

Women and Land Rights in Lao PDR:

Rural Transformation and a Dream of Secure Land Tenure



A report commissioned by Land Information Working Group (LIWG), June 2020

**Women and Land Rights in Lao PDR:
Rural Transformation and a dream of secure tenure**

Written by:

Phetsakhone Somphongbouthakanh
Dr. Loes Schenk-Sandbergen

Field Research Team:

Dr. Loes Schenk-Sandbergen, Amsterdam University, Netherlands
Phetsakhone Somphongbouthakanh, Gender Equality & Social Inclusion Consultant
Engsone Sisomphone, Faculty of Social Science, National University of Laos
Yardaloun Sipasert, Faculty of Law and Politic Sciences, National University of Laos
Kong Chanthaphet, Lao Biodiversity Association

Editing and technical review for English version by Richard Hackman and Brieke Steenhof

Editing and technical review for Lao version by:

Mr. Souliyanh Rouchantha, Director of Clinical Legal Education – Faculty of Law and Political Science, National University of Lao PDR.
Ms. Pavina Thephithuck, Laos Country manager of BABSEACLE
Ms. Manivanh Suyavong, Director of Gender Development Association

Front cover photo: Women walking to their farm. Namor district, Udomxay province,
©: CCL

Disclaimer: The data presented in this report are the voices from women and men in the communities visited and government related offices in central, provincial and district level. The views expressed in this report are the author's alone and are not necessarily the views of the funders and the Land Information Working Group.

Acknowledgements

The report on “**Women and Land Rights**” was commissioned by the Land Information Working Group (LIWG) in a partnership with the Faculty of Law and Political Sciences, and Clinical Legal Education (CLE) and financially supported by Bread for the World and CARE International in Laos. We are very thankful for their support.

We acknowledge the Faculty of Law and Political Sciences for giving authorization to the research team to conduct the field study.

Particular thanks to the logistic support of CCL, JVC, AFC, BABSEACLE and members of the Land Information Working Group. They introduced us in the villages and accompanied us in the field.

We are very much indebted to all the officials at the Central, Provincial, District and Village level in the four provinces we visited. They took time to guide us, to provide data and to share their practice, views and experiences on women and land rights. Their in-depth knowledge on the topic and recommendations they suggested were helpful for the research team to enhance our understanding of the actual situation and embedded context of land management.

Lastly, we would like to share our wholeheartedly thank to all the community members, women and men in the villages in the lowland, upland and in the highland, who devoted their time, trust, friendship and hospitality to our team. The successful conduct of this study could not have been possible without them.

Land Information Working Group (LIWG)

LIWG Secretariat

www.laolandinfo.org

Acronyms

CAW	Commission Advancing for Women
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CCL	Comité de Coopération avec le Laos
CLE	Clinical Legal Education
CSO	Civil Society Organization
DALAM	Department of Agricultural Land Management
DAFO	District Agriculture and Forestry Office
DoL	Department of Land
DoNRE	District Office of Natural Resources and Environment
FAO	Food and Agricultural Organization
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GoL	Government of Laos
GRID	Gender Resource Information and Development Centre
JVC	Japanese International Volunteer Centre
LIWG	Land Information Working Group
LIFE	Land Learning Initiative for Food Security Enhancement
LUP	Land Use Planning
LWU	Lao Women's Union
MAF	Ministry of Agriculture and Forestry
MoNRE	Ministry of Natural Resources and Environment
NGO	Non-Governmental Organization
PAFO	Provincial Agriculture and Forestry Office
PALAM	Provincial Agriculture Land Management
PLUP	Participatory Land Use Planning
PoNRE	Provincial Natural Resources and Environment
PRA	Participatory Rural Appraisal
TABI	The Agro-Biodiversity Initiative
WLR	Women Land Rights

Contents

Acknowledgment	i
Acronyms	ii
1 Executive Summary	1
<hr/>	
2 Introduction	3
<hr/>	
2.1. Research Objectives	5
2.2. Methodology	5
2.3. Studys Limitations	6
2.4. Framework	7
3 Research Results	9
<hr/>	
3.1. Women’s overall land rights situation in Laos	9
3.1.1. Legal Analysis	9
3.1.2. Village level understanding of women’s land rights	13
3.1.3. Women’s decision making and access to land	14
3.1.4. Women’s protection of land rights-customary and formal	17
3.2. Women in the current context of agricultural transition	21
3.2.1. Changes to women’s access to land	22
3.2.2. Changes in women’s family roles	27
3.3. Risk to women’s land rights from LUP and documentation	29
3.3.1. LUP and women’s participation and voice	30
3.3.2. Land documentation and women’s voice	31
4 Conclusion and Recommendations	34
<hr/>	
4.1. Conclusions	34
4.2. LIWG recommendations for supporting women’s land rights	36
4.3. Recommendation for Government promotion of women’s rights	40
References	42

1. Executive Summary

Since the nineteen nineties, with Laos transitioning from a subsistence to a market economy, secure land rights for women have become crucial. The past decades have shown an enormous rural transformation process, and pressure on land and natural resources are catalysing a change in land use and land management in Lao PDR. This, in conjunction with new land policies, might have an adverse effect on women's access to, and control and decision-making power over land. Livelihood systems and customary rights that secure land tenure for women and men are threatened and undermined.

A review of previous researches showed that there is an information gap because of a lack of studies on women and land rights in Lao PDR. Specifically, of studies that focus on the impacts of rural transformation and new land management policies that have been proclaimed in the past decades. Some of the impacts relate to land rights, food security and sovereignty, migration, economic empowerment. It stems from this background that this study on 'women and land rights' has been conducted.

This report is a summary of the original research report which, due to its length, needed to be revised.

The results and recommendations of the research are being used to guide the LIWG to improve its strategies towards enhancing women's land rights in Laos. In attempt to meet the research objectives, significant challenges were encountered, in particular the selection of villages to visit. The sample did not include any village where systematic land titling had been done or villages that recently had conducted a land use planning exercise.

A total of seven villages were visited in Vientiane, Savannakhet, Oudomxay and Phongsali provinces. It included matrilineal, bi-lineal and patrilineal villages. Data were collected through focus groups arranged by gender (male, female) and through household interviews. Questions were asked about land and land-related livelihood systems, gender division of labour, participation and decision-making on land management. Data were collected from District and Provincial Offices of Natural Resources and the Environment (DONRE/PONRE). The framework used for the research is the gender-based power structure of the local customary system related to the governance of land.

The findings show that in the matrilineal ethnic Lao-Tai and partly matrilineal ethnic Bru/Makong villages, the customary inheritance land rights of women are continued and sustained. The traditional systems of matrilineal kinship, inheritance and matrilineal post-marriage residence system protect the land rights of women. In the patrilineal and patrilineal ethnic Akha, Lue, Hmong and Khmu villages, women have only access to land through their husband and thus through marriage. Only sons can inherit land from their fathers/parents.

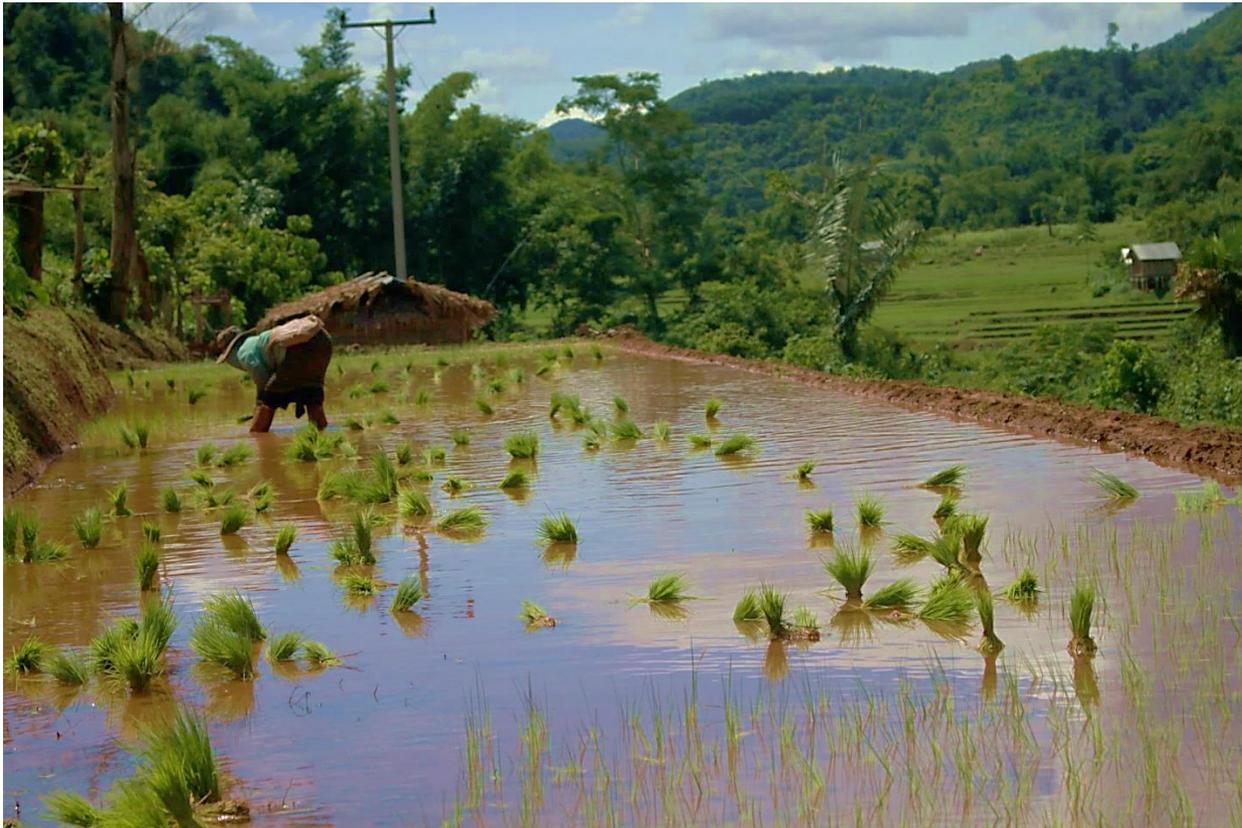
Women's right to land needs to be analysed from the perspective of both formal legislation and customary law, as they co-exist. The Land Law specifies that a land title is the only legal document considered as evidence for permanent land use rights. It also contains an article on the recognition of customary land use. The study found that in general, at provincial and district level no disaggregated sex-specific data on issued land titles are kept, except for the provincial level in Savannakhet. The representation of women in the offices of land management is generally low. At community level, women's knowledge of land rights varied between ethnic groups and village location (urban, peri-urban, rural).

Land titles for individual land had only sporadically been issued in three out of the seven villages visited. The costs of adjudication and issuing land titles are high and are unaffordable for most people. Villagers have different types of documents which might validate their land use: land certificates, land-tax bills, and family land-record book. On almost all land documents the names of both the husband and wife are recorded and there is wide support for this by government and INGO staff. Many women perceive a land title as gaining more secure land tenure. There are however risks that current land tenure is undermined because of lack of women's land rights in the new Land Law (2019), village relocation, potential elite appropriation of collective land, individual land titling of communal-owned systems, lack of formal recognition of communal land/forest and policies fostering transfer of land to investors.

In the matrilineal village of Phonsong a rural transformation process of de-agrarianization was most noticeable; in the other villages this was also occurring but to a lesser extent. Youth migration accounts for part of this de-agrarianization. In some villages (Phonsong and Nonsavanh) women were working less in agriculture than they were ten years ago. In all villages, people were depending less on forests since the forest areas had decreased to be replaced by commercial crops with women focusing more on this than men. As a result of de-agrarianization and decreased access to forests, there has been a reduced food security, there is less communal land available for animal raising and firewood scarcity is felt. There have also been changes in the division of labour threatening land rights for women, gender relations becoming more unequal, loss of socio-cultural identity and inter-generational conflicts¹.

In all seven villages women have lost access to and control over land. In the matrilineal villages, women have lost private customary lowland paddy fields while in the patrilineal villages they have lost mostly fields in communal land areas that were used for subsistence agriculture. Expansion of roads, construction of buildings, resettlement, concessions to rubber plantations and leasing out land for sugarcane cultivation were the causes of the loss of access to land. In summary, in all visited villages state legislation is being implemented. The customary law in the patrilineal communities' favours sons and discriminates on daughters and girls in division and allocation of land, while the customs in the matrilineal villages provide land security to daughters.

¹ For more details, please refer to the chapter 3,2,2, about changes in women's family roles



A woman planting rice on the rice field in Oudomxay province, Laos. © CCL

2. Introduction

The Land Information Working Group (LIWG) is currently the only organisation in Laos focusing on land rights including women's land rights. LIWG commissioned this study to be able to enhance and strengthen its support for women's land rights issues. The literature review on land management in Lao PDR showed there has been a lot of attention on rural transformation processes, land reforms, concessions and land management of the past decade related to a "turning land into capital" policy (Mekong State of Land, Ingalls 2018; Boutthavongeo. 2016; Bouté 2017; Kenney-Lazar 2012, 2016, 2017, 2019; Ling, 2017; Schönweger, 2012; Dwyer 2007; Flint *et al.*, 2018). However, our review on 'women and land rights in Lao PDR' shows that there are only few gender specific studies that have concentrated on the impact of the drastic processes of rural transformation in the past decade on women's land rights (Mann

2008; Daley, *et al.*, 2013; Stoeber *et al.*, 2013; FAO 2018; Khouangvichit 2010; Daley and Pallas 2014; Kusakabe & Panda 2014; Kusakaba 2015; van Duin 2017).

Daley's study (2013) shows that gender-differentiated implications can be traced in Lao PDR but that different local contexts have generated different outcomes for groups of women and men in relation to the impact of large-scale land deals. This study confirms Dailey's finding. Various social, economic and political processes, like land management, urbanization, migration etc., generate dynamic and profound changes on Lao society and gender relations (Schenk-Sandbergen 2012).

Problem statement

Overall, there is a lack of knowledge about the situation of Women's Land Rights in Laos and consequently the practices to protect them are rare. There are many perceptions that women's land rights are not an issue as such since the current Land Law provides a provision for married women to have their name on the land certificate. Yet, while it seems that the situation for women's land rights is more favorable in cities, it seems different in rural areas depending for instance on the customary rules of ethnic groups, and the level of awareness by government officials and communities etc... Many questions arise in a context where the revision of the Land Law challenges women's rights in removing the provision that enables them to access land. Moreover, the land rights context might also evolve in the coming years with upcoming titling projects. This research aims to improve understanding of land rights of women living in different geographic areas by applying social, cultural and anthropological research methods.

Methodology

The research team started its study in September 2019 by consulting and meeting with relevant ministries and departments at central level. The fieldwork was carried out in October whereby district staff of government and NGOs and villagers were interviewed. The field team visited seven villages in four districts of four provinces, involving eight different ethnic groups. The village level data collection started with obtaining general information from village authorities and village land committees. It was followed by female and male focus groups discussions related to land and gender, and a PRA activity to make a village land map. Individual interviews were conducted with male and female villagers, senior and junior, and with most vulnerable people. A village transect walk was also included in the study methodology. Interviews with staff members from government and development organizations in Vientiane, in provinces and districts included 10 (4 women) government staff in Vientiane, 45 (19 women) government staff in provinces and districts and 4 (all women) development organization staff. 143 people were interviewed in villages of whom 77 are female.

A preliminary findings workshop was held for the LIWG's core members in November 2019. After the first presentation, a team representative and a teacher from Faculty of Law presented the findings at the end of November in Xay district, Oudomxay province

to CCL staff, implementing partners, government partners from provincial and district offices and representatives of visited villages in Oudomxay province. CCL staff from Phongsali also participated in this workshop.

2.1 Research Objectives

The objectives of the research are as follows:

1. To present an overview of the current situation on women's land rights in Lao PDR;
2. To understand the situation of women in the current context of agricultural transition;
3. To understand the risks to women's land rights posed by land use planning (LUP) and land titling.

In addition, the expected outcomes are:

1. The evolution of women's land rights during this time of transition in Laos is explained;
2. The main issues and risks threatening women's land rights in the rural areas of Laos are identified and explained
3. LIWG is better equipped to conduct its advocacy work for the protection of women's land rights;
4. Recommendations are provided to the LIWG to better secure women's land rights in Laos

2.2. Methodology

The selection of provinces, districts and villages by the study team was dependent on the access to villages that the members of the LIWG² could provide to the team. Although this study cannot be seen as representative for the 8507 villages in the Lao PDR (Lao Population and Housing census 2015), the study team ensured to select villages covering the four ethno-linguistic group categories recognized in Laos, being the Tai-Kadai (Lao-Tai) (65%) the Mon-Khmer (22 %), Hmong-Mien (9 %) and Sino-Tibetan (3 %).³

The ethnic groups are differentiated by distinct livelihood systems: the low-land, paddy field villages populated by Lao-Tai speakers along the Mekong River corridor and other large flat paddy areas on the one hand; and areas where livelihoods depend on upland-

²The Land Information Working Group (LIWG) is a network of civil society organizations concerned about land issues in Laos <https://laolandinfo.org/en/>. The LIWG supports open information sharing, and participatory and transparent decision-making processes related to land and natural resource use management. The LIWG operates under the umbrella of the iNGO Network (network of international NGOs in Laos) and nearly 40 different organizations, iNGOs and NPAs, are represented in its Core Membership.

³. The Lao government does not recognise the use of the term 'indigenous people' and uses 'ethnicgroups' instead (Baird 2015).

agriculture and forests dependent which are populated by non-Lao-Tai speakers on the other. It is important to recognize that in many villages, an overlap of these two general livelihood systems is found which affects customary tenure systems and women's land rights. The study team put emphasis on including ethnicity, gender, age, social status as factors that affect women's land rights under these different livelihood systems.

In addition to the above-mentioned variables of ethnic composition and livelihood systems, the study village selection was based on: the level of formal land management, traditional versus more modern villages, village relocation history, ethnic composition as homogenous or mixed villages, and proximity to cities or semi-urban or remote villages. In total, fieldwork was conducted in seven villages in four districts of four provinces.

Table 1: Overview of the visited provinces, districts and villages

Province	District	Village	# of HH	# of families	HH ethnic composition	Population	Female population	Year of establishment	Year of individual land titling or PLUP/LA
Vientiane Province	Viengkham	Phonsong	272	258	254-Lao-Tai 1 Hmong 3 Khmu	1343	N.A	100 years ago	No PLUP/AL 2001, 2005 individual LT
		Nonsavanh	538	513	492 Lao-Tai 29 Hmong 17 Khmu	2127	1039	50 years ago	No PLUP/LA
Savannakhet	Atsaphang-thong	Nalaidong	240	333	Bru/Makong Phu-thai (17HH)	1540	819	Old village	PLUP/LA 2007, no follow up
Oudomxay	Namor	Nahome	152	210	Khmu, Leu, Hmong, Phu-thai	1054	517	Resettled 1991	2 individual LT PLUP/LA
		Teuka	68	-	Akha	262	127	Old village	PLUP 2006
Phongsali	Yot-Ou	Naluang	309	164	Leu	914	473	Village merged	PLUP 2007
		Somxay		115	Yao/Keu	460	220	Resettled 2001	No PLUP/LA

2.3. Study Limitations

The study faced several limitations and challenges:

- Time was limited which meant the number of villages visited (sample size) is too small to justify extrapolation to entire geographic areas (district to national) or ethnic groups.
- Language translations took a long time (from local language Akha and Yao to Lao to English) and at times there were misunderstandings;

- Confusion on terminology and the meaning of used terms of e.g. land documents, land title, or land certificate, the household land registration book, or land tax receipt/bill;
- Due to floods in the South of the country, the research team had to change at the last minute the location of two study villages from Champasak to Vientiane province.
- The target villages of LIWG's members who accompany the research team to the field are located in remote areas. Therefore, selection of study villages did not align well with some of the main research questions and village selection criteria. For example, no village was visited where systematic land titling had been done, with only few sporadic occurrences., In four out of seven villages a PLUP was done but this was over 5 years ago. This made it impossible to collect data on the impacts of land titling and PLUP on women's land rights.

2.4. Framework

The research framework is based in the spectrum of customary land ownership patterns that occur in sex-based power structures: matrilineal, patrilineal, and bi-lineal societies (table 2 below).

Table 2: Research framework

System	Kinship	Residence	Inheritance
Matrilineal	Women might use own surname. Children can get mothers or fathers name	Husband goes after marriage to the house of his wife and lives with his parents-in-law. In case there are no daughters in the family the bride might go to bridegroom's house but has same right on house and land as an own daughter.	The daughter or son who looks after the old parents (mostly the youngest daughter) inherits the house and homestead and a larger part of the land (paddy fields) than her siblings.
Patrilineal	Children get only name of father's family	Wife goes after marriage to house of husband to live with her parents-in-law.	Son inherits and owns house and land
Bi-lineal system	Name of children can be father's or mother's name	Depending on the situation either spouse can go to the others' home.	Either the son or daughter can own the land and house. Couples who own their own house tend to safeguard the matrilineal tradition for their daughter

With 50 officially recognized ethnic groups, Lao PDR is a multicultural society, and customary law remains an integral part of people's daily lives. The informal rules and practices of the customary system are essential for understanding women's land rights.

As shown by Elisabeth Mann (2008), women's land rights should be analysed in the context of the growing legal complexity in which state law and customary law coexist. Therefore, this study tries to explore the actual situation of practicing women's land rights, considering both the important roles of customary norms and customs and the statutory 'legal' reality.

Earlier studies (Schenk-Sandbergen 1997, 2009) show that three variables, kinship, post-marriage residence patterns and inheritance practices, are vital for the customary rights on land for women and men. Therefore, the study team integrated these typologies as variables that shape women's and men's land rights (table 2) into the design and methodology of the study. The typology coincides broadly with two different farming systems in Laos: the lowland farming systems and the upland swidden⁴/forest agricultural system.

In Laos there are matrilineal and patrilineal social organizations and many bi-lineal mixes in between (Halpern 1964; Evans, 1990; Carol J. Ireson, 1992, 1995, 1996, 1999: 145-52). The matrilineal system in Laos is the most widely spread and characteristic of the Tai-Kadai ethnic language group, in particular of the Lao-Lum⁵ ethnic majority. Although many ethnic minorities living in hilly and mountainous areas follow patrilineal-social kinship patterns, some ethnic minorities also follow a matrilineal-system. In table 3 an overview of the ethnic communities living in our selected villages and the related matrilineal/patrilineal system is shown.

Table 3: Overview villages, ethnic communities and social system/organization

Provinces	Districts	Villages	Ethnic communities	Social system/organization
Vientiane	Viengkham	Phonsong	Lao-Tai	Matrilineal and matrilocal
		Nonsavanh	Lao-Tai, Hmong, Khmu	Not applicable ⁶
Savannakhet	Atsaphangthong	Nalaidong	Makong, Bru	Bi-lineal and matrilineal/patrilocal
Oudomxay	Nomor	Nahom	Hmong, Khamu, Lue, Phutai	Patrilineal and patrilocal
		Teuka	Akha	Patrilineal and patrilocal
Phongsali	Yot-Ou	Naluang	Lue	Patrilineal
		Somxay	Yao/Keu	Patrilineal

⁴An area of land, usually secondary or primary forest, that has been cleared of vegetation and then planted with agricultural crops, mainly rice but also many other species.

⁵This includes some Lue and Phu-Thai communities. Other subgroups of the Lao-Kadai, such as the Tai Dam and Tai Deng, are predominantly patrilocal and patrilineal.

⁶It is not applicable because most of the population in Nonsavanh village are Lao-Tai, some families are Khmu and Hmong that migrated from other provinces since their parents' generation. They did not practice matrilineal nor patrilineal systems, they did not inherit the land and house from their parents, they live in army/government land, women followed their husbands who worked for the army and government offices, most of them live in their own constructed house.



A local woman collecting peanuts harvested from her farm to sell in the market. Namor district, Oudomxay. ©LIWG

3. Research Results

3.1. Women's overall land rights situation in Laos

This section describes the present status of practicing women's land rights through both formal and customary systems and how their relations intertwine. Building on this, women's knowledge about their own land rights is considered, how these rights are protected and how they manifest in their lives, particularly regarding their ability to make land-related decisions.

3.1.1. Legal Analysis

Formal Law

The evolution of land rights has been slow since the establishment of the Lao PDR in 1975. In 1976, the first steps were taken to begin countrywide land collectivization and establishment of agriculture cooperatives, but it was not until 1978 that the government provided more resources and put greater efforts towards this transformation. This important change in land tenure was largely applied in lowland areas and it attempted to

alter existing customary systems. With high peasant resistance to collectivization and a drop in agricultural output the government put a halt to it at the end of 1979. A second wave of land collectivization occurred in the early 1980s and peaked in 1986, but again it decreased until 1988 when statistics ceased to be kept (Bourdet, 1995). With quick social transformation as its goal, this program did not consider the impacts on the land rights of women either prior to or after implementation.

Another historical event in land tenure in Laos was the implementation of the New Economic Mechanisms in 1986; similar approaches were being applied in other socialist countries to overcome stagnant economies. The GoL encouraged private-sector economic activities and reversed its policy on the collectivization of agriculture. Farmers were allowed to own land and livestock and sell surplus goods at local markets that were opened up all over the country, and trade was permitted. Liberalization of the economy continued throughout the 1990s as did the creation of supportive legislative including the first national Land Law in 2003.

Lao legislation accommodates women's rights in general. Equal rights and participation of women and men in economic, social and political life are in theory set by the Lao PDR Constitution (amended 2003), in various national laws and policies, and in international treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which Laos is a party to. There are numerous Laws related to gender and land such as Forest Law and policy documents, Property Law, Family Law, Inheritance Law and Land Law (Mann 2008, 19 and Annex 5, Van Duin 2017).⁷ Gender equality is also safeguarded by Article 2 of the Family Law stating that men and women have equal rights in all aspects.⁸ The Inheritance Law promotes equality in the division of land between siblings regardless of Gender. The Gender Equality Law is under development. Recently, in September 2019, the draft version on the Law of Gender Equality has been circulated.

The existing Land Law of 2003⁹ stipulates that all land in Lao PDR is the property of the Lao population, and that the State must secure long-term rights to land by ensuring protection, use, usufruct, transfer and inheritance rights.¹⁰ The Law has a specific stipulation about women in Article 43 on land registration, stating that both names of husbands and wives must be included in the Land Register Book in the case of matrimonial property.¹¹ Article 58 states that the holder of land usage rights has the right to pass their rights to their "close family relatives" upon death (National Assembly of Lao People's Democratic Republic, 2003). The new Land Law – with revisions by the National Assembly (2019) no longer includes the current protection clause for married women. The reference to joint ownership of husband and wife in case of matrimonial

⁷<https://landwise.resourceequity.org/records?utf8=%E2%9C%93&q=laos+land+resolution&commit=Search>

⁸http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/en/?country_iso3=LAO

⁹<https://landwise.resourceequity.org/records/766>

¹⁰<https://data.laos.opendevlopmentmekong.net/dataset/land-law-2003>

¹¹The official legal framework states the following. Article 43: Land registration is a certification of legal land use right of an individual or organization in order to avoid the falsification of land use right and facilitate the management and protection of land in a uniform manner for the whole country. In registration all data shall be recorded in the Land Register Book, such as: names and surnames of the land use right holders (names and surnames of the husband and wife if the land is a common property), land category, land borders and area, land acquisition and location.

property is omitted which is a set-back of securing land rights for women¹². During an interview with the Department of Land at MonRE, the exclusion was explained by a lawyer (unidentified) who said that it was redundant since so many other laws and policies were directed at the rights of women. Unfortunately, omission of this article from the revised Land Law and others that safeguard equality in land rights decouples the Law from other Lao legislation that protect women's rights.

The Land Law of 2003 specifies that a Land Title is the only legal document "considered as main evidence for permanent land use rights" (Article 49).¹³ The 2019 Land Law draft is less specific on this topic and mentions "issuing certificates of land use or land title".¹⁴ There are also other land documents such as land-tax receipts which are recognized by village and district level land authorities and that are used by land owners for land transactions and informal loans. Tax receipts are also accepted as evidence of land use in cases of government land acquisition and compensation; albeit at a lower price than for titled land. The weakness of other land ownership documents is that they do not formally confer all the land rights that come with higher status land titles. As noted above, this could include women's rights that were specifically protected in the Land Law of 2003 but which unfortunately is no longer the case in the 2019 Land Law. Such circumstances indicate that titling may not add significant benefits to the protection of land rights of women.

There are obvious differences between the formal and customary land rights for matrilineal Lao-Tai women. Within the Lao-Tai ethnic group women's customary inheritance rights favour women over men and/or youngest daughters over sons. Women are the main caregivers of elderly parents and thus have more property rights, including land rights. In patrilineal communities, customary private land rights favour men or sons and limit women's ownership and access to and control over land. For these women the stipulation of the joint ownership for husband and wife in the Land Law was a step forward to secure tenure rights for women. However, for these women the legal recognition of the village as the holder of communal rights over land is also urgent since it is still an important resource on which the survival of the family is based. The policy brief of the FAO-MRLG, (2019, 6) addresses shortcomings in the legal framework. It states: "One of the key conflict points in the legal framework governing land in the Lao People's Democratic Republic are the opposing statements of "land allocated by the State" (articles 45 and 55 in the current Land Law) and "recognition through evidence of use or occupation, as identified during the adjudication process." According to the policy brief and Land Law, the concept of customary tenure is based on the recognition of rights for areas under longish term of use by individuals (not villages) whereas the Land Law and other regulatory documents always refer to an allocation of land by the state only.

Ironside (2017, iv) states that, "legal recognition of customary tenure over land and forests in Lao law shows some acceptance in it but provisions are generally weak and poorly implemented". This means that rural communities struggle to have their

¹²<https://laolandinfo.org/wp-content/uploads/2019/08/BN-No-4-Gender-in-land-rights-Eng-Final-NA.pdf>

¹³<https://laolandinfo.org/wp-content/uploads/2019/08/BN-No-7-Land-Titling-Eng-Final-NA-.pdf>

¹⁴Draft 2019 Land Law, Article 87

customary rights fully respected. This is especially true for communal land and forests, and the new Land Law only refers to individual ownership of land and not communal. The state has decided not to provide a legal document to communities that would formally recognize communal ownership of resources. Instead, (Land Law, article 81) the land is registered as state land meaning the user rights can be revoked, and villagers only have the right to use and protect the land. This will negatively affect all people but especially women who rely on communal forests and aquatic resources for a wide variety of forest products as part of the household income and food. These resources also have important social value since much collection is done in women-only groups thereby creating their own space and relationship to the land.

A key piece of legislation is Ministry of Natural Resources and the Environment Decree 6036 (year 2015) on Land Registration and Titling. This decree explains the technical aspects of land registration and how the adjudication process should be done. This includes a “Village public consultation” and a “Public meeting on gender issues”. The purpose of the gender meeting, supported by the district Lao Women’s Union, is to raise awareness about women’s and community land rights. It is facilitated by the Lao Women’s Union of the district and attended by the village authorities, land registration teams and women representing each family in the village.

Customary Law

In comparison to its low population, ethnic diversity in Laos is very high; it is the most ethnically diverse country in mainland Southeast Asia. There are 50 officially recognized ethnic groups that can be further divided into more than 160 sub-groups based on language dialects, cultures and traditions¹⁵. Prior to state formation, customary law was the main governance model and it continues to be in many parts of the country. Customary laws have been established over many centuries but are not static, they change and adapt to both internal (population growth, warfare, migration) and external conditions (colonialism, state influence, economic growth, natural disasters).

From a customary law perspective, women’s land rights are determined mainly by whether a village is matrilineal or patrilineal in social structure. The former have women as the main land rights holders which is further refined by the number of children in a family, the age and number of females in the family and external factors such as land availability, migration and mobility, and other social and environmental factors. In patrilineal customary law systems women are not included in land inheritance patterns. Women in these systems gain land rights via men but can lose these rights when marriages dissolve or a husband passes away. Both above systems are influenced by many local factors so there can be exceptions and unique conditions for women’s land rights.

A common form of customary law in Laos is communal or village ownership. Such law provides access, user and extraction rights to residents of a specific village as acknowledged by all other residents; it is essentially a community inclusive social

¹⁵ <https://www.iwgia.org/en/laos.html>

contract. In some cases, more than one village will share rights to a resource (e.g. natural wetlands and ponds). The natural resources coming under communal ownership include aquatic resources (stream, ponds), natural forests and shifting cultivation fields. While aquatic resources and forests are normally fully communally owned, shifting cultivation fields move between communal and individual ownership. During periods of cultivation a household holds access, use and extraction rights, but after harvest, depending on the local customs, the land rights may either revert fully back to communal ownership or could still be held in part by the household. Ownership systems vary depending on ethnic group customs and local ecological conditions. Recently in Laos, the areas of communal ownership have decreased as available land becomes scarcer and investment and economic growth cause commodification of resources. Further pressure comes from government efforts to limit shifting cultivation, promote sedentary agriculture and title individual ownership of land. Although the Land Law in Laos recognizes customary land rights, the criteria for official recognition do not include shifting cultivation and titling options do not include communal ownership, only private or state ownership.

3.1.2. Village level understanding of women's land rights



A single woman, land collector and deputy head of village from Phonsong said that “we women attended land rights training conducted by district staff long time ago. There was no manual or document shared at that time, we couldn't remember all but we know that we have legal rights to the land as men do”.

The concept of formal rights as understood from a legal or political perspective is not well understood in rural villages; there are however significant differences in women's understanding of formal rights between villages with matrilineal, patrilineal and bi-lineal structures. Ethnic groups with a matrilineal inheritance structure tend to have a greater understanding of their legal rights related to land. This is not surprising given these villages are often located in economically dynamic areas (urban and peri-urban) where land has economic value and where it is likely to find a market for land. As such, formal law is applied in land transactions that involve women, and their engagement with district offices and formal procedures is common. Women in these villages (Phonsong and Nonsavanh) had higher levels of education and are native speakers of Lao language; this allows them to understand village meetings, radio announcements and other sources of information.

Village location appears to be a determining factor for women's knowledge of formal land rights. In villages with patrilineal village structures that are located in low land peri-urban areas (Nalaidong, Somxay and Nahom) the women had a better understanding of their formal land rights than of patrilineal villages in rural areas (Teuka and Naluang villages). Living in more populated areas seems to increase women's interaction with the market economy and to expose them to more diverse sources of knowledge. This example emphasizes the influence of village location – urban, peri-urban and rural – on the opportunities for women to learn.

“ Akha women from focus group discussion of Teuka village shared that “we never attended the meeting related to land, never heard about land law, land policy and never seen the land title”. And a woman in the group expressed in a loud voice that “my husband’s land is my land and it is our land” other women also nod their head to agree with her.

Women’s understanding of their rights based on their own ethnic group’s customary land system was high in all villages. The reason was that in all study villages, customary rights based on matrilineal and patrilineal structures were still being practiced and passed on to the next generation. What differed was that more rural located villages relied almost exclusively on customary land governance whereas peri-urban/urban villages see a mix between formal and customary governance.

In Savannakhet the awareness on the meaning of land rights for women was discussed in land management offices and with the Lao Women’s Union. PAFO and DAFO staff had joined the project team (JVC team) to disseminate the Legal Land Calendar in villages, as they feel it is important for communities to know about the Land Law. The PAFO office in Savannakhet has implemented the MAF gender strategy¹⁶. Each year MAF conducts an annual meeting to reflect on the implementation and achievements of its gender strategy; last year (2018) the meeting was held and organised in Savannakhet.

3.1.3. Women’s decision making and access to land

In the previous section we discussed the level of knowledge on women’s land rights in the studied communities. Increased knowledge among women is one precondition for asserting their rights. However, even with increased knowledge: women’s status, traditional roles and gender social norms can restrict them from being able to make decisions. Decision-making is not only controlled by formal and customary societal practices, it relates to many other factors (i.e. village location, education, economy) that can change over time (figure 1 below).

¹⁶Lao PDR’s 2009 Gender Mainstreaming Strategy for agriculture and forestry has 6 main priorities: i.) strengthening institutions for the advancement of women into the Ministry of Agriculture and Forestry (MAF) and its related institutions and programs at all levels; ii.) increasing the gender awareness and responsiveness of MAF staff at all levels; iii.) integrating gender analysis and sex-disaggregated data/information/statistics into the MAF planning cycle; iv.) enhancing the qualifications, competencies and core skills of women within the MAF workforce so they can advance at all levels; v.) increasing rural women’s access to and control over resources and benefits; and vi.) enhancing ties with the external included in the 2011-15 National Agriculture Strategy.

Figure 1: Women's decision making

In general, gender-based power structures of matrilineal and patrilineal families and their ethnicity guide the decision-making process in the studied villages. In patrilineal villages men have more power and therefore control decision making about access to and use of land. In matrilineal villages women have higher status and more power and can therefore negotiate about their customary and formal land rights, including making final decisions related to land.

An important research finding was that women are actually very interested in land issues but the time-consuming reproductive work, taking care of children, elderly, disabled, especially in remote villages, prevents them from active participation. As a result, it was observed that men tend to dominate participation in land management meetings, also because they are considered as heads of the household. Language can also be a barrier if only Lao is spoken in meetings since some women from certain ethnic groups do not or not sufficiently understand. This is supported by a GIZ study (2019, p. 10) that states, “*As the study findings demonstrate, even ensuring meaningful participation among women is challenging to achieve. Women consistently know less, feel less confident and are less involved in discussions and decision-making processes on land, in households and the community.*”

In one matrilineal study village (Phonsong) a woman was very active in land management. She is the deputy village head and the land tax-collector¹⁷ of the village¹⁸ and takes responsibility for house-to-house tax collection once a year. She knows each plot and parcel of land and its owner in the village, and even keeps and stores the land certificates and other land documents of the villagers in her files. In 2005 and 2011 she joined a DONRE land titling team, now she is the one who informs others how to apply for land title. In patrilineal villages there were no examples of women this knowledgeable and active in village land issues.

A useful source of information that pertains to decision making in the matrilineal system was found in land-tax record books in Phonsong village¹⁹. This book is used to record household land tax payment and in lieu of land titles, it is evidence of land ownership. The data showed that women are the largest group of landowners and land taxpayers:

Name	Plots of land	Percentage (%)
Women's name	195 plots	55%
Men's name	134plots	38%
Both names	34plots	7%

Although these are not formal land titles, the tax receipts support the customary matrilineal system and give women the power to negotiate for decisions in land related transactions. Tax documentation also supports the continued land inheritance from women to daughters. A substantial portion (38%) of the land is in the man's name, as parents divide their land between daughters and sons but give more land to the person that takes care of them which is usually the daughter (youngest or oldest daughter). Land-related decision-making in this village was not purely based on whose name was in the tax book but was a process done within the household and could include not only the husband and wife but also consultations with other relatives.

Decision making in government land offices depends on the question if women are employed and if so, what positions they are in. In the offices visited by the study team the numbers of female staff are low as reported in the introduction session of number of government staff interviewed. In only one district (Viengkham district, Vientiane province) senior positions - head and deputy head of DoNRE – were held by women. This partly reflects the Lao-Tai matrilineal social environment in this district which is more receptive to women in positions of authority than in patriarchal social environments. In all other districts visited senior positions were held by men. Female

¹⁷The money from the collected land tax is transferred to the district finance officer. They give 10% to the village, 2% out of 10% goes to the village office for administration, 8% is for her fee. Some villagers pay land tax through the bank service

¹⁸ See the study of Christopher Flint and Sengdeuane Sivilay, revision/draft 18 October 2018. Report of Investigations into Village Land Governance and Land Tenure (in 21 villages over 5 Provinces, and in relevant legislation). Report commissioned and supported by the GIZ, LMDP and ELTeS programs.

¹⁹ The land-tax payment record book is government issued and meant to monitor what household pay tax, it shows the gender specific data on the owners of the land. The book shows all details on the issued date of land titles (1999, 2005 and 2011 respectively), plots, area and price per agricultural land category (paddy field, shifting cultivation, garden, grazing land and exemption of land tax category). Some families are exempted from land tax if they have a prestigious revolutionary history or a war veteran. In some villages there was a column for shifting cultivation but it was empty which might mean that the practice is no longer existing in the village, or the village did not want to reveal to outside that they did shifting cultivation. Interestingly no homestead land is shown in the land tax record book, possibly it was in a different book that we saw with different colours.

staff members do participate in technical activities related to land management in the villages but there is a pattern showing they are mainly in desk-based positions.

3.1.4. Women's protection of land rights – customary and formal

Formal protection of women's land rights

An important aspect of being a land rights holder is the ability to protect those rights if there would be a threat that they will be revoked. The main way to protect land ownership is through formal (i.e. government created and endorsed) registration of land and issuance of a land title. Another is via customary tenure practices which sometimes align with formal practice and sometimes do not. In the following section the topic of spousal (wife and husband) land documents is looked at. This section will consider how land titling and customary systems promote or repress the land rights of women.

Systematic land registration in the country started in 1997 and by November 2015 806,000 land titles, mostly for individual parcels in urban and peri-urban areas²⁰, were issued (FAO 2019). There is no consistent or institutionalized process to keep sex-disaggregated data in land management offices but in some place such are data available. Earlier studies (GRID 1999, 2004) found that only the name of the man as head of the family was written on land document, although land was inherited by women in matrilineal households. More recently MoNRE²¹ conducted a survey in 2018 that showed of a total of 224,000 land titles viewed, 70,000 are in the name of women, 50,000 in the name of men, 87,000 in both names and 14,000 in the name of others. The data were mainly collected in cities and lowland rural areas where the matrilineal and matrilocal social system are dominant, and where many women inherit land from their parents. The spokesperson for MoNRE claims to be very aware of women's land rights and will ensure that in upcoming land titling projects financed by the World Bank and KfW (German Development Bank), gender aspects will be included as significant criteria.

At the village level, it was learned that gender-based stipulations in the 2003 Land Law are followed strictly by all offices. For example, in 2006, DAFO and NGO project staff (German Agro-Action) jointly conducted PLUP in Teuka village, Namor district, Oudomxay province. The team put the husband's and wife's name on the land certificate without the wife knowing that her name was on the document. The same occurred in Naluang village, Yot-Ou district, Phongsali province, where PLUP was conducted by DAFO and where "family land record books" were issued in 2007. A recent example can be cited from the field visit of the research team when they witnessed DONRE staff in Namor district in Oudomxay province telling two couples in Nahom village that they need to put the name of the husband and wife on the land title even though this is a patrilineal village with families from Hmong, Leu, Akha and Khmu ethnicity. It is possible that adherence to formal law, that runs against customary law, could create domestic conflicts but no evidence for this was found during this study.

²⁰ See for a brief history of the Urban Land Titling Program in Lao PDR Derbidge & Sisoulath (2018).

²¹ Due to lack of time we were not able to collect more details on the survey. We don't know if it is a public document.

Provincial and District Land management offices were visited to get insight in the number of land parcels issued in women's, men's or both names. Unfortunately, most of these offices do not keep clear sex-specific data on land titles, except some offices in Savannakhet and Oudomxay²² as shown below.

Savannakhet: There are some sex-specific disaggregated data available at PoNRE for housing land titles. In total 12,108 land titles have been issued, in men's name 3,816, in women's name 4,087, joint names 3,111 and collective/communal/government 1,094. When the research team asked the land management office and Lao Women's Union, both agencies reported that this is because of the Lao Women's Union having been able to influence the last land titling project. When the land titling project was implemented in the province in 2007, the Lao Women's Union was active in conducting gender awareness, legal rights, land law and land policy training in communities before a technical land title team approached the village.

Oudomxay: Started to use new software that documents sex-disaggregated data since 2018. The total number of land titles issued is over 4,000 plots and the number of data entries into the programme is 2,576. Both husband's and wife's name are mentioned on 1,393 plot titles, women's names appear on 617 plot titles, men's names on 482 plot titles, and 84 plot titles are in joint name of brothers and sisters. The reason for the high number land titles issued in the joint name of husband and wife given by PoNRE staff is that these plots are in the provincial town and most of the land owners have migrated from outside the province or from other districts and that husbands and wives bought land together. The higher number of women's names on the land title compared to men's names is because of the patriarchal structure which is in favour of the son. However, when the son leaves home for work outside of their home village, the parents stay with a daughter who did not have a chance to go out for education or work away from home. She will then inherit the property from their parents, including land. In most of the villages visited, women and men perceive the issuing of a land title for their land as offering greater security of land tenure. Specifically, nearly all women interviewed stated that they would like to have their own land title, which will offer them greater personal security and independence. Women living in urban or peri-urban areas preferred to have title for homestead land, which is opposite to rural women who preferred to have agriculture land titles (Hai, garden and paddy field) that will give them land for food security. This is in line with the GIZ study findings (2019, 31) stating that: *“Land titling makes people feel a lot safer on their land compared to registration. In contrast, respondents tend to feel very insecure on land whose usage is not formally recognised.”* In this study a similar perception was found. People feel that until their land is titled, all other customary and communal rights and land documents as land-tax bills and – receipts, land-use certificates and ‘family land-record books’ may not provide tenure security and don't guarantee secure access to and control over land.²³

²² Why these PoNRE offices collected gender data was not clarified.

²³ See for the meaning of the various documents the study of Christopher Flint and Sengdeuane Sivilay, revision/draft 18 October 2018. Report of Investigations into Village Land Governance and Land Tenure (in 21 villages over 5 Provinces, and in relevant legislation). Report commissioned and supported by the GIZ LM DP and ELTeS programs.

“ A Lao-Tai woman from Phonsong village shared that “I would like to have a land title for my homestead land. This title will make me feel that no-one can steal my land and I can open a noodle shop in front of my house for family income”.

A Bru/Katang women from Nalaidong village said that “I would like to have a land title for my rice field because if I lost my rice field I wouldn’t have land to grow rice and I won’t have food for my family”.

Based on the interviews with land owners, their experiences over the past ten years in which various types of land in their village or other villages were lost through concessions, leases or other types of appropriation, seem to be the most powerful incentive for their desire to possess a formal land title. The loss of land to investors for concessions, as a consequence of the policy of ‘turning land into capital’ has added to understanding of people that land titling is important.

While it is important to consider women’s land rights within the context of land titling and the benefits that come with including women’s names on titling this must also be viewed in the larger national context. Recognition of the procedures of how titled land is being acquired by external parties (private investors or government) is also important as it is an aspect of a country’s overall development situation. If there are widespread and large-scale investments in infrastructure projects, commercial agriculture and the energy sector which require large areas of land, as is the case in Laos, then acquisition of titled land may be common practice. This is complicated when the boundaries between public and private investments and public benefits are not clear. Land acquisition simply becomes non-negotiable process with the offer of a compensation package. Women in such case might have more risks than men because of the traditional norms that limits their participation in land consultation activities in communities, and unequal power relations in decision-making over family property. Ultimately raising the question as to whether land titles actually protect the land rights of people, and more specific of women or men?

Referring to the legal analysis in section 4.1.1, the latest version of the Land Law does not require a spousal land title which works against protecting women’s land rights. This is especially true for women living under a patrilineal inheritance system that does not provide ownership rights for women. Women in matrilineal systems can at least rely on the customary system that favours women’s inheritance and gives them opportunities of land ownership. Without legislation requiring spousal titling, women risk losing their customary land rights in case of divorce when the property is allocated to the husband or not fairly divided between the ex-partners. Depending on the circumstances, decision-making about division of land holdings may or may not involve arbitration outside the household (clan leaders, village authorities or district court). Based on this interpretation, in an earlier briefing note (No. 4)²⁴ on Women’s Land Use Rights, the

²⁴<https://laolandinfo.org/wp-content/uploads/2019/08/BN-No-4-Gender-in-land-rights-Eng-Final-NA.pdf>

LIWG expressed concern about the lack of protection for women and land rights in the new draft of the Land Law.

Customary protection of women's land rights

In all villages visited in this study it was found that in the past ten years communal land was the most important type of land for women to have access to and collect NTFP for food consumption and for selling for additional income for the family. Communal land is also used for crop cultivation and animal grazing. Now there is less communal land and no community ownership. One of the reasons is that villagers understand that when an agricultural concession project comes to their village, they cannot refuse it. This is also thought that a development project would bring a change for the good.

Considering customary land systems and whether women's rights are protected by them, the issue of ethnicity and gender-based power structures is a leading factor.

In the matrilineal villages visited it was found that the customary-based inheritance of land rights for women are continued and sustained. The traditional systems of matrilineal kinship and inheritance and matrilocal post-marriage residence protect the land rights of these women. This contributes to safeguarding the right for women to inherit and thus own land. In the patrilineal and patrilocal Lue, Hmong, Akha and Khmu villages women have only access to land through marriage. According to customary practice, only sons inherit land from their father/parents. The concept of individual land rights is substituted by identification of land as the family's property through the husband. Some specific examples are given below.

In Teuka Village (Akha ethnic groups with patrilineal structure) the custom is that private land is divided between the sons after they are married. The son (often the youngest) who stays with the parents in their old age gets more land and the house. In case the family does not have a son, they ask a village man to become their "son-in-law" and live with their family, he will later inherit the land. In the case of a daughter who marries a man with no land, her parents may give some land to her if they have enough land for their own subsistence. Interestingly, the village leader said he divided his land for his daughters because he has a lot of land but that the land document is in his son's name.

The strong Lue patrilineal tradition in Naluang Village means women have almost no opportunity to own land; through marriage they get access to land but they will not have decision-making power. Women said that having a land title or land certificate is important, but there is no need to put their name on the document because they have full access to the land through their husbands. Loss of access could occur when their husbands might die, and their sons inherit the land, but this is very unlikely. Women said that they will stay with the sons and in this way keep access to the late husband's land. Land is perceived as a family asset and not as an individual resource. It was emphasised that in case of divorce, even though a woman's name is on a formal land document, in practice she will not be owner of that land because it is inherited in the

husband's family line. In this particular village, customary law is more respected than formal state laws.

In the Bru/Makong villages visited, the communities do not practice exclusively either patrilineal or matrilineal system. They follow a bi-lineal social structure; parents can choose either a daughter or a son as heir to the land holdings, depending on who is more committed to taking care of them. The land and property are not divided and transferred to sons and daughters while both parents are still alive. If the father passes away before the mother, the land and property will be under control of the mother and she has the right to hold it until her life ends. The children will divide the land after both parents pass away, with the child who stayed with parent getting more land and the house. This traditional customary practice shows that women's land right is protected, if the daughter is the caregiver to the parents.

Parental care, matrilineal systems and women's access to land were also noted in a GIZ impact study (2019, p 9), it is stated that, "*there is anecdotal evidence that regional inheritance practices within ethnic groups and sub-groups may affect the ownership rates among women and couples. Where women are the primary caretakers of their parents (as observed in study villages in Sayaboury), they tend to inherit and retain more land compared to places where men are tasked with parental care (as observed in Huaphan).*"

3.2. Women in the current context of agricultural transition

Like many other developing nations, Laos is striving for poverty reduction and growth and modernization of the economy. One chosen step by government and citizens for achieving this is the transition from subsistence and semi-subsistence agriculture to higher productivity, commercial crops and agricultural exports, towards integration into regional and global markets. Other factors influencing agricultural transition include education, social norms, access to information and migration for employment, village relocation, land tenure status and commercial land concessions.

This section describes the change in access to land and land use in villages as a result of external interventions and the shift from agriculture-based livelihoods to market-oriented farming, cash crops and various economic business activities in the villages, and the gender-based impacts of these changes on women.



A woman harvesting dried cardamom collected from her farm. Namor, Oudomxay. © LIWG

3.2.1. Changes to women's access to land

In all seven villages women lost access to and control over land: in the matrilineal villages it concerned private customary land (low-land paddy fields) and in the patrilineal villages mostly communal land (upland fields) which they used in the past for subsistence farming as part of their livelihood. Expansion of roads, construction of buildings, resettlement, concessions to rubber plantations and leasing out land for sugarcane production are the main reasons for loss of land. The table below summarizes the land use changes with details explained further down.

Table 4: Village land use changes

Village	Ethnicity	System	Change of land use
Phonsong, old village	Tai-Lao	Matrilineal	Decrease agricultural land along road 50% and lost paddy land for expansion of the capital of Vientiane province
Nonsavanh, Army/official/farmer, old village	Lao-Tai	N/A	Army to Government land, lost customary paddy land for road and a new capital expansion and uncertain of land rights
Nalaidong, Old village	Makong/Bru	Bi-lineal	Reserved forestland leased out. Land concession sugar cane plantation
Nahom, Resettled village	Hmong, Khmu, Lue, Phoutai		Resettlement. Uplands transferred to rubber plantation
Teuka, old village	Akha	Patrilineal	Old village, upland/dry-land fields for rice and corn confiscated for sugarcane fields.
Naluang, Village since 1977	Lue	Patrilineal	75 hect. upland/ forest land appropriated for rubber plantation
Somxay Resettled village	Yao/Keu	Patrilineal	Resettled village, not enough rice fields, grazing and forestland

Matrilineal village: decrease of paddy land and de-agrarianisation

According to the land management staff at provincial and district levels in Vientiane province, the area of rice fields has decreased considerably during the past ten years. The village head in Phonsong Village said rice field areas along the road had been reduced by 50% in the last decade. The main reason is that people converted their paddy land to construct houses and buildings to set up shops and businesses. Paddy fields are also seasonally converted for the purpose of vegetable production for home consumption and for selling to local restaurants and markets. The average family size has become smaller and only few live in joint or extended families. The process of change in village Phonsong can be named as *'de-agrarianisation'* meaning the economy of rural villages becomes less agriculture based. Consequently, gender relations and division of labour are also changing as men become the main bread winners based on wage-labour and/or seasonal migration and are having in general more opportunities. The land-based income of women as share of the total income of the family is decreasing. Women of several families have lost 4 meters of their rice fields to road expansion for connecting to the new capital of Vientiane province. They are aware of their right to compensation and the amount they were told they would receive; however payments have not been received so far.

Patrilineal villages and land use change

Kusakabe (2015) has contributed to our understanding of gendered implications of land loss and land-use changes in Cambodia and Laos. In other studies, small hints are made of effects of ‘turning land into capital’ policies on women (Baird 2011). In the study of Kusakabe (2015) she states that from a gender perspective there is worry that commercial land investment contributes to *re-masculinization* of agriculture, since through such commercialization, tenure becomes formalized, and collective land becomes privatized. She argues that under such process, men reap more benefit than women through better agriculture employment while women bear the brunt through heavier unpaid or underpaid workload at home. The findings from the present study are discussed below.

Resettlement policies, forest and land legislation, better roads and transportation facilities, smart phones and other means of communication have drastically increased the awareness of ethnic women and girls about their livelihood systems. Cases are described of Khmu and Hmong women who want to empower themselves by adopting aspects of the Tai-Lao matriarchal-lifestyle, including land tenure customs that are different from their own patrilocal tradition and patriarchal systems in which women only have access to land via their husband. Such cases point to the possibility of reducing gender inequality through the expansion of the influence of the matriarchal-system (Schenk-Sandbergen 2012). Rapid changes in gender relations and gender ideologies are underway in patrilineal villages. Akha young men and women who participated two months ago in a gender equality training conducted by CCL felt that male dominance is no longer ‘normal’. The present young Akha generation is in a transition of no longer following traditional son-preferential customary norms and values. In the study team’s division of labour sessions, these young men showed willingness to share household tasks and childcare with their spouses.

Another crucial point for the changes to the social organisation and cultural patterns of patrilocal groups is that now intermarriage between ethnic groups is more common and no longer perceived as taboo. There is also a trend for all ethnic groups to replace traditional dress with factory produced clothes. Few women or men were seen wearing their traditional ethnic clothes in daily life in the villages (e.g. Teuka and Somxay Villages). Full traditional clothing was only seen at tourist places where elderly women tried to sell ethnic souvenirs.

In Nahom village, many uplands areas were converted to rubber plantations – both smallholder and concessions – and women and men tap rubber in their plantations which increases their incomes. Women stated that income derived from rubber tapping is not sufficient for their daily needs and they have to earn additional income. In the past they were able to access communal forests and collect wild vegetables and other NTFPs, but now most of the forest has been transferred into rubber plantations and they cannot collect as much wild food as in the past. As land use in upland areas changed, household grew less rice and in some urban villages, women couldn’t access forest as easily as in the past. However, household income data show that women still sell small amounts of forest products such as bamboo and mushrooms; they now walk longer

distances to reach the forest where they can collect these. People reported walking five hours to reach forests where wildlife can be found and hunted.

Young women of poorer Khmu families have shifted their livelihoods from land-based to non-agricultural jobs such as the service sector and road construction as wage labourer. In a focus group one Lue woman married to a Khmu man told *“my main work is now to weed the home garden and work in the rubber plantation. Before I worked with a company during the construction of the highway nearby the village and earned around 2.000.000 kip/month. I stopped because the road construction is too far from the village. I do all the household work and my husband works with a highway company in China and earns around 10.000.000 kip/year.”* In other village focus groups women said they or those they know, search for wage labour in nearby towns and in restaurants in China or seasonally migrate to China, Vientiane and Thailand to earn money for the family.

In Nalaidong village, the village head has the authority to allocate reserved communal land to new families but now almost all communal land has been converted to sugarcane fields. The village head asked, *“how can we help the new families who have no land?”* As part of a larger national trend, the communal land in Nalaidong was being privatized to the detriment of future generations. Also, many boundary conflicts between the villagers and the sugarcane company are reported.

In Nahom village there is limited area of paddy land. Ten years ago, the mountains along the village were planted with rubber trees. As in other villages, women's livelihoods are now more cash-based, and they struggle to collect the diverse qualities and quantities of forest foods as they did in the past. Overall, biodiversity levels have decreased. With the government approval of 2,500 hectares in the district for rubber tree planting other villages have gone through similar transitions (Thongmanivong *et al.*, 2006, 2009). A comparable situation exists in Teuka village where 75 hectares of upland was appropriated to grow sugarcane. The area of sugarcane production under contract farming is increasing yearly. It is grown in uplands which were used before for rice or maize production.

Loss of paddy land for road construction was felt as a loss of socio-cultural identity. Unregistered private customary land of women, inherited from their mother was confiscated by the Government for road expansion in view of the Master Plan for the new capital of the Vientiane Province.²⁵ So far, no compensation has been received. The impact on women is not only economic through the loss of production capacity and thus the need for other sources of income; but also cultural through the loss of the resource that was given by their mother. That caused a deep personal and emotional loss as they cannot continue the traditional practice of transferring land rights to their daughter by inheritance and women said that having more land for their children is now a dream.

²⁵There is only a regulation in the Land Law that Land use rights as documented by a land title are permanent rights and can in accordance with the Land Law only be terminated in the following cases: The land is requisitioned by the State for public purposes. In this case tax-paid *naa* fields were confiscated. The interpretation of 'public purposes' is unclear and multi-interpretable.

In the past husband and wife worked together in the paddy fields and cultivated upland dry rice. Earlier studies done by Schenk-Sandbergen and Outhaki Choulamany - Khampoui in 1995 have presented in detail the findings of this division of labour of men and women. Husbands expressed often the view that they were the ‘assistants of their wives’. The present research indicates that this traditional division of labour has changed in the matrilineal villages we visited. Some women work less in rice fields and more in or around their home as retail sellers, shopkeepers and as tailors, bamboo handicraft producers or weavers. Some women are working away from home as officers, teachers or saleswomen in nearby towns. The dependency of women on their land for subsistence has decreased but it still has an important role in many households for income and subsistence.

This changing division of labour could impact matrilineal customary land use rights in the long run. As pointed out above, women’s inheritance rights of house and land are rooted in the norms of reproductive tasks like taking care of children and the elderly. These assets are the essential tools to fulfil their role as mother, daughter, wife and caretaker. However, as the dominance of land-based livelihoods is decreasing, taking care of elderly parents can be less linked with access to land. This could in future be a serious threat that undermines a woman’s position in the household and her power derived from inherited land rights.

Bi-lineal village: Land loss, wage labour and social issues

“ In the household interviews it was said that, *“people have better housing but less happiness because they have too many worries about their children.”* ”

In Nalaidong village, communal land areas managed by the villagers and village authorities as reserved land for the new generation of young people has been leased out to a sugarcane company. During the interviews, women expressed their grievance over the loss of this land and explained the psychological impact and loss of freedom for both young women and men that came it, having to accept low-paid labour with a company in town or go to work in Thailand as a low-skilled labourer. As employment opportunities in the sugarcane business are limited and the company bringing their own labourers from outside, villagers worry about their future and become frustrated. As a village chief said: *“we don’t know what our children’s future will look like when they don’t have land since our living is so much dependent on land and open fields”*.

The psychological implications of livelihood changes should not be underestimated. Land loss and zero alternatives at the horizon causes young people to feel worthless and especially young men fall easy victim to drug addiction. The problem of young men is labelled in the international literature as the ‘politics of waiting’ (White 2012). In the case of severe addiction, parents have to sell their land to pay fines for court hearings to keep their sons out of jail or to not getting arrested by police officers. Some parents have sold land to buy a motorbike for their children to convince them to continue

education and not to start with amphetamines. When young women leave home in search for jobs in other provinces or Thailand, old parents are ending up taking care of their grandchildren. Also, out-migration of the young generation causes families to leave their land empty because of lack of labour.

A village chief reported to the research team that he encounters more often disputes between young couples about the use of amphetamines. The addicted husband needs cash to buy drugs whilst women are bearing the impact on the household through loss of income and unhealthy and unmotivated husbands. This has led to heightened cases of domestic violence and divorce in these communities. Land ownership becomes an issue during negotiations for divorce between a couple. During the field study, an example was shared with the research team where a wife asked for the paddy land she had developed with her husband. She got a cow instead because she had moved to stay with her husband after marriage and his parents gave him the undeveloped open land. In a few cases reported, land had been sold to pay off debts and the fees for the village mediation unit.

The described village level problems are perceived as a loss of future for the new generation and a push factor encouraging many young women and men to migrate to Thailand or Vientiane to support their family through remittances.

3.2.2. Changes in women's family roles



A group of men and women discussing about gender role using visual cards approach. Atsaphangthong, Savannakhet. ©Research Team

To understand gender division of labour in the family, visual cards were used to encourage women/men and mixed groups to reflect on their perceptions. 70 cards were used, for each of which the question was asked, 'whose hands are this', generating lively discussions between men and women in the villages. The tool shows all the types of household labour, agricultural labour and community work that has to be done by women and men or can be done by both. One of the aims of the gender classification of labour activities is to know what types of land are used for which activity and by whom. What are the changing perceptions on women's and men's roles in relations to land?

Below are the outcomes learned in seven villages:

- Compared to ten years ago, certain types of tedious household work are no longer done by women. Participants decided to exclude such visuals from the classifications by labelling them as 'old-fashioned'. E.g. heavy weeding in upland rice in patrilineal village is no longer practiced since they used pesticide which is mostly done by men. Taking care of buffalo in matrilineal village is also something of the past since men used *tok-tok* for soil pounding and women are no longer collecting buffalo dung for fertilizing rice fields and gardens but instead use chemical fertilizers. Consequently, it changed women's perspectives and relationships regarding their right over land: the respective land parcels became men's responsibility, including right to make decision what to do with this family land.
- There is a change in time allocation and effort spent on collecting firewood because of the reduction of forest land. Motherhood tasks and firewood collection were combined in the past by some ethnic women by putting the baby on top of the full basket of firewood while walking home. Nowadays with the closure of the forests and the monoculture of cash crops it is not easy to reach a forest where suitable firewood can be found. On the other hand, this task has become easier since husbands are "assisting" because they have access to technology: men in patrilineal village stated that they go with the *tok-tok* to the forest to fetch a load of firewood. Women in Vientiane province in a matrilineal village use electricity and buy firewood, they say that they have no time anymore to collect firewood and there is no forest near the village. This change has shifted women's relationship with and reduced the use of communal forest land;
- Fetching water is still a task for women and in particular for girls, one of the many tasks assigned to them. Ten years ago, they didn't have to go too far since forests nearby that provided healthy and clean water. Now, households are relying on other sources: young girls in Nahom and Somxay have to fetch the water from public water points which are located along a dangerous road and which have less water every year due to land use changes in catchment area. In Naluang village women now fetch water with buckets from the river and far away wells. In Phonsong and Nonsavanh however, piped water is available, and people have wells with motor pumps. Water fetching is a burden for women and girls on which they spend more and more time on it every day This gender stereotype is a

barrier to women to participate in public activities and decision making, including land consultation meetings held in the village;

- We noticed agency and assertiveness of participating women. Women contradicted perceptions and classifications of visuals by men regarding traditional division of labour. Gender relations are changing and slowly become more equal compared to ten years ago. Very vocal Khmu, Lue, Akha, Yao and Hmong women were opposing stereotype thinking on division of labour. *‘Why do we have to do most of the household work?’* and *‘Men do heavy labour and women light work? We do also heavy labour’*. The interviewed women stated that *“the traditional role sharing was unfair”*;
- In the matrilineal village of Phonsong, women and men agreed that they joined community events and meetings related to land, including ritual ceremonies but women are still doing the house work. Some women said that women join the village meeting and village events more than men.

In summary, women’s roles in the family are slowly changing, especially where it concerns activities related to land. Reproductive work in the household and care is at first view classified as women’s work and considered as a light task in both matrilineal and patrilineal community., Community activities, heavy work and productive work are seen as men’s work. These norms reproduce gender stereotype in unequal ways, women are given lower-valued tasks as a housewife, care giver and other ‘light tasks’. These norms and believes have pushed women in the position of a follower and limit their power of control over family property, including land, participation in public events, and land consultation discussions in the community.

3.3. Risk to women’s land rights from LUP and documentation

In theory, LUP and land titling/documentation are meant to benefit landowners, but these forms of formal recognition can also create problems of restricted access, exclusion and increased vulnerability. The risks posed by LUP and titling depend on the conditions that come along with the formal documentation, the actual intensions of the LUP and the quality of the applied process. The study team attempted to better understand what risks were occurring but as described in the methodology section, the villages visited had not been involved in LUP, or these processes took place long ago. None of the villages had been through systematic land titling. Therefore, there is no direct evidence to answer this research question.

There is large difference between the goals of LUP and land titling and their legal status. LUP is meant to establish sustainable land management systems based on local conditions. It does not formally transfer land rights to the village or individuals and the approved land use plan is not legally binding. Formal titling is supported by state legislation and acknowledges the land rights of legal entities (individuals, organization, state); titles are legally binding and consist of different rights. Other than titling, land documentation can include land use certificates, family land books, land tax receipts

and others. Each has different purpose, but all are used as evidence to support claims of landownership.

3.3.1. LUP and women's participation and voice

LUP has been facilitated by many organizations using different methods; the process includes delineation of a village's outer boundary followed by land and forest zoning of a village's entire territory. Prior to zoning, a "current land use map" is created and analyzed and then "future land use map" is created and supported by laws and local customs.

Of the study villages only four out of seven had been involved in land use planning; all were done more than 10 years ago (2006-2007). GoL criteria for updating a village land use plan is 5 years; plans older than this no longer align with the changes that are perceived to have taken place in villages. Given the study villages were behind at more than double of this time criteria, the villagers had almost no memory of the planning LUP and did not follow it.

Discussion with district Lao Women's Union representatives in visited provinces and districts showed that they have no present role in awareness raising about land rights or implementation of land use planning, etc. because of lack of funds, tools, manuals, knowledge, training on women's land rights. LUP is seen as a technical activity and is led by other government offices. In Savannakhet province the provincial LWU reported that they gave gender training to other district offices before the land title project was implemented and supported by development project in 2007. After that they didn't have budget specifically to support their staff to join LUP or other land-related activities.

To anticipate on potential risks, it could be interesting to look at some past studies that have considered women's participation in LUP and the general risks to involved villagers.

A 2019 GIZ study listed the following negative impacts of LUP:

"Reduced households land available for crops (For instance, for growing cardamom and maize), Allocation of land for government purpose (For instance, for the building of roads), Confusion about the use of shared spaces (For instance, some families were confused about the reduced communal spaces for livestock grazing, or which forest areas to access)".

Other research found that LUP had the following impact: *"reduce villagers' legally permitted agricultural areas. Even if district-level land use regulations do not currently exclude local communities from their land, land use plans lay the groundwork for potentially excluding villagers from large land areas..... We find that plural, contradictory regulations and policies, combined with existing power inequalities result in a "filter mechanism" that reduces the practical impact of legal instruments and safeguards aimed at strengthening the least powerful actors' rights"* (Broegaard, et al., 2016).

Whether these impacts of LUP lead to impacts on women's land rights depends on traditional practices and power relations between women and men in the cultural context of each location. For example, this study found that women living in patrilineal systems and society have less power than men. Men are considered the breadwinner, power holder and normally make decisions on important issues. For example, when households decide to shift from subsistence to commercial crops or about income expenditure, men made the decisions. Lack of women's participation in LUP can also affect access to communal land as land is important to them and access can be rezoned and restricted (e.g. village forest to state forest such as protected area). During LUP exercises men normally dominate the discussions and control decision-making. LUP does not intend to alter or improve inner-household ownership patterns; to do so involves changing cultural norms and requires focused and long-term attention.

Ultimately, since LUP is a process, whether women's voices and concerns are included depends on the design and quality of the process. High quality LUP takes the time to work specifically with women to understand their situation and integrates their voices and addresses their needed in the LUP.

3.3.2. Land documentation and women's voice

No systematic titling had been done in any of the study villages. In three of the seven villages in this study, (Nahom, Nalaidong, Phonsong) land titling was done for only very few cases, on the initiative of the concerned households. The households that received land titles were wealthy as the cost of titling exceeded 5,000,000 kip/plot. The lack of examples makes assessing the risks from land titling for women's land rights impossible in the framework of this study.

At the village level the land documents that were available included land use certificates, family land books and land tax receipts, land sales receipts and settlement of land conflict documents issued by the district. For all these types of evidence of land rights, women said having them made them feel more secure. For example, when a person's land is next to someone else's (housing land, garden and paddy land) the documents ensure no one would encroach and try to use the other person's land.

In provincial and district Government land management offices we explored the practice of including both names on the land documents in the cases where it concerned joint ownership of husband and wife. Beside women's land rights in the Land Law, land administration in practice is also a matter of understanding the importance of gender in the application of procedures. This reflects in individual views and practices of the officers working in the land management offices. The team found that the following approach to titling is followed by all officials in all provinces and districts:

“ ***If a woman inherits land from her parents, her name will be put on the land title document and when a man inherits land from his parents, his name will be put on the land title document. In case of land received or bought after marriage, both husband and wife names will be put on the land title; in case the wife will have her husband’s name on the land document for her inherited land and vice versa, both husband and wife have to sign a letter of agreement with the village land team and authority to have a joint ownership.***”

A weakness of land documents other than titles is the fact that these sometimes list the owner as the “head of the family” which in Laos refers only to the husband. An example of this occurred in Nalaidong village in a case of divorce. Even though a woman had worked for years with her husband to clear and develop paddy land for which they had a land certificate –, it was decided by the village authorities that she had no right to the land.

In Naluang village in Yot-Ou district with a patrilineal Lue community and Teuka village, Akha ethnic in Oudomxay, Namor district, the study team found that in the family land book and land certificate a gender sensitive registration is followed and all plots are registered in both women’s and men’s names. These are important examples as they formally establish women’s land rights and offer some protection in the case of dissolving of a marriage or if someone or a group attempts to appropriate the land.

In Yot-Ou district in Phongsali there was a project supported by the Asian Development Bank to register the paddy land in nine villages. This project worked with DAFO and DoNRE directly. The paddy land title is issued in line with the guidelines in both husband’s and wife’s name. However, if the land had been inherited from husband’s side, the land document will be in his name first and secondly in his wife name. Before his wife’s name is added, they have to sign an agreement letter. The same procedure is applied if the land had been inherited from the wife’s side, then her name was be put first. This form of administration and land ownership registration can be considered as an ‘in-between’ model to accommodate gender equality according to the State Law whilst respecting customary land rights.

In all villages, women perceive the issuing of a land title as getting more security of land tenure. Many stated ‘to dream’ of land and a title of their own. They saw no risks related to land titling. However, joint titling as shown above presents a risk in that customary individual land rights which have been favourable for women might be weakened by the state law ideology of gender-equality. In Phonsong village, the only study village where some land titles had been issued, the women in the focus group discussion gave variable replies on the question of whose name is on the land document/title of the land they use/possess.

Number of women: n=9	Name on land document
2	Own name
1	Five names, all brothers and sisters
1	Parents name
2	Mothers name
1	Fathers name
2	Both names (LT)

It is remarkable that in two cases where the land was inherited by the woman, the issued land title was put on both names. This means that the independent land rights for women are replaced by joint ownership which weakens women's land rights over her land. Titling should be flexible to the village circumstances to safeguard women's land rights. In villages with social structures and customary rights favourable and supportive for women (matrilineal), titling should follow and support this system ensuring a woman's name is in the title. In such context, (normally lowland area that is not under pressure from concessions) formal documentation, if done in a gender sensitive manner, can enhance and protect women's land rights. In villages that do not have strong support for women's land rights (mainly patrilineal), there should be awareness raising about benefits and risk prior to systematic titling. The information should at least include awareness about villager's (men and women) consent for systematic titling, explanations about gender equality and women rights, and specifically about the inclusion of women's names in land documents.

An alternative perspective to joint titling is that of Agarwal (1994, p. 1460). Independent rights are preferable to joint titles with husbands for several reasons: Firstly, with joint titles it can be difficult for a woman to gain control over her share in case of marital breakup; Secondly, women would have less chance to escape from a situation of marital conflict or domestic violence because women are more tied up to men in case of joint ownership; Thirdly, wives may have different land-use priorities from husbands which they can pursue more confidently if they have independent land rights; Fourthly, women with independent land rights are better placed to control the produce; Fifthly, with joint titles the question on how the land would subsequently be inherited could prove a contentious one (1994, p. 1460). This position prefers women to have their own title; however, in culture contexts that don't allow women to own or inherit land from parents or spouses, it is unlikely to happen, and joint titles may be an intermediary option.



A woman coming back from working at the farm. Ngoi district, Lungprabang. © LIWG

4. Conclusion and Recommendations

4.1. Conclusion

Since the nineties, with the transition from subsistence to a market economy, secure land rights for women have become more crucial. The past decades have shown an enormous rural transformation process and pressure on land and natural resources are catalysing a change in land use and land management in Lao PDR. Reports and studies indicate that the processes of rural transformation in conjunction with new land policies might have an adverse impact on women's access to, and control and decision-making power over land. Livelihood systems and customary rights securing land tenure for women and men are threatened and undermined.

In all seven villages women had lost access to and control over land: in the matrilineal villages private customary land (low-land paddy fields), and in the patrilineal villages mostly communal land (hai, upland fields) which they used for subsistence agriculture. Expansion of roads, construction of new cities, construction of buildings, resettlement, concessions for rubber plantations and leasing out land to sugarcane investors are the causes of loss of land.

In the matrilineal village (Phonsong) a rural transformation process of de-agrarianization was most noticeable, in the other villages this was also occurring but to a much lesser extent. Youth migration contributes also to this process of de-agrarianization. In some villages (Phonsong and Nonsavanh) women stated that they were working less in agriculture than they did ten years ago.

In all villages, people were relying less on forests since these areas had been decreased for commercial crops and women spent more time on these. As a result of de-agrarianization and decreased access to forests there was a reduction in food security, there was less communal land for animal raising and firewood scarcity was felt. There were also socio-cultural changes like the division of labour which threatens land rights for women, gender relations becoming more unequal, loss of socio-cultural identity, and inter-generational conflicts

Women's land rights are closely linked to customary gender-based power systems in their culture. In the matrilineal Lao-Tai (Tai-Kadai language group), and partly in the Bru (Mon-Khmer language group) villages, the strong customary inheritance land rights for women are continued and sustained. The traditional system of matrilineal kinship and inheritance and matrilocal post-marriage residence protects the land rights of women. In the patrilineal Akha (Sino-Tibet), Lue (Tai-Kadai), Hmong (Hmong-Mien) and Khmu (Mon-Khmer)²⁶ villages, women have only access to land through marriage. Only sons can inherit land from their father/parents and divorce can result in loss of access to family land for women. In these patrilineal systems, women's land rights must first be established by strengthening women's status and increasing social acceptance of their land rights and then followed by legal protection (recognition of customary law or formal documentation); however, promoting this involves changes in cultural norms which is both challenging and sensitive.

Another significant influence on women's land rights is the agriculture system in which these are embedded. In lowland rice paddy systems, often inhabited by Lao-Tai or other Tai-Kadai language speakers, ownership is either individual²⁷ or by household, whereas in upland agriculture systems ownership is communal/village, individual or a mixture of both (Flint *et al.*, 2018). In the lowland areas, within matrilineal systems, women have specific individual land rights. In upland areas, women and men may not have individual land rights but have access to communal land via their inclusion in a village or clan. Villages and households may also have land in both systems and thus women's land rights occurring in both. Safeguarding women's land rights requires first and foremost a clear recognition of customary land use right and identification of communal upland agriculture areas (including upland fallows, grassland, village managed forest) before assessing whether land use ownership on those communal areas is collective, individual or mixed.

The Land Law specifies that a land title is the only legal document considered as evidence for permanent land use rights. At the provincial and district level there are no

²⁶ In this study only one village with Khamu and one village with Lue was visited, the occurrences of patrilineal systems in these villages and ethnic groups may not be representative of their entire populations in Laos.

²⁷ Noting the exception of rice paddy areas in Houaphan Province.

sex-disaggregated data on issued land titles or on other land documents. Thus, there is no monitoring system of gender-specific distribution of issued land documents. In some provinces new software has been introduced in 2018 that differentiates between male and female ownership of land.

The representation of women among staff in land management offices is low, except in the district office of Viengkham, Vientiane province. This district is characterised by a matrilineal social environment and there are examples of participation and leadership of women in land management. Many male officials express their wish to have budget and facilities to appoint more women for land-related assignments.

Systematic titling had not been done in any of the study villages and only a small number of households in three villages had land titles issued upon request (i.e. sporadically). The main barrier for household request for titling was the high costs which most cannot afford to pay. In four of the seven villages no certified permanent land titles are issued at all. Most land documents held by villagers to demonstrate their land rights are land certificates, land-tax bills and family land-record books. On almost all land documents in patrilineal villages the name of both the husband and wife is mentioned.

The land management offices staff implements the gender sections of the Land Law on joint ownership of land in a punctual way which offers protection for secure land tenure for women. In most villages with patrilineal inheritance both the wife's and husband's names are on land documents. Customary law in the patrilineal communities, favours sons and disadvantages daughters but implementation of the Land Law (2003) strengthens women's land rights. However, the latest draft of the revised Land Law no longer includes the section related to joint titling of marital land. This could result in a loss of women's land rights in future land titling exercises. Women perceive the issuing of a land title as getting more security of land tenure. Many stated to dream of a land and a title of their own.

4.2. LIWG recommendations for supporting women's land rights

Acknowledging that LIWG is a membership-based organization managed by a small secretariat, its ability to engage in the promotion of women's land rights are defined and limited by this structure. Based on this, below are some options for the LIWG to work towards i) strengthening women's capacities to access land rights and ii) protecting those rights.

Referring to this report's ToR and the 3rd expected outcome "*LIWG is better equipped to conduct its advocacy work for the protection of women's land rights*", two possible approaches for the LIWG are **i)** to include women's land rights as a general topic in the overall work plan or **ii)** an additional and separate focus on women's land rights as a "dedicated work stream", "focal group/sub-group" or even more deeply, as a "pillar" for the organisation. A drawback with the first approach is that women's land rights are not given full attention and deeper analysis and tend to become only a mainstreaming

effort. An advantage of the second approach is that it is educational for both men and women as it calls for focused and sustained engagement and greater contemplation and reflection on how women experience their land rights, how these manifests in their lives and how to improve their rights.

Rather than single activities about women's land rights it is recommended that the LIWG embrace the second, more focused approach which will attract the interest of members and the attention of government and donors. To promote this approach, the LIWG Secretariat could launch a **"LIWG women's land rights campaign strategy"**. A strategy paper could be created and proposed for LIWG-wide adoption through an informed and membership-driven process. This could be led by a newly created LIWG position (or team) – **"Women's Land Rights Officer"**; funding for which would need to be sought from new or existing donors or could come from pooled funds of members. Noting the cultural diversity influencing women's land rights, these positions should be filled by women from ethnic groups. Tasks to be conducted by these positions could be: further specific research about women and land, coordinating a small "WLR core group" of LIWG members and their activities, coordinating with other organizations/projects (LIFE, local CSO, donor titling project and government) and WLR specific funding raising.

The LIWG Secretariat and Women's Land Rights Officer(s) could be the nucleus of the campaign but to actually secure women's land rights, the participation of the LIWG membership is required.

To be effective, this campaign strategy needs to recognize the diverse social structures and cultural diversity in which women's land rights exist in Laos and the challenges to address not just one, but multiple cultural contexts. Such is the complexity in which the LIWG women's land rights campaign strategy will need to be designed and implemented.

For the ToR's second expect outcome *"Recommendations are provided to better secure women's land rights in Laos"*

Below are several ways that could contribute to achieving this:

- Although land titling is beyond the scope of the LIWG and most of its members and land titling can't be used to strengthen women's land rights, it still needs to be considered as part of a strategy. Immediately below is an explanation of this idea and some of the risks it can pose.
- The role of formal documentation (mainly titling): Secure land rights confer direct economic benefits because land is a key input into agricultural production and enterprise development. It can be used as a source of income from rent or sale, and as collateral it can provide access to credits. Women may not fully reap these benefits if they do not have legally and socially recognized rights to individually - or jointly held land. Land titling has been completed in less than 5%

of the villages in Laos but will continue to be the system by which land rights are formally recognized. LIWG's work on improving women's access to land rights on some aspect of titling cannot be excluded. A notable weakness of focusing efforts on titling is that in Laos titles are often revoked for development projects with landowners not always satisfied with compensation. Another large drawback of the new Land Law is that it only recognizes private - and state titles and no communal/village land titles.

- In lowland areas of individual ownership titling can enhance and protect women's existing land rights. However, due to their agricultural value, lowland paddy fields have not been the target of land concessions so titling in these cases is not immediately necessary to avoid appropriation of land by investors. Titling will however give women stronger rights in their domestic situations and can contribute to improved household income. For upland systems, individual titling becomes more complicated since there is often a mixture of individual and communal ownership. Individual titling does provide additional protection but can also negatively impact food security. If the number of parcels, or total area for an individual or household, are too low, shifting cultivation cycles become too short and the soil cannot regenerate. As for collective titling of communal land, the new land law puts this land and title under government with only user rights for villages.

Ways in which the LIWG could address this topic include:

1. Some relevant topics of Standard Research and Participatory Action Research (possibly in cooperation with the Lao Women's Union or the Lao Front for National Construction, Center for Development and the Environment/CDE) about: "alternative approaches to titling in mixed ownership systems", "WLR and changes in tradition systems", "the benefits and threats of titling to WLR";
2. Develop communication materials on WLR based on case studies in engagement and co-operation with donors on titling (KfW, World Bank);
3. Influencing new legislation that supports WLR;
4. Participating in and/or supporting government piloting of activities related to titling and WLR (recognition of customary tenure individual and communal land rights).
5. This study shows that mandatory titling of both husband and wife as landowners might support women's land rights, especially in patrilineal structure society and titling in these areas need to raise women land right awareness to be assured of consent from the community. In Article 43 (Land Law 2003), it states that the names of the husband and wife are to be recorded where the land use right is matrimonial property. The wording of Article 43 of the Land Law of 2003 should be reflected in the new Land Law 2019 Article 86 to say the names of both husband and wife should be recorded on matrimonial land. Even though the

revised Land Law has only recently received conditional approval, as part of the LIWG campaign strategy there needs to be efforts and lobbying for the government to create and approve supporting legislation (ministerial decree or order) that brings attention to not only spousal titling but other women's land rights. The LIWG could research the legal options for doing this, obtain government support for doing so and support forums to discuss what should be included in new legislation;

6. Women's equal rights to land are well-established in international human rights laws and standards, including specific protection for rural women under Article 14 of CEDAW which has been ratified by Lao PDR. CEDAW and its implementation processes can be used to highlight weaknesses in national laws and violations relating to land and property rights for women and promoting good State practices. The LIWG could open a dialogue with the Lao National CEDAW Committee on the topic of WLR combined with economic and social development;
7. Although not legally required by the conditionally approved 2020 Land Law, there has been widespread acceptance by provincial and district level land offices for issuance of spousal land titles. The LIWG could influence the upcoming (World Bank and KfW) donor supported land titling projects and the Department of Land to continue issuing spousal land titles. LIWG members could do this at the provincial level with the Provincial Offices of Natural Resources and the Environment.
8. The LIWG could financially support additional research on the legal frameworks in countries similar to Laos (considering Asian, Least Development Country status, religion) that have progressive women's land rights legislation, focusing on how advancing women's land rights in multi-cultural contexts is being addressed.
9. Lack of gender-focused budgeting in central, provincial and district levels for issuing land titles and for monitoring activities implemented in the field is limiting the attention for women's land rights. Therefore, LIWG and its members should have discussions and dialogues with concerned ministries (MoF, MAF, PoNRE, LWU) to set up gender budgeting and allocate the budget to their line offices. Including the Ministry of Justice and its law enforcement agencies to have a gender budget with a strong follow up of the practice in the communities, to ensure the cost for adjudication of a land title is affordable for everybody and women land issues are seriously taken into account;
10. DoNRE is the office which adjudicates land, PoNRE is the office that issues land titles and DoNRE is again the field implementation office. The staff of these offices need a solid understanding of land legislation and other related laws (Customary Law, Family Law, Property Law, etc...). To strengthen their understanding of the importance of applying a gender-based approach before and during land titling, gender equality training should be offered to all staff

members. Members of the LIWG could provide training to PoNRE and DoNRE to ensure that all possible legal aspects are applied with a gender focus, to support women's land rights;

11. The Lao Front for National Construction has a key role in villages to promote ethnic unity, conflict solving, including land conflict and they know well about ethnic culture and customary rights. LIWG members who work on land issues could include LFNC in land law awareness training and fieldwork. This can be linked to the above topic of influencing patrilineal cultures to be more receptive of women's land rights;
12. LIWG members and their government partners should provide widespread gender equality and women's land rights awareness raising to villagers – women, men and mixed groups. They should support women's involvement in village land issues (village land tax position, village land committee), provide women leadership skills training and support government offices (LWU and Lao Front for National Construction) to find solutions for vulnerable women (poor, persons with disability and single mother) living in land- insecure situations.

4.3. Recommendation for Government promotion of women's land rights

1. As rural households and specifically women and the poor, are more highly depending on communal resources, communal land titling should be given full legal recognition under the name of the village as a legal entity. This should only be done after a village has approved a land use plan with consent of the whole village;
2. Noting the lack of legislation supporting the above comment (communal land titling), land use plans that have been prepared in effective consultation with the community and which have been approved by the villages, should be legally recognized as formal tenure with equal legal status as areas with land titles. Attention is needed for ways how village land use regulations can be made to strengthen WLR;
3. Lack of gender budgeting in central, provincial and district levels for issuing the land title and monitoring of land related activities implemented in the field is a challenge faced by DoNRE's technical team to implement fieldwork and include related members of offices in the team. The concerned ministries (PoNRE, MAF, LWU, LNFC) should set up a gender budgeting and allocate the budget to their line offices at the province and district level and ensure that women's land issues are seriously integrated in the government system;
4. The low number of women land technical and decision-making staff in land-related government offices in provinces and districts studied is causing the overlooking of gender issue and women's land rights in the community. To

support government policies in promoting gender equality indicated in current Gender Equality Law. LWU and CAW should campaign for each office working on land issues and adjudication of the land title to recruit and retain female staff in land technical team, as well as in decision making position in all levels;

5. Isolated individual land titling is a long process involving many trips between the community and government offices. Ethnic minority women are not free to travel out of the village alone due to social norms and in addition to the limited choices of means of transport. To make titling available to all, including women, DoNRE and PoNRE offices should support widespread systematic land titling. This should only be done with the consent of villages, and only after a village has approved a land use plan with due recognition of women's perspectives on land rights and with sensitivity to upland livelihoods for not to negatively impact food security;
6. Recognize the customary land tenure rights of upland villages on equal footing with formal titling.

References

- Agarwal, Bina (1994). Gender and Command over Property. A critical Gap in Economic Analysis and Policy in South Asia, In, *World Development*. Vol 22, No 10. Pp 1455-1478.
- Baird, I G (2011). Turning Land into Capital, Turning People into Labour: Primitive Accumulation and the Arrival of Large-Scale Economic Land Concessions in the Lao People's Democratic Republic. In: New Proposals: *Journal of Marxism and Interdisciplinary Inquiry*, Vol. 5, No. 1 (November 2011) pp. 10-26.
- Bourdet, Y. (1995). Rural Reforms and Agricultural Productivity in Laos. *The Journal of Developing Areas*, 29(2), 161-182. Retrieved April 16, 2020, from www.jstor.org/stable/4192437
- Boutthavong, S, Hyakumura K, Ehara M and Fujiwara T. (2016): Historical Changes of Land Tenure and Land Use Rights in a Local Community: A Case Study in Lao PDR. *Land*, 5, 11.
- Bouté Vanina and Vatthana Pholsena (eds). (2017): *Changing Lives in Laos: Society, Politics, and Culture in a Post-Socialist State*, Singapore: NUS Press, Softcover: 457 p.
- Broegaard, Rikke Brand, Thoumthone Vongvisouk and Ole Mertz (2017): Contradictory Land Use Plans and Policies in Laos: Tenure Security and the Threat of Exclusion. *World Development* Vol. 89, pp. 170–183.
- Daley, Elisabeth, Martha Osorio and Clara Mi Young Park, (2013): The Gender and Equity Implications of Land Related Investments on Land Access and Labour and Income-Generating Opportunities. A Case Study of Selected Agricultural Investments in Lao PDR, FAO, Rome.
- Daley, Elizabeth and Sabine Pallas.(2014): Women and Land Deals in Africa and Asia: Weighing the Implications and Changing the Game. *Feminist Economics*, 20(1): 178–201.
- Derbidge, Julian and Viladeth Sisoulath (2018). *Systematic Land registration in Rural Areas of Lao PDR – from Concept to Scale*. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Land Program, Lao PDR. Paper prepared for presentation at the “2018 world bank conference on land and poverty” World Bank – Washington dc, March 19-23, 2018
- Duin, Esther van, (2017): *Land as a life force a study of the gendered role of land in the livelihoods of the population in Xaifongneua, periurban Vientiane capital*, Faculty of Geosciences, University of Utrecht, Master's Thesis.

Dwyer Michael (2007). Turning land into capital: A review of recent research on land concessions for investment in Lao PDR. The Land Issues Working Group of the Lao INGO Network, Vientiane. Part 1: Literature review (also in Lao language) | Part 2: Gaps and Future Research.

Evans, Grant (1990). *Lao Peasants under Socialism*, New Haven: Yale University Press

FAO (2018). Country Gender Assessment of Agriculture and the Rural Sector in Lao People's Democratic Republic, Vientiane, 72 pp.

FAO and MRLG. (2019). *Challenges and opportunities of recognizing and protecting customary tenure systems in the Lao People's Democratic Republic*. Bangkok, 12 pp. Licence: CC BY-NC-SA 3.0 IGO. Policy brief

Flint, Christopher and Sengdeuane Sivilay (2018). DALAM. *Report of Investigations into Village Land Governance and Land Tenure (in 21 villages over 5 Provinces, and in relevant legislation)*. Report commissioned and supported by the GIZ LMDP and ELTeS programs.

GIZ, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, (2019), Village Land Management a few years on – what has changed? An Impact Study of GIZ-supported Land Use Planning and Land Registration in Lao PDR,

Gender Resource Information and Development Center GRID Survey (1999). Gender and Land Documents: How do Society's perceptions of gender affect Women?

Gender Resource Information and Development Center GRID, (2005). *Lao PDR Gender Profile*. Gender Resource Information & Development Center. With the Support of the World Bank. November

Halpern, Joel. M.(1964). *Economy and Society of Laos: A Brief Survey*. Yale University Southeast Asia Studies, Monograph Series, vol. 5. Yale University.

Ingalls, M.L., Diepart, J.-C., Truong, N., Hayward, D., Niel, T., Sem, T., Phomphakdy, M., Bernhard, R., Fogarizzo, S., Epprecht, M., Nanthavong, V., Vo, D.H., Nguyen, D., Nguyen, P.A., Saphanthong, T., Inthavong, C., Hett, C. and Tagliarino, N. (2018). *The Mekong State of Land*. Centre for Development and Environment, University of Bern and Mekong Region Land Governance. Bern, Switzerland: Bern Open Publishing (BOP).

Ireson, Carol J. (1992). Changes in Field, Forest, and Family: Rural Women's Work and Status in Post-Revolutionary Laos. In: *Bulletin of Concerned Asian Scholars*, Volume 24, No. 4, pp. 3-18.

Ireson, Carol J. (1995). Functions of the Forest for Laotian Households: Supermarket, Gold Mine, and Welfare Subsidy, in: A. Terry Rambo, et al., *The Challenges of Highland Development in Vietnam*, Honolulu: East-West Center.

Ireson, Carol J. (1996). *Field, Forest, and Family, Women's Work and Power in Rural Laos*. Boulder: Westview Press.

Ireson-Doolittle, C. (1999). Gender and changing property rights in Laos. In: Tinker, I. & Summerfield, G. (eds.) *Women's Rights to House and Land: China, Laos, Vietnam*. Boulder (Colorado, USA): Lynne Rienner Publishers.

Ironside, J. (2017). *The Recognition of Customary Tenure in Lao PDR*. MRLG Thematic Study Series #8. Vientiane: MRLG.

Khouangvichit Damdouane (2010). *Socio-Economic Transformation and Gender Relations in Lao PDR*. Department of Social and Economic Geography 901 87 Umeå Umeå 2010

Kenney-Lazar, M. (2012). Plantation rubber, land grabbing and social-property transformation in southern Laos. *The Journal of Peasant Studies*, 39, 1017-1037.

Kenney-Lazar, M. (2016). *LIWG Linking Food and Land Tenure Security in the Lao PDR*. Vientiane: Land Information Working Group, Global Association for People and the Environment (GAPE), and Village Focus International (VFI).

Kenney-Lazar, M. (2017). *Governing Communal Land in the Lao PDR*. A review of literature on communal land in the Lao PDR, commissioned by Department of Agricultural Land Administration, Ministry of Agriculture and Forestry, Lao PDR DALAM

Kenney-Lazar, M. M. Dwyer and C. Hett. (2018). *Turning Land into Capital: Assessing a Decade of Policy in Practice*, commissioned by the Land Information Working Group. <https://www.laolandinfo.org/>

Kenney-Lazar, M. (2019). Neoliberalizing Authoritarian Environmental Governance in (Post)Socialist Laos, *Annals of the American Association of Geographers*, 109:2, 338-348, DOI: [10.1080/24694452.2018.1537842](https://doi.org/10.1080/24694452.2018.1537842)

Kusakabe Kyoko, (2015). *Gender analysis of economic land concessions in Cambodia and in Northern Laos: Case of rubber plantations*. Land grabbing, conflict and agrarian-environmental transformations: Perspectives from East and Southeast Asia. An international academic conference 5-6 June 2015, Chiang Mai University *Conference Paper No. 43*

Ling, S. and Scurrah, N. (2017). Communal land titling in practice: Lessons from Khammouane Province, Lao PDR. MRLG Capitalization Note Series #3. Vientiane: Mekong Region Land Governance.

Mann, Elizabeth, and Ny Luangkhot. (2008). *Study on Women's Land and Property Rights under Customary or Traditional Tenure Systems in Five Ethnic Groups in Lao PDR*. Land Policy Study No. 13 under LLTP II. Sponsored by Lao-German Land Policy Development Project (German Contribution to the Lao Land Titling Project II in Lao PDR).

Schenk-Sandbergen, Loes and Outhaki Choulamany-Khamphoui. (1995): *Women in Rice Fields and Offices: irrigation in Laos, gender specific case studies in for villages, Heiloo: Empowerment*.

Schenk-Sandbergen, Loes, Hermien Rodenburg & Chansamone Phenkhaay. (1997). *Land, Gender, Social Issues in Lao PDR: Towards Gender Sensitive Land Titling*. AusAid: Vientiane

Schenk-Sandbergen, Loes. (2009). Gender, Land rights and culture in Laos: A study in Vientiane, Districts, Villages and Households. In: Compton, Carol.J (e.a. eds) *Contemporary Lao Studies*. Center for Southeast Asian Studies, Northern Illinois University, DeKalb.

Schenk-Sandbergen, Loes. (2012). The Lao Matri-System, Empowerment, and Globalisation, *Journal of Lao Studies*, Volume 3, Issue 1, October 2012. Centre for Lao Studies, San Francisco, USA. Pp 65-90.

Thongmanivong Sithong, (2006). Recent land use and livelihood transitions in Northern Laos, *In Mountain Research and Development* Vol 26 No 3 August 2006: 237- 244.

Thongmanivong Sithong, Kaisone Phengsopha, Hounghet Chantavong, Michael Dwyer & Robert Oberndorf. (2009). *"Concession or cooperation? Impacts of recent rubber investment on land tenure and livelihoods: A case study from Oudomxai Province, Lao PDR."* National University of Laos (NuOL), Rights and Resources Initiative (RRI) and the Regional Community Forestry Training Center for Asia and the Pacific (RECOFTC). Bangkok.

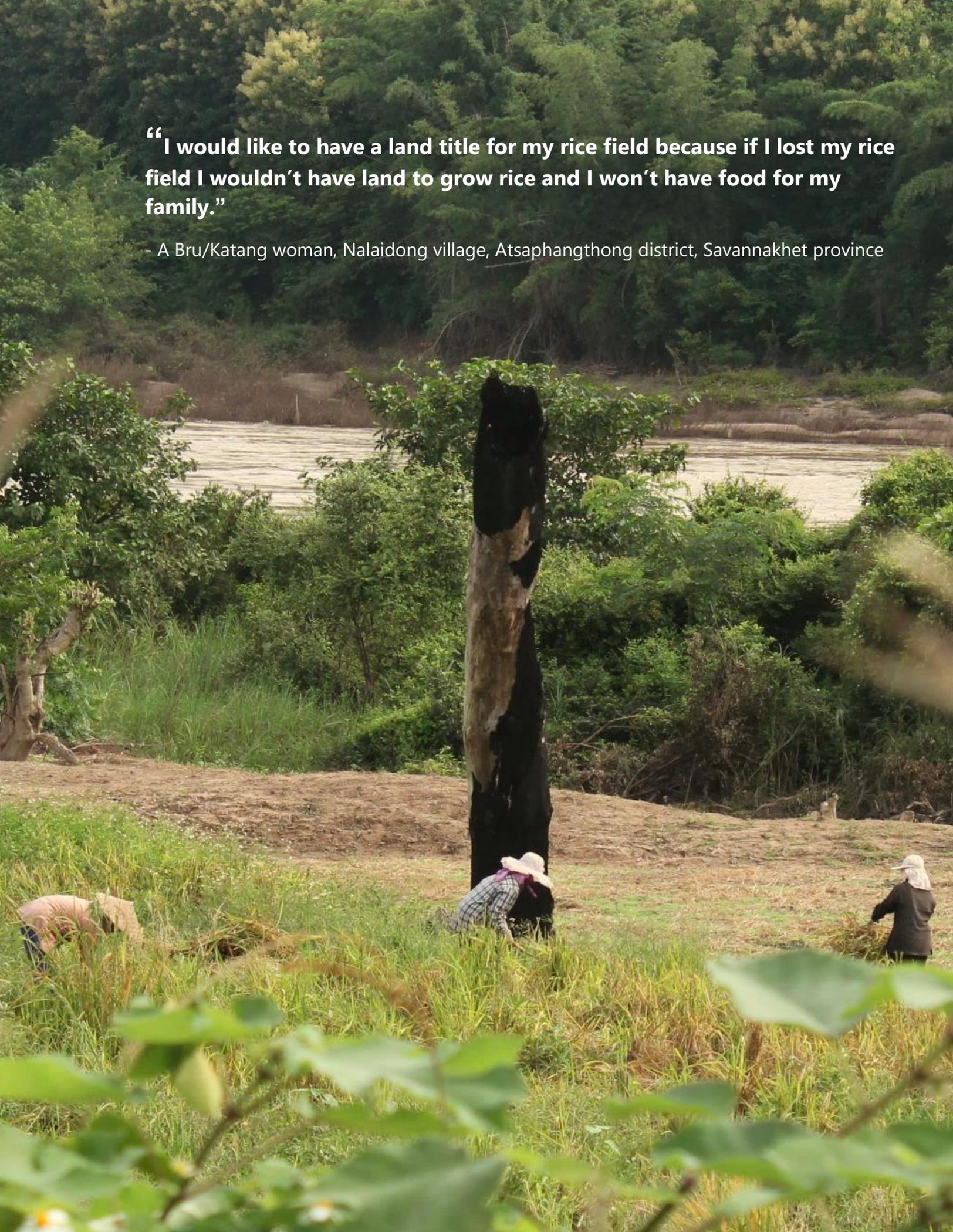
Schönweger, Oliver and Andreas Heinimann, Michael Epprecht, Juliet Lu, Palikone Thalongsengchanh. (2012). *Concessions and Leases in the Lao PDR: Taking Stock of Land Investments*.

Stoeber Silke , Engsone Sisomphone, Chusana Han (2013): *Women, food and land: understanding the impact of gender on nutrition, food security and community resilience in Lao PDR*, Food Security Risk and Vulnerability Survey- Summary Report, Vientiane, Lao PDR. CARE International in Lao PDR: National University of Laos

White Ben and Clara M. Park (2015): *Gender and generation in Southeast Asia's corporate 'rush to land': a brief introduction*. Land grabbing, conflict and agrarian-environmental transformations: perspectives from East and Southeast Asia. An international academic conference 5-6 June 2015, Chiang Mai University. *Discussion Note No. 4*

“ I would like to have a land title for my rice field because if I lost my rice field I wouldn't have land to grow rice and I won't have food for my family.”

- A Bru/Katang woman, Nalaidong village, Atsaphangthong district, Savannakhet province



Women and Land Rights in Lao PDR:
Rural Transformation and a Dream of Secure Tenure



Land Information Working Group
Vientiane, Laos
www.laolandinfo.org

