Lévy, 1974; Stuart-Fox, 1998; Taillard, 1989), Laos was subjected first to French colonization (Brown and Zasloff, 1986; Deuve, 1984; Gunn, 2003; Kelly and Reid, 1998; Lévy, 1974; Scott, 1976) and then almost twenty years of the Vietnam War (Boupha, 2002; Brown and Zasloff, 1986; Evans, 1990). Peace was restored when the Lao People’s Democratic Republic was founded in December 1975 (Stuart-Fox, 2001), which then tried to establish a socialist-type planned economy (Boupha, 2002; Bourdet, 1995a; Brown and Zasloff, 1986; Chazeé, 1998; Dufumier, 1980; Evans, 1990; Stuart-Fox, 1996; de Vienne, 1995). After eleven unsuccessful years, in 1986 the Lao Revolutionary Party led the country to a ‘socialist market economy’, like that of the neighbouring countries of China and Vietnam. Under single-party rule, private ownership of production means and free enterprise became the new principles for development (Bourdet, 1993; Chazeé, 1998; Stuart-Fox, 1996; Taillard, 1989; de Vienne, 1995).

Prior to 1975, the King of Laos was considered the ultimate owner of all the land. This was a theoretical right: at the village level, the land was managed according to customary rules (Taillard, 1974). According to the picture traditionally presented of the literature, a farmer would choose an uncultivated plot under the village chief’s supervision, in order to limit conflicts (Suryadhay, 1971). The initial occupant had exclusive usufruct rights, as long as he worked the land. Prolonged abandonment (the exact timeframe depended on the type of land) meant a loss of all rights. However, this is largely the story of the dominant Lao ethnic group: with several dozen ethnic groups living in Laos (see Chazeé, 1999; Ovesen, 2002; Schliesinger, 2003), there is a variety of customary land practices which is partly due to cultural factors, and partly to local synergies which have modified customs. Two different ethnic groups may practice the same land tenure rights in one region whereas there may be different practices within the same ethnic group settled throughout a large territory (Baudran, 2000; Chazeé, 1999).

When the Lao PDR was founded, land ownership was officially transferred from the King to the people, represented by the State (Boupha, 2002; Evans, 2002). Initiated during the war time in some eastern provinces, land collectivization became a national goal (Evans, 1990). The State encouraged families to farm their land collectively, with the land effectively ‘owned’ by the villages3 (Dufumier, 1980). Almost 4,000 co-operatives were settled between 1976 and 1986 (Bourdet, 1995b), although the level of involvement

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3. The only nationalized land was that confiscated from the notables of the previous regime to create State farms.
varied considerably from one province to another (Taillard, 1989), depending on local political pressure and forced enrolment (Bourdet, 1995b). The difficulties of organizing the work collectively, and redistributing the harvests, led to a drop in rice production. There was widespread passive resistance on the part of the farmers; coupled with low public investment, this meant that many co-operatives were co-operative in name only. In reality, ‘collectivization’ often meant little more than groups of extended mutual aid, beyond immediate family (Dufumier, 1980), and cannot be compared to the fundamental changes that took place in China in 1948–78, when Maoist reforms overthrew the feudal landlord system (Muldavin, 1996). These difficulties finally took their toll (Evans, 1990): after the Lao Revolutionary Party had committed the country to a ‘socialist market economy’ in 1986, the number of co-operatives dwindled to almost nothing (Bourdet, 1995b). In the villages, land and means of production were returned to their former owners, while the Lao government progressively reformed land regulations in the framework of a free-market oriented policy (ADB, 2003; Bourdet, 1993).

LAND ISSUES IN OFFICIAL DEVELOPMENT THINKING IN LAOS

In a country where agriculture provides more than the half of GDP and employs more than 70 per cent of the population, rural development is crucial for political stability and future prosperity. Rural development therefore plays a central role in the government’s policy, with its emphasis on poverty reduction and preservation of natural resources (Lao PDR, 2003; MAF, 1999). Since it lacked the means to invest heavily in infrastructures such as irrigation, the government chose to modify land policy as a priority to reach its goals of modernizing agriculture and developing the national economy (MAF, 1999). It had two uncommon characteristics to work with: the low population density, which means that access to land should not pose a major problem; and the fact that the tropical forest still covers nearly half of the country, although it has been cut back substantially in the past sixty years. The economic challenge of exploiting or preserving this natural resource is at the core of a political debate which, as will be shown, tends to eliminate the farmers from these areas and, hence, complicate the country’s land use and rules.

According to the government, permanent and intensive farming has a major role to play in national development. It has to generate a high level of raw materials, simultaneously supplying the domestic market, and accommodating an increase in exports and the emergence of a national agro-industrial fabric. Therefore, the soil must not remain unproductive and must be farmed yearly (MAF, 1999). Within this logic of intensification, the same potential is not available to all the country’s regions. Government

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4. From a cover of 70 per cent in 1940, to 51 per cent in 2000 (MAF, 2000).
policy pits productive plains, which are the vectors of the country’s economic development, against mountains where environmental protection must prevail (ibid.). The economic role of the Mekong valley’s rice-growing plains is undeniable, but restricting mountain policy to the single dimension of protecting nature is oversimplified: the slopes cover 90 per cent of the country’s surface area (ibid.) and 280,000 families, almost a third of the whole population, live by using shifting cultivation. Lao official policy tends to support the perceived rationality of the lowland areas against the needs of the upland farmers (Aubertin, 2001; Menzies, 2002).

Shifting cultivation has often been (and is sometimes still) presented as outdated and destructive by development institutions (Forsyth, 1999; Gutelman, 1989; O’Brien, 2002; Sanchez and Hailu, 1996; UNDP, 1995) and the Lao government (Aubertin, 2003; MAF, 1999, 2000). The Lao authorities argue that the lack of formal duties and rights concerning the forest areas leads to irresponsible use, and thus to an unsustainable management of natural resources. In 1994, the government decided that shifting cultivation should be eliminated by the year 2000; in 2000, the goal was postponed until 2020 (MAF, 2000) and then in 2003, brought back to 2010 (Lao PDR, 2003). In some areas of the country, accelerated crop rotations are seriously endangering this type of farming (Roder et al., 1997). If land is left fallow for less than six years, yields decrease and the soil erodes. Yet, as long as the population density remains low, shifting cultivation can be sustainable (Dufumier, 1996, 1999; Kleinman et al., 1995). Long-term fallow makes it possible to contain the invasion of weeds and to re-establish the soil’s structure and mineral fertility (Ramakrishnan, 1992). Erosion is limited and farming families can meet their basic economic needs. Experience accumulated over the centuries has made it possible to develop farming methods which are adapted to local conditions and evolving socio-economic synergies (Dufumier, 1996; Pravongviengkham, 1997), while preserving the environment. In several sparsely-populated regions, the land management modes developed by farmers make shifting cultivation a low-damage and economically profitable method that can be used for decades (Alexandre and Eberhardt, 1998; Baudran, 2000; Kousonsavath and Lemaître, 1999; Laffort and Jouanneau, 1998).

Aims and Experiments of the Current Land Reform

Land allocation was introduced experimentally in 1990 in the Luang Prabang and Sayabury provinces, with the support of multilateral (Asian Development Bank, FAO) or bilateral (Swedish) development agencies. In 1994, the process was extended to the whole country.5 In the plains, the

5. Decrees by the Prime Minister of the Lao PDR 169/PM (3/11/1993) and 186/PM (12/10/1994).
reform is supported by the World Bank’s ‘Land Titling’ project (World Bank, 2003) in which, in line with neoliberal principles, the World Bank promotes the formalization of land tenure in order to develop a free market and access to credit by mortgaging land. The land titling project which was carried out in Thailand was presented as a success by the World Bank (see Feder and Feeny, 1991). According to some authors, however, the Thai experience shows the economic limits and negative social impacts of the policy (Maxwell and Wiebe, 1999; Molle and Srijantr, 2003), and foreshadows what might happen in Laos.

The aim of the land allocation policy in Laos was twofold (Eggertz, 1996; Kirk, 1996): to increase land tenure security to enable farmers to invest in their land; and to encourage village communities to protect the forest environment by managing the area in a sustainable manner and by removing large portions of the village’s land from the slash-and-burn cycle to turn them into controlled reserves. These publicly proclaimed ambitions were accompanied by the goal of increasing the government’s revenue through property taxes resulting from the allocation process (Eggertz, 1996; Kirk, 1996). For the 2001 fiscal year, they brought in over US$ 2 million (Vientiane Times, 2001).

**Principles of the Land Reform**

Land reform was progressively codified by a series of texts, including the founding decree promulgated by the Prime Minister in 1992 (99/PM), which stipulates that: ‘the land belongs to all the Lao people, represented by the government. Lao citizens have the right to own and use land, pass it on in the form of inheritance, to offer, rent, sell or buy rights of land ownership and use’.

In principle, village land is zoned, based on the existing vegetation and past use by farmers. The first level of division is a separation into farmland, defined as areas farmed on a permanent basis, and forest land, defined as the remaining land of the village, whether wooded or not. These categories

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7. We do not consider here the land already managed by the State (National Biodiversity Conservation Area, Provincial forests, State farms, etc.), which are not affected by the reform.

8. Prime Minister’s decree 169/PM. There are also regulations covering small areas used for housing, cemeteries, roads etc.
are then subdivided again.\textsuperscript{9} Farming areas include fields farmed without rotation (rice fields, gardens, other cash crops), both existing and to be developed, as well as pasture land. Forest land is divided into five categories:

- \textit{Conservation forest}, a genuine natural reserve on the village scale, where all activity is forbidden;
- \textit{Protection forest} in watershed areas, where gathering is tolerated;
- \textit{Production forest}, where wood cutting and gathering are allowed;
- \textit{Forest to be regenerated}, areas designated to return to forest area, either naturally or by means of plantation;
- \textit{Degraded forest}, which makes up the village land reserve, and can be granted to families based on their farming needs.

The government opted for a system of land allocation based on the human and financial capacity of each family to produce, thus aiming at optimal allocation of land resources to maximize the growth of farm production. A limit was set at 22 ha per active worker,\textsuperscript{10} although the surface area held in paddy fields by families is not taken into account in this limit. The decree, perhaps inspired by an ancient customary measure, seeks to automatically return a plot which has been abandoned for over three years to the village committee: this land should then be redistributed in the village to farmers who can farm it. Where shifting cultivation is used, fields are allocated temporarily, as long as they are farmed and the property tax is paid. To encourage the farmers to change their ways, tenure security on these plots is deliberately limited since shifting cultivation ‘takes up too much space’.\textsuperscript{11}

The process ends in the publication of a village map and the signing of an agreement between the village and the district authorities, which formally includes all the characteristics of a land rental contract, where the State is the lessor and the farmers the lessees. This agreement is often the first time that the farmers formally acknowledge the State’s ultimate right to the land, which was previously only a concept (Eggertz, 1996).

The policy is supervised at the highest State level (Prime Minister’s Office) and put into effect, following a standard national procedure, at the local level by the province and district finance and agricultural services, under the supervision of the provincial governors. Farmers are involved at the land division stage, but not in deciding whether to apply the programme to their village or not. The district agents spend six to ten

\textsuperscript{9}  Prime Minister’s decree 186/PM.
\textsuperscript{10}  Comprising 1 ha of upland rice, 15 ha of pasture, 3 ha of cash crops and 3 ha of orchards.
\textsuperscript{11}  Remark made to the authors by a high-level civil servant at the Lao Ministry of Agriculture and Forests (June 2001).
days per village and do not have the time to consider the farmers’ micro-
management of the area. Within just a few months, a long list of ‘allo-
cated’ villages can be published and polychrome zoning maps are put up at
village entrances.

Traditional land rights existing before the land reform are theoretically
taken into account, as the constitution formally acknowledges the traditions
and cultures of the various ethnic groups. The different decrees providing
the framework for the land reform recommend taking customary land rights
into account, but without specifying conditions. One ministerial decision
(0054/MAF, 7/3/1996) indicates that customs may be maintained if they do
not have a negative effect on the forest environment; this leaves room for all
kinds of interpretations based on local interests and power struggles. The
actions in the field by the agents in charge of the allocation give some
indication of whether customs are taken into account or not: in the plains,
for example, farmers must prove that they have paid land taxes in order to
get titles, regardless of local customs (Eggertz, 1996).

The programme has neither an independent legal regulator nor local
mediators. Any conflicts that arise have to be settled by the authority in
charge of applying the policy. If there is indeed a contract between the
village and the State, the latter seems to have no obligations, particularly as
far as respecting the promise of technical support is concerned (Keonuchan,
2000; Kirk, 1996; UNDP, 2002). Despite the intentions originally claimed
for the policy, the confrontation of these aims with procedures and local
realities often produces contradictory results. We will now analyse the
inconsistencies in the implementation of the policy, based on case studies
from three different regions of the country.

LOCAL EFFECTS OF LAND REFORM: THREE CASE STUDIES

Lao PDR is more diversified than its small land area leads one to expect.
It stretches for almost 2,000 km from south to north, with a landscape
that changes from the western valley of the Mekong to the northern and
eastern mountains. This geographic diversity is matched by a human
one, with seventy-five different ethnic groups mentioned in the 2000
census (Sisouphanthong and Taillard, 2000). Studying the implement-
ation and impact of the land reform in all the different regions of
Laos would be beyond the scope of this article, but three contrasting
regions were selected, which between them include a wide range of
situations, in order to obtain a broad overview of the effects of land
reform in the country (see Figure 1):

South of Sayabury province in the west, where the first land allocation experiments took place; this is a hilly landscape used by Lao farmers to grow annual cash crops;

Vientiane plain in the centre; this is the paddy rice area around the capital Vientiane in the flat Mekong valley, mainly inhabited by Lao farmers;

Phongsaly province in the north; a mountainous area subject to slash-and-burn agriculture by farmers belonging to non-Lao ethnic groups.

The Sayabury Hills

Located on the right bank of the Mekong, Sayabury province is geographically linked to Thailand. Family appropriation of the land in the south of the province differs from the traditional scheme, even though the population belongs to the dominant Lao ethnolinguistic branch. A family’s right to use a cleared plot has long been seen as inalienable, and is inherited or handed over. This pattern of appropriation favours the families of the first occupants, who cleared the best lands in the valley bottoms when the region was undergoing progressive farm colonization. Demographic growth and the arrival of new migrants led to a gradual extension of village land to include the surrounding areas on less desirable, steep and remote slopes.

Since the early 1980s, the gradual return of export trade to Thailand has brought about a rapid evolution in farming practices in the south of the province (Laffort, 1998). In the valleys most open to trade, the development of increasingly effective sales networks has encouraged farmers to increase the proportion of annual cash crops in their rotations. Farmers from the districts most involved in trans-border exchanges (Kenthao and Boten) have more than quadrupled their cash crop areas in ten years, while rice areas have remained relatively stable (see Figure 2).

Interviews with old farmers allowed us to build the following model of the agricultural history of the area, focusing on the evolution of land use. In the first phase, farmers increased the cultivated area by slash-and-burn, accelerating the crisis of the farming system in the valleys as a result of exceedingly short rotation periods. Unable to effectively control the weed coverage with the available labour force, farmers had to abandon low, infested zones and colonize piedmont zones and hilltops. However, tractors and power tillers imported privately — in relatively high numbers at the end of the 1980s — allowed farmers to undertake ploughing as a form of mechanical weed control; they have managed to replant the grass-covered valley bottoms and once again extend the farmed area. Nevertheless, the practice of shifting cultivation still exists, especially on steep slopes or in remote zones where mechanization has yet to find its way.

These successive movements to colonize space increased economic differences within the farming community. As argued by Chayanov (1986), in
societies where labour is the limiting factor of agriculture, the income and savings ratio of a farmer family varies according to its consumption–labour balance.\(^\text{13}\) The surplus of a recently-settled couple quickly turns into a deficit when children are born; once they grow up and begin to work with their parents, conditions progressively improve. In Sayabury, families who were well placed in the cyclical consumption–labour balance (that is, those with a surplus of labour power) at the time of commercial expansion, took advantage of the first phase to increase their areas by means of shifting cultivation. They quickly increased their income and their savings and were able to invest in mechanization early on in the second phase. Other families found themselves unable to access cash crops, devoting their entire workforce to securing their own rice supply on their plots.

**Land Allocation: Model or Counter-model?**

Sayabury was one of the first provinces involved in the land reform experiment; land allocation began in 1990 and was completed in 1996. The government sees the south of the province as a model for the application of the new laws and agricultural development. Apart from the rice-growing plains, it is the only region in the country where annual crops occupy a substantial part of village land on a permanent basis.\(^\text{14}\) The policy aims of

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\(^{13}\) The ratio of ‘active workers’ to ‘people to feed’.

\(^{14}\) For 1996, annual cash crops amounted to 11,300 ha and upland rice to 14,000 ha (MAF, 1997).
the land reform thus seem to have been reached, with a landscape of permanent cash crops, visible modern technology (tractors, power tillers) and forests on the hills. But is this the consequence of land allocation or a coincidence resulting from the earlier introduction of mechanization? Despite the initial positive results, the limitations of the reform can already be observed.

Extensive interviews of 300 farmers in fifty villages show that the successful farming families are almost entirely wealthy families who were already using mechanization before the reform. Because of their lack of investment capacity, the majority of other farmers continue to use manual tools to control weeds. For them, the only way to survive in the current conditions of access to production means is to continue practising the much-criticized shifting cultivation, and to hire out their labour power to the richer families. The difference in income between these two categories is growing. This trend is emphasized by the recent appearance on the local market of new chemical inputs (herbicides and insecticides): it is now possible for a number of families to farm the whole surface area allocated every year and to widen the gap with the least well-off families. Since the reform, the economic situation of the latter has deteriorated, due to the reduction of land resources available for shifting cultivation. The village land reserve has been reduced, as required by law, and is of low agricultural quality. It is made up of plots abandoned by poor families unable to pay the tax, and marginal plots (low fertility, steep, remote) left by the wealthier families.\(^\text{15}\)

Interviewed villagers explained that some aspects of customary rights still prevail despite the new laws: for instance, village chiefs unfailingly consult the former holders before allowing a new family to clear land. Contrary to official reports, and in violation of the new land regulations, much of the fallow land visible in those zones least open to mechanization has already been appropriated: poor families use a small part of it for shifting cultivation, but wealthier families hold the majority of it, keeping it for future use. The limited size and mediocre quality of the legal reserve (where customary rights continue to prevail), as well as the insecure tenure of borrowed plots, force new families to clear areas on hilltops, in the protected forests. This happens in spite of the imposition of fines which, although high, are not perceived as a penalty but as the price of access to land.\(^\text{16}\)

Government targets to eliminate shifting cultivation are far from being reached. Shifting cultivation has declined in the region, but this is due not to the land reform, but to the spread of new mechanical means that have increased farmers’ productivity and thus allowed a greater surface area to be planted with permanent crops. Although clandestine slashing is mainly done by poor families, wealthier families also use it to extend their farming

\(^{15}\) Survey of 110 families in ten villages (July to October 1999).

\(^{16}\) Survey of thirty poor families in six villages (May to July 2001).
operations whenever strips of forest remain in the valleys. In the most densely populated zones, for instance around district towns, where the protected forests are inaccessible, a new category of economic agents has emerged: landless farmers, hiring themselves out for work on a daily basis.

Nor can the State claim that it has managed to impose its will to maximize the use of the space available. The soil occupancy pattern is quite different from the multicoloured maps or statistics posted at village entrances. Deprived of alternative resources, farmers continue to use forest space for animal husbandry, shifting cultivation, clearing for permanent crops, gathering, traditional use of firewood and timber. Although they are criticized less frequently, forest industries also play a role in the decline of the forest. Contrary to plans, the reform does not guarantee the protection of natural resources.

Because the farmers’ best interests, practices and know-how were not taken into account, the economic success of the reform in the south of Sayabury province was perceived by the authorities to be a direct result of the policy, implying that it could be generalized elsewhere. Yet without the developments which occurred prior to, and then concomitant with, mechanization, it would have been difficult for wealthy farmers to comply so quickly with the new land laws. One serious problem which now arises is how to deal with the degradation of the soil which results from repetitive mechanical ploughing17 (Laffort, 1998). If the current trend continues, the government’s aim of developing modern agriculture that respects the environment and generates wealth is unlikely to be reached in the south of Sayabury province.

The Vientiane Plain

In the centre of Laos and populated mainly by the Lao ethnic group, the Vientiane plain covers a surface area of 300,000 ha, and has historically been one of the country’s main paddy rice producers in the rainy season. The banks of the main rivers (Mekong and Nam Ngum), fertilized by alluvial input, are devoted to cash crops. In upland areas, shifting cultivation was widely practised but is now declining, and being replaced by tree plantations (eucalyptus, teak, fruit trees, and so on) or pastureland for raising cattle and buffaloes. Current land tenure is complex, resulting from the successive application of three land use rights systems — customary, socialist and liberal — whose intermingled features now remain.

Prior to 1975, typical Lao customary rights were applied, with the ultimate ownership of land in the hands of the King. ‘Collectivization’ occurred from 1976 to 1986, after which time the co-operatives were progressively dismantled (Evans, 1990). The small amounts of land and equipment that

17. Done along the slope and before the rains, ploughing exacerbates the erosion of soil made fragile by the absence of organic matter.
had been acquired by the co-operatives were sold to farmers who had kept some capital (in the form of gold and silver) hidden since 1975. This allowed them to increase their productive potential and led, as in the case study above, to greater socio-economic differentiation. With the abandonment of collectivization and the progressive acknowledgement of private ownership in the form of an increasingly monetarized market, land use rights, previously granted by the State and by tradition, become the object of trade.

As early as 1976, the region had become host to migrants attracted by the proximity of the capital, Vientiane, which offered safety and access to markets but still with a relatively low population density. This movement increased at the end of the 1980s and still continues (Sisouphanthong and Taillard, 2000). According to farmer interviews, the new arrivals were mainly upland farmers, displaced by the government’s policy of forest protection (Aubertin, 2001; Evrard and Goudineau, 2004; Vandergeest, 2003). The original inhabitants did not look kindly on the new arrivals, who were granted land taken from the village reserve. The land was of poor agricultural value, however: the new plots were either located in high positions, susceptible to drought, or in low positions, susceptible to flooding, making harvests unpredictable one out of every three years. Migrants arriving now, after the land allocation and titling, no longer have the possibility of being allocated land; they can only buy or rent land, or become landless farmers selling their labour. Increasing demographic pressure is at the origin of a growing demand for land: a real land market has opened up and is still growing, and forms an important backdrop to land allocation.

Land allocation began in the Vientiane plains with the publication of the first maps in 1996. As with other plains in Laos, the reform is supported by the World Bank’s ‘Land Titling’ project (World Bank, 2003). Farmers who have fulfilled their fiscal duties are entitled to register their agricultural land. Appropriating areas classified as forests is theoretically illegal. While interviewing farmers, however, it appeared that they still took possession of forest land based on the customary right which makes the clearer the owner. By farming them on a regular basis and paying the tax, the farmers obtained the right to register them.

Definitions of the different land categories are not clear and leave room for varied and contradictory interpretations. Property tax rates depend on the use of the land and are aimed at promoting intensified farming. Given the lack of any controls, farmers often declare fictive uses in order to pay less tax: ‘pasture’, ‘garden’ and ‘plantation’ labels very often replace ‘slash-and-burn field’ — which also allows the local administrative

18. For example, the population of twelve villages in the study area totalled 540 families (20 inhabitants/km²) in 1979, but had reached 1,600 families by 2001 (59 inhabitants/km²).
19. Prime Minister’s decree 169/PM.
20. Survey of 100 families in twelve villages (February 2001 to March 2002).
services to claim that shifting cultivation is disappearing (MAF, 2002). The land use map is also of limited value. Since the local administrative services lack the means to do it themselves, each owner is left to register his/her own land. During interviews, some villagers acknowledged that they underdeclared the size of their plots, leading to erroneous mapping. With its incorrect surface areas, the map may lead to land conflicts between neighbouring villages or with new arrivals.

Interviews with seventy-five old farmers in twelve villages allow us to build up a model of land use in the area since the mid 1980s. Farmers with capital were able to invest quickly and make gains from land opportunities when economic policy changed. As a result, they are now the main beneficiaries of different strategies of the reform (Sacklokham, 2003), including: raising cattle on fenced pastures; the establishment of eucalyptus or teak plantations, encouraged by the Asian Development Bank (ADB, 1994), which is more a matter of land speculation than actual productive use of the land;\(^\text{21}\) and sale of land to city dwellers or new migrants. The proceeds of these sales are generally reinvested in farm equipment or in livestock breeding to increase family income and work productivity.

Squeezed out by the policy of eliminating shifting cultivation, many families migrated from hilly regions to the Vientiane plain after 1990 (Evrard and Goudineau, 2004). Those farmers who arrived with savings and those who had outside support\(^\text{22}\) were able to buy land. The wealthiest were also able to invest in mechanizing their operations with tractors, power tillers, huskers, etc., increasing their work productivity and their income by piecework. On the other hand, for recent migrants without capital there is no longer any land in the village reserves. Each year, these landless farmers rent private fallow that they slash and burn; as a result of this insufficient and insecure access to land, they find themselves in an unstable food and economic situation.

The recent extension of farmed surfaces has reduced the area available for pasture. Farmers now have to watch over their herds. Some have bypassed the law and fenced off plots on village reserve land to privatize access to grazing. Others, short of the capital for buying pasture or the workforce for watching over their animals, have been forced to abandon animal husbandry (see Figure 3).

A survey of 240 farmers in twelve villages shows that processes for implementing the reform have contributed to emphasizing social differentiation. Certain groups had advance access to information regarding legal

\(^{21}\) Added value for eucalyptus plantations is US$ 120 per ha, compared to US$ 140 per ha for slash-and-burn fields, US$ 250 per ha for fruit trees, or US$ 1,000 per ha for bank gardens — the small fields along the river banks which are planted with, e.g., vegetables, maize, fruit trees or other cash crops (Sacklokham, 2003).

\(^{22}\) After 1986, some families with relatives who took refuge abroad have begun to receive remittances from their relatives.
decrees, which allowed them (as early as 1995) to anticipate the application of the decrees to their advantage, increasing the appropriation of village land reserves by these groups.\(^{23}\) The land allocation committees, created in 1996, had to content themselves with ratifying this early appropriation. By magnifying social differences, land allocation has thus heightened the risks and frequency of land conflicts (Sacklokham, 2003).

**The Forest Continues to Recede**

From field research and interviews we estimate that, along the edges of the plain, forest areas have been reduced by 80 per cent since the 1950s. The reduction is partly due to the agricultural colonization process, and partly to logging, which began in 1955. With the land reform, the Lao government banned the exploitation of the forests in the region in order to protect the Nam Ngum and Mekong watersheds (Klemm, 1995), but some possibilities still exist. The sale of logging rights by villages to fund community facilities (such as schools, electricity and roads) is still allowed, and is seen as the main cause of the almost complete disappearance of forest zones. On a smaller scale, high-level civil service retirees benefit from tree felling rights

\(^{23}\) They include members of the village committee, well-off families, relatives of high ranking civil servants, and so on.

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**Figure 3. Changes in the Number of Buffaloes and Cattle compared to Surface Area Cultivated in the Vientiane Plain**

Sources: MAF (2002); National Statistics Centre (2001)
for the construction of their homes, while the sale of wood is still allowed
after authorization has been granted to clear a farming plot.

Although one of the main aims of the current land reform was to protect
the forest environment, it has failed to halt forestry industries which account
for the greatest loss of forest in the region. At the same time, the land
reform aims to modernize agriculture, but farmers are not involved in the
decision-making stages of land allocation. Combined with the lack of means
mobilized for the reform and the lack of attention to customary practices
from local authorities, this has led to a widespread bypassing of the spirit
and letter of the law and accelerated the disappearance of village land
reserves, to the detriment of the poorest farmers. Together with demo-
graphic pressure, the expansion of the market economy and the develop-
ment of Vientiane city, the land allocation policy has contributed to drastic
changes in farming practices and increased social differentiation.

The Phongsaly Mountains

Phongsaly district is a remote and landlocked region in the Lao PDR’s
northernmost province, with China to the west and Vietnam to the east
(see Figure 1). The district is situated on largely hilly terrain covered by
shade forest, but human activity, in particular shifting cultivation, has
transformed the natural vegetation. The existing formations are diverse,
ranging from primary forest to savannah maintained by fire (Alexandre
and Eberhardt, 1998; Baudran, 2000; Laffort and Jouanneau, 1998). The
population mainly belongs to the Sino-Tibetan ethnolinguistic family, with
the Lao ethnic group being absent from the rural area. At present, approxi-
mately 25,000 inhabitants in ninety-three villages live essentially from shift-
ing cultivation which provides over 75 per cent of their food resources
(Ducourtieux, forthcoming). Agricultural alternatives are limited by the
absence of farmable lowlands in the V-shaped valleys, the lack of access
to markets for cash crops and the high incidence of health problems in
animal husbandry.

The agrarian system is based on an unusual land tenure system, which
was modelled after interviewing 230 old farmers in thirty-nine villages. Each
family has land use rights bordering on private property (Laffort and
Jouanneau, 1998), but social practices oversee land tenure. The village
community chooses the stretch of forest to be cleared each year; in this
zone, the families farm their plots. With demographic growth, there is a
trend toward dividing up the plots from one generation to the next. The
regulation of this trend is complex, based on four successive mechanisms:
loan of land between families, extension of crop duration in slashed fields,
emigration, and acceleration of rotations as a last resort. In order not to
reduce the family’s area to an economically unviable level for the heirs, there
is a trend for the younger generation to leave Phongsaly on a regular basis.
Emigration is constant, but only concerns a few people per year. Those migrants who leave with capital, generally resulting from the sale of buffalo and cattle, purchase rice fields in the plains or switch to urban trade. Migrants without capital look for salaried jobs in towns or join the civil service or army in low-level positions. This system protects soil fertility and maintains satisfactory production levels, at the cost of expelling part of the population to other zones. Population growth in the district was 1.9 per cent per year between 1985 and 1995, and 0.3 per cent per year between 1995 and 2000, compared to nearly 2.6 per cent for the whole country (Sisouphanthong and Taillard, 2000).

The rigid land tenure system in Phongsaly is uncommon for shifting cultivation. It tends to slow down the decrease in the fallow period — a characteristic response to demographic growth in many other shifting cultivation systems (Forsyth, 1999; Fujisaka, 1991; van Keer, 2003; Ramakrishnan, 1992; Sanchez and Hailu, 1996). Long fallow periods (of eight to twenty years) contribute to the protection of the forest and soil, as well as maintaining biodiversity (de Koninck, 1997; Lawrence and Schlesinger, 2001; Rossi, 1999). The Phongsaly system also provides each family with substantial security in terms of access to land, particularly in the long term. This encourages farmers to invest in their land: despite limited water resources and the difficult topography, more than 12 per cent of families have set up terraced rice fields — an original investment for a forest agriculture with a low population density (8 inhabitants/km$^2$). The farmers also cultivate market gardens and cash crops, such as cardamom or teak (in the valleys). Such investments demonstrate the confidence that farmers have in their access to land. Furthermore, although the Phongsaly agrarian system may appear unproductive and poor, it exports manual labour (and capital earned from farming) on a regular basis to other regions and other sectors of activity, through its migrants.

**Unexpected Consequences of Land Allocation**

Without considering the effectiveness and complexity of the traditional land tenure system, the Phongsaly administrative services launched the land allocation programme in 1997. The programme was speeded up in 2000 with the support of a project funded by the European Union (PFCRDP, 1999). By March 2005, twenty-eight villages in the district — those most easily accessed by the services, in close proximity to the urban centre or along the only road — were involved. A survey in twelve of the ‘allocated’ villages enables us to plot the major changes that land allocation implies for land use (see Figure 4).

With land allocation, the size of an average family farm declined from 17 ha to 13 ha. The surface area of a slash-and-burn field remains unchanged, at an average of 3 ha per family: the land reform has not had an immediate
effect on the reduction of shifting cultivation. New categories of land have emerged, such as the permanent crop area, which remains unutilized for lack of viable alternatives to shifting cultivation: attempts by the local agricultural services to introduce cash crops have, for the time being, failed due to their unsuitability for the environment and to ignorance of market constraints (Ducourtieux, 2000).

The main change introduced by land allocation is the drastic reduction of the fallow areas, from an average of 21 ha per family to 7 ha. This means that rotations have been accelerated, with the mean fallow period dropping on average from twelve to six years. As a result, the sacrifice made by generations of farmers — the constant emigration of the younger generation to preserve the forest environment — could be obliterated within a very short time. In six years, forest re-growth is barely sufficient to limit the impact of reduced fallow periods on the harvests (van Keer, 2003; Kleinman et al., 1995). Furthermore, the fallow zone is no longer on family property: the forest stretch slashed each year is shared between families in proportion to the number of active workers and the number of people per family.

Source: Authors' fieldwork

24. The range across the villages in the survey was between six and sixteen years before land allocation, and from two to ten years afterwards.
Confident in the guarantee of immediate access to fallow land, families may no longer encourage some of the heirs to leave. With deregulated access to land, each person may be tempted to stay in the village, causing a sharp increase in population so that the zone devoted to shifting farming would no longer be able to meet their needs. Whether this foreseeable crisis is solved by illegal slashing of protected forest land (if administrative control is weak) or by massive emigration of a large number of farmers in an unviable position (if land allocation regulations are respected), the land allocation programme is leading Phongsaly agriculture in a direction which contradicts the aims of the policy — aims which had in fact been reached with the traditional land tenure system.

In each of the three case studies — and in spite of the differences between them — the land allocation programme has proven ineffective or even counterproductive to the political aims of poverty alleviation and environment preservation.

THE WIDER PICTURE

Consequences of Reform for Other Upland Regions of Lao PDR

In selecting the three contrasting case studies, we expected not to get a statistically representative sample, but to cover a range of situations which would give some insights into the likely impact of the land reform in Lao PDR. Does other literature confirm our findings? Studies conducted in different regions of the country before the land reform rarely found any major land access problems for farmers. On the Bolovens Plateau, for example, coffee plantations spread widely in the 1990s, suggesting that traditional land tenure was secure enough for farmers to invest in permanent crops (Babin, 1999; Ducourtieux, 1994; Pelliard, 1998). Similarly in Chompeth district (Luang Prabang province), traditional land tenure was sufficiently secure for farmers to cultivate paper mulberry trees and paddy fields using former slash-and-burn fallow land (Kousonsavath and Lemaître, 1999). In Phongsaly district and other mountainous areas (such as Luang Phrabang, Oudomsay and Luang Namtha), farmers have recently begun to grow medicinal cardamom, a perennial cash crop (Ducourtieux et al., forthcoming).

Since 1994, all provinces have been affected by the reform. In July 1996, the first national conference on land allocation drafted an initial report, which stated that the land of 1,520 villages (involving 72,000 families) had already been divided up (Keonuchan, 2000). At the end of 2001, the corresponding figures were 7,390 villages and 360,000 families (MAF, 2002). Many international and bilateral co-operation agencies have supported the policy financially and technically: almost all rural development projects in Laos include land allocation as a strategic axis of intervention, even though some studies are beginning to cast doubt over the programme.
Studies conducted in the provinces of Luang Prabang, Oudomsay, Luang Namtha and Huaphanh show that land allocation is having a similar effect on the agrarian systems, even if the local conditions are noticeably different (see Aubertin, 2003; Keonuchan, 2000; Kousonsavath and Lemaitre, 1999; SPC, 2000; Vandergeest, 2003). In all these cases, the reduction of the fallow period imposed by land allocation implies increased invasion of the fields by weeds and thus an increase in hoeing. Villagers in Oudomsay and Luang Namtha have reported that weeding time has increased by 50 per cent since land allocation, from 100 to 160 workdays per ha per year (Keonuchan, 2000). Another problem is lower fertility: rice production is decreasing, which lengthens the period without rice for farmers who do not have access to wet or irrigated rice fields. Before land allocation, 50 per cent of families from these villages lacked rice for a few months a year; since land allocation that figure has risen to 70 per cent (ibid.). The land reform is thus impoverishing farmers who do not have access to other means of production, and leading the poorest villagers (up to 20 per cent of the population) to emigrate to the cities for lack of sufficient resources in farming (Raintree, 2001; Vandergeest, 2003). On the other hand, the wealthiest farmers, in more secure positions (Scott, 1976), can take the risk of investing in the new permanent crops and are thus able to increase their income.

Land allocation accentuates inequalities in the villages, leading to increased impoverishment of the most underprivileged farmers — in direct opposition to the stated aim of reducing poverty. In all the cases studied, land allocation is related to an artificial acceleration of rotations, which leads to soil degradation, increased weeding (at the cost of other economic or social activities), reduced yields, greater agricultural risks and increased poverty for slash-and-burn farmers (Raintree, 2001). Furthermore, land allocation allows forest industries to make deals with local administrations to classify zones worth exploiting as production forest, while farmers are turned away in exchange for a symbolic compensation of 2 per cent of the value of the wood cut (Anon., 2000).

Compared Reforms in Neighbouring Countries

China and Vietnam, whose political influence on Laos is obvious (Evans, 1998, 2002; Stuart-Fox, 1996, 2001), have also conducted land reform programmes, with the land allocation in mountainous zones pursuing comparable goals of forest preservation and elimination of slash-and-burn agriculture.

Given the vastness of China, policy implementation and effects inevitably differ across the country (Sturgeon, 1999). The rural development of the Jinuo mountains (the independent prefecture of Xhishuangbanna,
Yunnan Province) can be compared to that of Laos (Shirasaka, 1995). A land allocation programme was conducted in the second half of the 1990s, but it followed the development of cash crops\textsuperscript{25} which was initiated thirty years earlier by local agricultural services and farmers (Zaifu, 1998; Zhaohua et al., 1998). The Chinese administration were handing over land property titles to farmers already well established and in good economic situations — land allocation completed the transition from shifting cultivation to permanent crops, rather than preceding it. In Vietnam, on the other hand, the 1988–93 programme was quite comparable to that developed in Laos. The negative effects are also similar with, in addition, increased pressure on the forest since land allocation facilitated Khinh agricultural migrations into forest areas (Jamieson et al., 1998; de Koninck, 1997; McElwee, 1999; Mellac, 1998; Mellac and Rossi, 1998).

Land allocation, which appears to offer an attractive solution to agrarian problems, benefits from strong foreign support; this can be seen in the unexpected convergence between the socialist model of production control of China and Vietnam (Sandewall et al., 2001), the northern European concept of forest exploitation, and the liberalism of the Bretton Woods institutions. International development banks support land reform in Laos within the context of establishing a land market and therefore contributing to liberalizing the Lao economy (ADB, 1999; Deininger, 2003; World Bank, 2003). This improbable conjunction brings together both the funds and the political will which are needed to implement the programme on a large scale. Under the influence of western advisers, the notion of land ownership developing in Laos is leaning towards the individualization of land tenure at the expense of the village community (Eggertz, 1996), the former guardian of customary rights and internal regulations (Pravongviengkham, 1997). It is impossible to predict the effects of this on forest resource management in the medium or long term.

The aim of reducing shifting cultivation in order to preserve the forest environment is important and pertinent when the population density exceeds sustainable levels (Fox et al., 2000; Kleinman et al., 1995; Sanchez and Hailu, 1996). Has this limit been reached in Laos? This is unclear, even in comparison with other Asian countries (see Durand, 1997; Forsyth, 1996; de Koninck, 1998; Vandegeest, 2003). In any case, reducing shifting cultivation must be a gradual and long-term policy that takes account of the diversity of local conditions and the best interests of the farmers (Forsyth, 1999; Fox et al., 2000; Pravongviengkham, 2000; Sanchez and Hailu, 1996).

\textsuperscript{25} Cardamom at the end of the 1960s, then hevea, fruits and vegetables, as well as non-timber forest products.
CONCLUSION

Since 1990, the government of the Lao PDR has undertaken the reform of land tenure policy to alleviate poverty and protect natural resources. The historical background for this policy is a succession of fundamental reforms that have been picked up, dropped, or drastically re-oriented, like fashions influenced by the regional and international context, but with strong local uniqueness. In the Lao PDR, there is a wide gap between formal rights and social practices in the villages. Land laws, although seeking to serve the best interests of the community, contain loopholes and contradictions that make widely varying interpretations possible, depending on local social relationships. The effects of such laws are very diversified and often contrary to the aims set. Because local specificities have not been taken into account, the State’s intervention is doomed to failure.

The studies mentioned above that deal with land allocation in Laos support the results of our own research: the impact of the policy has been negative both for rural development and for environmental conservation. The land allocation programme adopts a static approach that does not take into account the historical agricultural development of Laos, nor its future dynamics. It offers no advantages over the traditional land tenure systems for reaching the ecological aims defined. Moreover, there is a real danger that a poorly defined or poorly applied land reform will lead to a large proportion of farmers — the poorest ones, who generally now have access to land — being evicted from the countryside, with the risk that none of the country’s other economic sectors will be able to absorb them.

Some departments of the Lao administration are becoming aware of the perverse effects of the policy and are reporting village complaints: the Committee of Planning and Co-operation reported the declaration by a Huaphanh province village chief in a report on the fight against poverty: ‘before land allocation, our village was producing enough rice for the whole year. Now, after land allocation, we can only produce enough rice for five months. Furthermore, with shorter fallow periods, we are encountering problems with rats and grasshoppers’ (SPC, 2000). The same report concludes: ‘as a priority, the implementation process of land allocation should be assessed and revised’ (SPC, 2000). The Asian Development Bank has also begun to reorient its support for the operation, by questioning the quality of the programme implementation (ADB, 2001). Those questioning the programme are still in the minority and their voices are soft. But land allocation is starting to be perceived as a policy for eradicating shifting cultivation (NAFRI, 2001) and not as a tool to fight poverty.

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26. This committee became part of the Ministry of Foreign Affairs in 2003.
REFERENCES


Olivier Ducourtieux (INA P-G, 16 rue Claude Bernard, 75231 Paris Cedex 05, France; olivier.ducourtieux@laposte.net) has led rural development projects in Laos for eleven years. He is now preparing a PhD at the Paris-Grignon National Agronomics Institute (INA P-G). His research focuses on the impact on farming systems in Phongsaly (North Laos) of successive State policies aiming to eradicate shifting cultivation.

Jean-Richard Laffort is also preparing a PhD at the INA P-G, focusing on agricultural changes in the south of Sayabury Province (Laos) and the conditions for sustainable market-oriented agriculture.

Silinthone Sacklokham is Associate Professor at the Nabong Faculty of Agriculture, National University of Laos, Vientiane. After completing a PhD at INA-PG dealing with agrarian transformations, rural migrations and land issues in the Vientiane Plain (Laos), she is now building up the Faculty’s new Department of Rural Economics and Agribusiness and focusing her research on land issues and land use in Borikhamxay Province (Laos).