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The Political Economy of **Land Governance in the Mekong Region**

Philip Hirsch and Natalia Scurrah

November 2015

With support from:

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[Front cover photo: Swiss Agency for Development Cooperation SDC]

The authors would like to thank Christian Castellanet, Nga Dao, Jean-Christophe Diepart, Mike Dwyer, Tenley Gillmore, Marie Mellac, Carl Middleton and Kevin Woods for valuable comments and suggestions on earlier iterations of this paper.

CONTENTS

ABBREVIATIONS

ACMECS	Ayeyawaddy-Chao Phraya-Mekong Economic Cooperation Strategy
ADHOC	Cambodian Human Rights and Development Association
AEC	ASEAN Economic Community
ALTSEAN	Alternative ASEAN Network Burma
ASEAN	Association of Southeast Asian Nations
AUSAID	Australian Agency for International Development
CLMV	Cambodia, Laos, Myanmar and Viet Nam
CSO	Civil Society Organisation
DFAT	Australian Department of Foreign Affairs and Trade
FAO	Food and Agriculture Organization of the United Nations
FDI	Foreign Direct Investment
GIZ	German Agency for International Cooperation
GMS	Greater Mekong Sub-region
KDNG	Kachin Development Networking Group
LICADHO	The Cambodian League for the Promotion and Defense of Human Rights
LMAP	Land Management and Administration Project
LURC	Land Use Right Certificate
MRLG	Mekong Region Land Governance
NGO	Non-Governmental Organisation
REDD	Reducing Emissions from Deforestation and Forest Degradation
SDC	Swiss Agency For Development Cooperation
SEZ	Special Economic Zone
USAID	United States Agency for International Development
VFV LAW	Vacant, Fallow and Virgin Lands Management Law

INTRODUCTION: A REGIONAL POLITICAL ECONOMY OF LAND GOVERNANCE

"GOOD LAND GOVERNANCE IS SOUGHT THROUGH A RANGE OF GLOBAL LEVEL ASSESSMENT CRITERIA"
[PHOTO CREDIT: RAEWYN PORTER]

This report presents a political-economic analysis of land governance at the regional level, focusing on the Mekong Region[1]. The primary emphasis is on Cambodia, Laos, Myanmar and Vietnam (CLMV), but the paper also takes into account the regional role and land governance experiences of Thailand and China. The report is one in a series of reports on Cambodia, Laos, Myanmar and Vietnam that present country-level analyses of the political economy of land governance. The series is part of a research mapping and political-economic analysis conducted by the authors for the Mekong Region Land Governance (MRLG) project, funded by the Swiss Agency for Development Cooperation (SDC) and the German Agency for International Cooperation (GIZ). The initiative is driven by concerns about security of tenure of smallholder farmers, ethnic minorities and women, against a background of land grabbing in various guises (see www.mrlg.org).

1. In this case, the Mekong is broadly coterminous with mainland Southeast Asia. While it takes the river as its defining motif, the region is much wider than the Mekong River and its tributaries. Alternatively framed, the Greater Mekong Sub-region is comprised of Cambodia, Laos, Myanmar, Thailand, Vietnam and the two provinces of China that border Southeast Asia (Yunnan and Guangxi). The project-specific definition of the region behind this report includes the CLMV countries. Sometimes referred to as the Association of Southeast Asian Nations (ASEAN) latecomers, the once-socialist economies seek to integrate and capitalise their economies. In the context of land-based investment with which the report is concerned, Thailand and China enter as important players – providing a more complete picture of the region.

A Food and Agriculture Organization of the United Nations (FAO) report defines "land governance" succinctly as follows:

> "Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed" (Palmer et al. 2009: 9)."

Our working definition expands on the FAO definition as follows:

> "Land governance consists of the means by which authority is wielded and collective action applied in order to achieve particular social and economic outcomes through land use, distribution, access and security. Land governance is concerned with processes, institutions, laws, practices and structures of power involving a diverse range of public and private actors."

Land governance is a scaled issue, involving broad level influences at the global, regional, national and local scales. This paper seeks to explain the main parameters of land governance at the regional scale, with a particular focus on the Mekong Region. Our project of conducting a regional political-economic analysis considers the questions: Why apply political economy to an analysis of land governance, and what does a regional scale analysis entail? In other words, what makes land governance a political-economic issue, and what makes it a regional issue?

LAND GOVERNANCE: A POLITICAL-ECONOMIC ISSUE

Not all approaches to land governance place it in the realm of political economy per se. Land governance can be approached from a number of angles. In a universal and normative sense "good land governance" is sought through a range of global level assessment criteria (see, for example, The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector, Deininger et al. 2011). The FAO has established a set of non-binding guidelines for "responsible" governance of land tenure and other natural resources (FAO 2012). A number of development assistance initiatives funded by Australian, German, Finnish, Canadian, Swiss (and other) bilateral development agencies have sought to improve land governance in the Mekong Region by programmatic means (see www.landgov.donorplatform.org). Each of these frameworks has its own emphasis; some are more market-oriented and some are geared to a liberal rights-oriented approach of social inclusion. However, all work within broad "good governance" criteria of transparency, rule of law, stakeholder inclusion and equitable market structures. While there is recognition of the need to adapt global concepts and criteria of 'good governance' to country circumstances, the political-economic embeddedness of land issues has often been overlooked.

Only recently have some donors specifically sought to conduct political-economic analysis in recognition of program risks and failures attributed to insufficient account being taken of the context within which programs operate. For example, responding to the World Bank Inspection Panel that investigated the Land Management and Administration Project in Cambodia, Management of LMAP noted:

> "With the benefit of hindsight, Management recognises that … a more detailed analysis of the political economy context would likely have identified … that… numerous actors had strong incentives not to proceed with a transparent and public interest based classification and registration of State land" (IBRD & IDA, 21 January, 2011, p. 15).

Donors are ever more attentive to the fact that aid projects in the Mekong Region are not always fully aligned to government structures. Donor agencies are quite effective in engaging government administrations at the technical level of planning and design, including drafting legislation; but these priorities are often overturned by decisions that take place within the political realm or at upper echelons of government bureaucracies (Bartlett 2013; Suhardiman & Giordano 2014). This makes an analysis of power structures even more important.

Our position is that land governance is inherently a political-economic issue of justice, framed by social, economic and political dimensions of power. It is concerned with determining who gets what, at whose expense (distributional justice), and who makes rules and decisions on whose behalf (procedural justice). While we can discuss the wider political economy of resources and other sources of wealth in similar terms (cf Jones 2014), land goes beyond the exchange and revenue-generating status of many other commodities. Land is the basis of social relations, everyday life and livelihood for large numbers of rural people, and it is a source of identity, power and sovereignty at various levels from national to subnational territorial claims (Polanyi 1944). This embeddedness of land in social, economic and political life means that its governance is framed by the contexts and histories in which it is situated. Programs seeking reform in the land sector need to address or work within the constraints and openings of the political economy that sets the conditions of land relations. Political-economic relations, moreover, occur at different levels – local, national, regional. This reflexivity between land relations and structures of power, authority and culture is an important, but sometimes neglected, aspect of land governance interventions.

There is a longstanding tradition of agrarian political economy that links the analysis of social relations around land, labour and capital to the role of the State when explaining class formation in the Southeast Asian countryside (see, for example, Hart et al. 1989). Studies carried out during the 1970s and 1980s were driven by a concern that increasingly commercialised small-scale farming would attract capital in such a way that separated wealthier from poorer farmers and, ultimately, impoverished the latter, while the former accumulated land and capital. Some of the neo-marxist analysis in this agrarian political-economic work drew parallels with a much earlier phase of political economy tied to agrarian relations, notably the debates of early twentieth century Russia, which were intricately linked to different political platforms of revolution and reform (White 1989). These studies concerned the extent to which structures of land ownership set the political evolution of dictatorship and democracy of different European states in the nineteenth and twentieth century (Moore 1966), giving an historical indication of the reflexivity referred to above. A comparative analysis of primitive accumulation across Southeast Asia suggests that in this region, there is also a need to explore the "otherwise neglected agrarian determinants of the modern economic and political trajectories of Southeast Asia into the twenty-first century" (Sidel 2015: 20).

Our challenge is to bring some of the rigour of these earlier political economic studies on agrarian transition to the new contexts of transnational capital engagement in land-based production. The recent rejuvenation of the Journal of Peasant Studies has achieved much in reviving agrarian political economy in contemporary contexts of land grabbing (for example, see special issues 38(2), 39(3-4), 40(3)). To date, however, there has been limited consideration of the regional scale as a framework for such analysis, and it is to this that we now turn.

LAND GOVERNANCE: A REGIONAL ISSUE?

There are several dimensions of land governance that make it a regional issue. These can be illustrated as follows, with reference to the Mekong Region:

- The regional scale has relevance in mainland South-east Asia in terms of common agrarian structures and social ecologies of land-based production, intertwined regional histories of agrarian change, and subjection of local livelihood systems to region-specific influences, dynamics and actors that shape land governance and contestation.
- An overarching political-economic commonality in the CLMV countries is the historical shaping of land relations by various forms of socialist use, management and tenure arrangements, followed by dynamics around State power that are unique to post-socialist, and (in some cases) post-conflict, economic and political structures and processes. In turn, the post-socialist and post-conflict contexts establish particular dynamics and areas of ambiguity between public and private interests in land use, tenure and governance.
- In the Mekong Region, cross-border investment and commodity flows, shaped in part by the complementary factor endowments in land, labour and capital, link land-based production across the regional landscape. This sets the context for foreign direct investment (FDI) in land for agriculture or activities such as energy production, industry, mining and tourism development. FDI is also closely linked to regional geo-political agendas, most topically (and notably) China's interest in multi-stranded engagement with Mekong Region countries in ways that combine economic and strategic interests (Burgos & Ear 2013).
- Land-based investments are often located at or near borders (for example, Special Economic Zones (SEZs). Agribusiness concessions also prevail in border zones, where FDI flows across borders in a variety of ways.
- Land-based investments are promoted by regional initiatives such as the Greater Mekong Subregion (GMS) economic corridors and associated cross-border infrastructure, or by the anticipated ASEAN Economic Community (AEC). Large agro-food conglomerates also shape regional economic integration agendas, as in the case of Sino-Thai Company CP Group's Vice-Chairman who was involved in preparing legislation for the Ayeyarwady-Chao Phraya-Mekong Economic Cooperation Strategy, or ACMECS (Woods 2015). There is also a more general political economy of borderlands in which land and agrarian change are significant elements (Rungmanee 2014).
- Various organisations with a regional frame of reference (e.g. The Center for People and Forests (RECOFTC) and Focus on the Global South) are involved in "countermovement" land-based initiatives, such as community forestry or advocacy for communal land titling. There are various instances of governance and policy advocacy supported at a regional level, often as part of global initiatives - for example, the significant involvement of Focus on the Global South in developing and promoting the use of the Voluntary Guidelines on the Responsible Governance of Tenure (FAO 2012).
- There are many aspects of changing land use in one country that have environmental (e.g. smoke haze), social (e.g. labour migration, see Kelly 2011) or economic (e.g. via commodity chains and associated transnational credit arrangements through contract farming) implications for neighbouring countries.
- While dynamics play out in ways specific to each individual country, there are trends and processes which are common to some or all countries, such as the adoption of neoliberal policies aimed at turning land into capital, creating efficient land markets, and formalising land by means of titling programs.

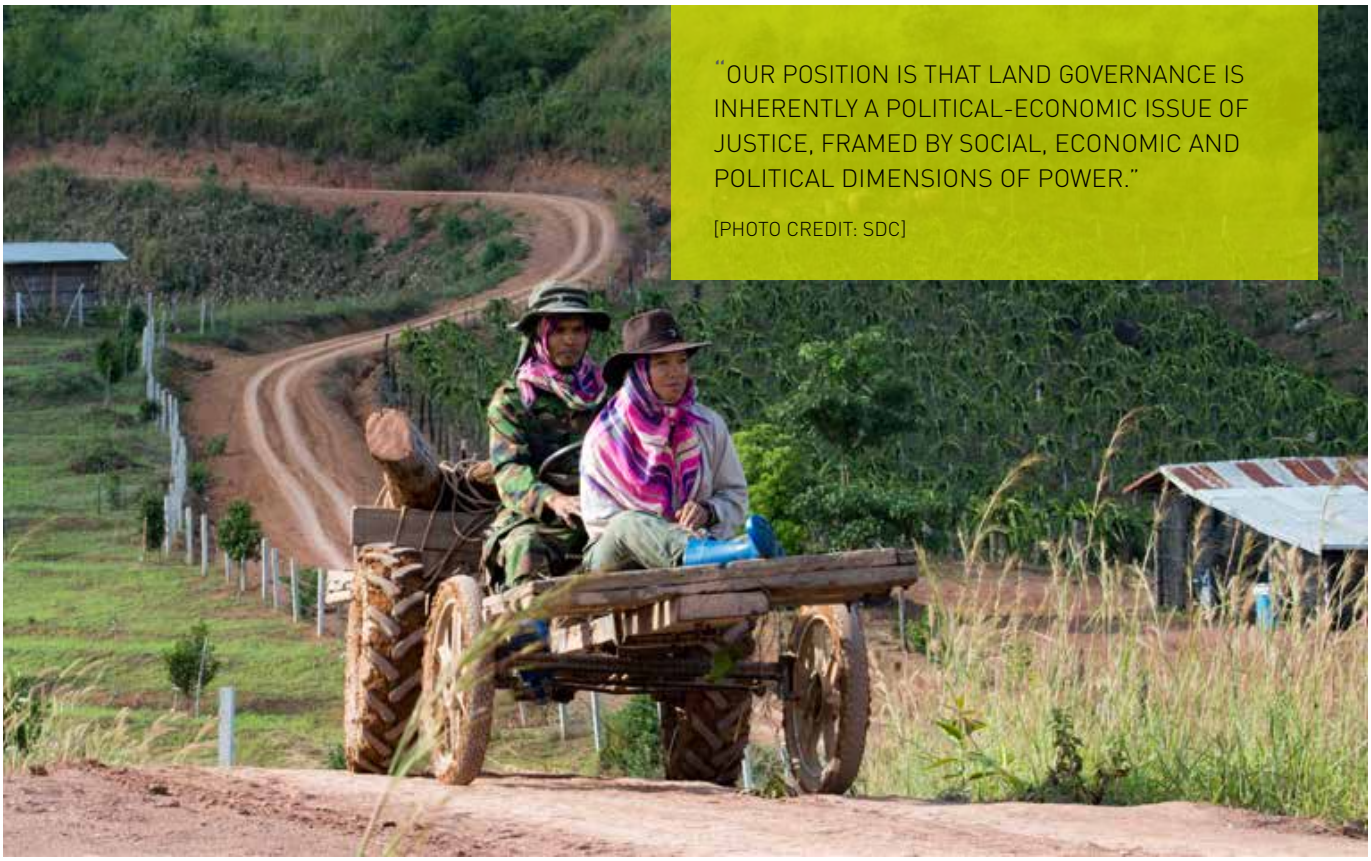
GEOGRAPHY OF LAND USE AND LAND RELATIONS IN THE MEKONG REGION

Each of the CLMV countries is geographically and agro-ecologically diverse, and the land issues faced historically and at present vary considerably across the national territory of each country. At the same time, we can see similarities in land issues in similar zones across countries; for example, in delta regions, lowland agricultural valleys, and upland zones where shifting cultivation has predominated historically, peri-urban zones of transition and so on.

In Delta areas, there is a history of commercialisation that makes characterisation of multi-generational peasant smallholding problematic (Mizuno 2011). The Ayawaddy and Mekong Deltas are both quite young in terms of expanded rice production that forms the basis of the export economy on which colonial prosperity was built. These areas also saw an early development of landlordism. The unequal land relations, heavy indebtedness, and rates of landlessness that characterise these areas set some of today's land governance parameters, with particularly high rates of landlessness of up to 60 per cent in the Ayawaddy Delta (Bountry et al. 2015).

Upland areas have been marked by the attempts of centralised states to regularise agriculture, as well as increase the legibility and permanence of settlement. Throughout the region, shifting cultivation has, until recently, been the dominant agricultural practice in upland areas, most of which has historically been settled by ethnic minorities. For a range of reasons, authorities throughout the region have taken a dim view of this practice (Cairns & Garrity 1999; McCaskill & Kampe 1997; Scott 2009), and a combination of forestry and land legislation has rendered it illegal. Furthermore, because shifting cultivation is premised on a fallow cycle, seemingly unused land has been ripe for grabbing, particularly as shifting cultivators are often unwilling to declare it as agricultural land for tax purposes. As various land and forest allocation programs have engaged in land use planning and zoning, fallow areas have been restricted and given over to concessionaires, creating a significant process of impoverishment among mostly ethnic minority upland cultivators (Chamberlain 2007).

Peri-urban areas provide particular challenges in terms of land conversion. Demand for non-agricultural uses of land is high in areas with real estate and industrial development, and land prices have increased exponentially. Where farmers own land and have been able to sell at market prices, they have done very well. Where farmers are tenants (as is often the case), land conversion displaces them from their livelihoods. In some instances, sales and conversion is voluntary. In others, it is compulsory and compensation becomes a key issue. Under Vietnamese land law, State appropriation of land is only permissible where it is required for public infrastructure or social and economic development that is in the public interest – a category that is open to interpretation and challenge. In Laos, the 2003 Land Law allows requisition of land for public purposes or public interest with appropriate compensation (Articles 63, 68 and 71). In practice, "public interest" can be very broadly interpreted to include economic development as an allowable basis for expropriation, even if the development is for private economic gain (Ngaosrivathana & Rock 2007).



"OUR POSITION IS THAT LAND GOVERNANCE IS INHERENTLY A POLITICAL-ECONOMIC ISSUE OF JUSTICE, FRAMED BY SOCIAL, ECONOMIC AND POLITICAL DIMENSIONS OF POWER."

[PHOTO CREDIT: SDC]

Coastal zones face specific types of land pressures. Coastal tourism and coastal aquaculture are both high-value enterprises, which have served to displace and otherwise affect farming communities. Both are polluting activities and, in the case of aquaculture, the external effect of creating a saline environment has had impacts on farmers beyond the areas converted, reclaimed or cleared for shrimp farming. In Cambodia and Vietnam, there have been exponential increases in coastal land prices over the past two decades.

Geography as an influence shaping land conflict is not limited to agro-ecological zones as described above. Another key regional dynamic is the geography of conflict associated with FDI in land and natural resources in border areas. In Myanmar in particular, the combination of an opening up of the country for FDI on cessation of hostilities between the Burmese military and the country's several ethnic-based insurgencies along the Chinese and Thai borders has attracted a burst of investment that threatens to stoke new conflict, as people are dispossessed of their land in favour of the new investors. Leadership on all sides of the old conflicts has been complicit in this particular manifestation of land grabbing (Buchanan et al. 2013; Woods 2011). Border areas also attract other config-urations that result in dispossession, for example, the implementation of opium substitution programs on the China-Myanmar borderlands by means of favoured Chinese investors being given access to land previously under poppy cultivation (Kramer & Woods 2012). Other geographical locations defining specific conditions of land alienation include areas deemed suitable for SEZs, early experience with which has been one of marginalisation - even when such zones are in the international spotlight as is the case of Thilawa in Myanmar (Gittleman & Brown 2014).

LARGE-SCALE LAND ACQUISITION IN THE MEKONG REGION: ISSUES AND INSTANCES

There are many reasons for renewed interest in land in the Mekong Region. Foremost among these is the growing insecurity faced by smallholders resulting from various expropriations, displacements and other instances of dispossession that come under the rubric of "land grabbing". Land grabbing is a global phenomenon but it takes on particular regional characteristics, including the ways in which global players external to the Mekong Region are involved directly (China, Middle-Eastern countries) or indirectly (Europe) in land grabbing (Borras (Jnr) & Franco 2011). The simplifications often accompanying the "land grabbing" narrative and associated global activism suggests that we need a more nuanced approach and, perhaps, terminology. For example, Baird (2014a) argues that what he terms the "metanarrative" of land grabbing hides the complexity and local elite involvement in land seizures in places such as north-eastern Cambodia. Moreover, land grabbing predates the 2008 food crisis that many associate with the phenomenon at a global level.

In a region where smallholders have historically carried out most of the agricultural production, the past decade has seen a rapid emergence of large-scale acquisition of land purportedly for farming and plantations by foreign and domestic land developers. Some of these developers are investors in the sense that they bring capital and technology to enhance the productive potential of the land. However, in many cases developers reap profits through timber extraction and speculative gains in land values, rather than through productive investment. Many of these companies gain access large land concessions by claiming to invest in farming and plantation agriculture.

In the Mekong Region, most land development has been effected through concessions, which are long-term leases granted at (often) low annual per hectare rents. The land allocated for concessions is a combination of forest land and cleared land that is, in principle, available because it is deemed to be un(der)utilised or illegally occupied. Many concession deals are carried out by higher levels of government without specific demarcations of territory. It is then left to the lower levels of government to "find" available land (eg Kenney-Lazar 2012: 1025). In practice, most concessions occupy land and forest areas that are important for the livelihoods of smallholders, hence the characterisation of the concession process as "land grabbing".

The extent of land concessions in the Mekong Region is difficult to gauge, but several inventory exercises have been carried out in Cambodia, Laos and Myanmar (Affeld 2014; Schönweger et al. 2012; www.licadho-cambodia.org/concession_timelapse/; opendevelopmentcambodia.net). In Cambodia, 2.6 million hectares – or 15 per cent of national territory – were held in 2012 under large scale concessions granted to national elites with investment support from Chinese, Vietnamese, Thai as well as Middle Eastern and Singaporean investors (Colchester et al. 2013: 3). Significantly, the crops being grown are mainly for export to other countries including sugar to the European market. This has provided opportunities for advocacy with large corporate buyers such as Tate and Lyle and the scoping of Corporate Social Responsibility into the land governance discussion. In March 2013, pro-bono lawyers representing families affected by the Koh Kong Sugar Industry Concessions in Southwest Cambodia filed a law suit against Tate and Lyle in the UK Commercial Court, opening doors for potential future litigation in courts outside the region (Middleton 2015).

Citing government figures from 2014, a FAO report notes that five million hectares have been approved for land concessions by the Government of Myanmar, of which only 20 per cent have been developed (Srinivas & Hlaing 2015: 28). Meanwhile, Schönweger et al (2012) has found that 1.1 million hectares in Laos are under concession, representing five per cent of national territory and an area larger than the total under paddy production in the country.

In Laos and to a lesser extent Cambodia, the concessions involve regional investors from China, Thailand and Vietnam. In Myanmar, Chinese and Thai investors predominate. In both Cambodia and Myanmar, wealthy and powerful domestic investors also hold concessions, in most but not all cases, with financial and co-investment support from foreign backers. In Vietnam, there have not been large concessions to private landholders. Most large land and forest enterprises in Vietnam's uplands are run by state enterprises. However, these have become increasingly corporate in character.

Resource development projects (dams and mines in particular) are another form of land grabbing in the Mekong Region. Resettlement schemes for people displaced by such projects are often inadequate. Compensation for acquired housing, land and other assets are often below market rates, or based on unequal land-for-land arrangements. Most projects are private or public-private partnerships, which means that land is being taken from small farmers to make way for profitable energy investments by Chinese, Thai, Vietnamese and other overseas investors. Sometimes these are partnerships involving State-owned enterprises or are with companies owned by influential national tycoons. The main national investor of the Lower Sesan 2 Dam in Cambodia is the Royal Group. This company has been implicated in urban land dispossession and is owned by wealthy businessman Kith Meng (LICADHO 2009; ADHOC 2014). The logging concessions associated with reservoir clearing in preparation for dams are granted in a non-transparent manner and often involve top government officials with links to military logging companies. There is also a documented association of forest concessions with "dirty money" laundered through such projects (Baker & Milne 2015; Milne 2015).

Land grabbing in the Mekong Region is not limited to land concessions for agriculture. Land has been compulsorily acquired for infrastructure development (e.g. for roads, railways and urban developments). There are two interrelated factors that have exacerbated the grievances associated with compulsory land acquisition for public infrastructure, to the extent that it is perceived not very differently from a land grab by those expropriated. The first is the reservation of areas deemed important for future development, which takes place in socialist systems where land is held to be the property of "the people" as a whole. For example, if we think about a strip of land of, say, 25 metres on either side of trunk roads, individuals are not allowed title on this land. This means that the State can avoid the need for expensive compensation payouts later on. Second, some of the infrastructure deals, such as the 450-year road in Vientiane (http://www.laolandissues.org/tag/450-year-road/), involve trade-offs whereby the investor provides infrastructure in return for land development privileges. State authorities sequester land from farmers, with compensation at low agricultural land rates or based on very unequal land-for-land arrangements. The developer then has the on-selling rights of land at greatly inflated prices for residential, industrial and commercial development facilitated by the transport infrastructure.

Land acquisition has increasingly become entwined in environmental governance, with large tracts of land acquired for national parks and conservation zones. These protected areas are often considered as land for the public good, but have often resulted in dispossessions of smallholders from their land (in the case of Thailand), or other exclusions from accessing local resources. Nevertheless, it is common in Cambodia to see the government grant economic land concessions to private companies (as well as social land concessions for individual ownership) within protected areas, following an opaque process whereby "public state land" is re-gazetted as "private state land" (ADHOC 2014; Diepart 2015).

"CROP BOOMS UNDERLIE ANOTHER KEY DRIVER OF LAND GRAB-BING AND ASSOCIATED LAND DISPUTES: THE BOOM IN THE COMMODITY VALUE OF LAND BEYOND ITS PRODUCTIVE POTENTIAL."

[PHOTO CREDIT: RAEWYN PORTER]

A particular regional concern with "green grabbing" is the perceived impact of Reducing Emissions from Deforestation and Forest Degradation (REDD+) projects. REDD+ projects are sometimes associated with the potential for speculative forestland acquisitions on forestlands with insecure land tenure, particularly in areas classified as the national forest estate. This has been a concern in Cambodia, for example. However, there are also openings for REDD+ initiatives to be used as a catalyst to entrench smallholder tenure and to serve as points of leverage in securing land and associated resource rights. This would require a shift in mindset that currently sees smallholder agriculture, and particularly shifting cultivation, as the driver of deforestation to the neglect of industrial plantation agriculture (Baird 2014b; Dwyer & Ingalls 2015).

Finally, SEZs involve the confiscation of land from smallholders to provide inexpensive sites for investors in manufacturing enterprises. There has been a proliferation of SEZs in the CLMV countries as each has sought to attract investment in a competitive regionalised economic landscape, resulting in 334 zones to date (Walsh 2015: 4). These zones "privilege capital over labour" (ibid: 2) and facilitate access to land for factory investors. Most of these (for example, Dawei in Myanmar and Savannakhet-Seno in Laos) are at or near borders, and are associated with regional transport infrastructure such as the Asian Development Bank East-West Corridor and its associated highway and bridge projects (Transnational Institute 2012). In other cases, SEZs are located near cities and involve displacement of landholders from highly productive plots, often to greatly inferior land in less accessible areas (Gittleman & Brown 2014).

PUSH AND PULL: KEY DRIVERS OF LARGE SCALE LAND ACQUISITION IN THE MEKONG REGION

There are several recent and current drivers of large-scale land acquisition at the regional level. From a political economic perspective, these drivers can be considered as "push" and "pull" forces. Push forces include capital from neighbouring countries in search of profitable land deals (based on global demand for particular products), transboundary resource development that takes account of unequal factor endowments within the Mekong Region, and regional initiatives, such as transport corridors associated with the GMS program. Pull forces include the provision of land as concessions, usually in the form of long-term leases, by national and local governments. These forces are strengthened by the associated ability of authorities to define land as empty, underutilised or illegally occupied, providing a legitimating power of exclusion (Hall et al. 2011). These are also the result of blatant abuses of power combined with very limited access to justice under prevailing state-business-civil society power gradients.

A key driver of land grabbing identified by Hall (2011) is the phenomenon of crop booms. The main boom crops throughout the Mekong Region are rubber, sugar, maize, cassava, bananas and coffee. Some of the crops in question are what Borras et al (2014) term "flex crops", in the sense that they can be used for either food or industrial products, depending on markets and commodity chains. An important aspect of Hall's analysis is that the nature of the "grab" generated by these booms is highly contingent on the crop itself, the political-economic landscape within which the land conversions occur and the extent to which the boom crop development works within or disrupts existing property relations. Crop booms commonly result in land grabbing in places where land tenure is not secure. The grab is not always done by large players at the expense of smallholders. In the Vietnamese Central Highlands or in north-eastern Cambodia, for example, ethnic majority smallholders displace minority shifting cultivators from their lawnds through a range of market-based and more forceful means.

Crop booms underlie another key driver of land grabbing and associated land disputes: the boom in the commodity value of land beyond its productive potential. With international interest in land concessions and commercial production pushing the demand for land far beyond the demographic pressure for food production, three of the four CLMV countries have over the past decade seen a rapid switch from land being an abundant resource (relative to population), to land being a limited and scarce commodity. Following global trends, this has made land a speculative asset. Many concessions for plantations in Burma and Cambodia, and to some extent in Laos, remain un- or under-exploited for their agricultural potential, suggesting that the value to investors is speculative rather than productive. Another explanation is the abuse of concession mechanisms to extract timber, making investments in land a highly profitable venture in the short term.

At a discursive level, the strong modernist ideological backing for land deals serves to legitimise land grabs in the Mekong Region. This narrative is built on a number of assumptions of the superiority of large scale, industrial-type production based on regularised wage labour arrangements taking advantage of presumed economies of scale. These assumptions, which are challenged, yet persist in influencing policy-setting, include that:

- FDI is a prerequisite for economic development
- large-scale agriculture is more efficient than family farming
- privatising land increases productivity by facilitating investments
- "backward" farmers – especially ethnic minorities – should become wage workers to hasten progress, and
- there is sufficient labour demand in the modern economy to provide jobs to those exiting unproductive smallholder agriculture (Castellanet & Diepart 2015).

A number of region-wide overview studies examine the broad factors shaping land grabs (eg Rock 2004; Rutherford et al. 2008; Borras (Jnr) & Franco 2011; Colchester et al. 2013). Borras and Franco (2011) use three case studies from Southeast Asia, including one from Cambodia, to show how multiple external players are complicit in region-specific land grabbing, which occurs not only through granting and acquisition of land concessions, but also through demand for particular products (in this case sugar), directives on renewable energy that promote biofuels, and banking capital behind the larger investments. These broader drivers of land grabbing suggest that governance reform needs to look beyond the land policy framework within individual countries and look at markets and regulatory arrangements at a distance from the site of grabbing. This is in line with what Sikor et al (2013) refer to as a shift in global land governance from "territory" to "flows", where governance across borders is enacted through control over flows of goods produced on land, rather than direct control over land as territory.

HISTORICAL INFLUENCES ON THE POLITICAL ECONOMY OF LAND GOVERNANCE IN THE MEKONG REGION

Certain strands tie together the histories of the CLMV countries in ways that help us understand contemporary land governance in these countries. In particular, colonial experience and experiments with various guises of socialism are fundamental to understanding the political economy of land in the reflexive sense outlined earlier. That is, while structures of power shape land relations, land itself has been integral to the political-economic evolution of the countries in question.

COLONIAL AND POSTCOLONIAL INTERVENTIONS

British (in the case of Myanmar) and French (in the case of Cambodia, Laos and Vietnam) colonisation established a number of conditions that continue to resonate today. The first land law in Burma was enacted under British rule in 1894 (Land Acquisition Act). Civil society groups continue to refer back to this legislation as a precursor for today's land appropriation by the State (in the name of the public good), while at the same time noting that the law is selectively applied – for example, it is used to justify expropriation, but its compensation provisions are not followed (Ta'ang Student and Youth Organization 2011: 28).

One of the more significant colonial governance measures concerning land that has resonance today involves the creation of the category of "Wastelands" (Ferguson 2014). This notion of wasted, unused or underutilised lands of little ecological or economic significance is fundamental to the ethos of granting land concessions. While the rules and specific laws vary from one country to another, the categorisation of land as "wasted" or underutilised helps to make it "available" for productive investment in the eyes of the state. Ferguson discusses how the governmentality of territorialisation has been adapted by military actors in Myanmar (ibid). In land-constrained northern Vietnam, "wastelands" have traditionally been a safety valve for the poor, but came under the control of village elites under French rule (Kleinen 2011).

In colonial times, land concentration was a significant concern. This was facilitated through the introduction of private property rights. Concentration occurred partly in the more prosperous and commercialised areas where profits were to be made and landlordism developed – often building on pre-existing patterns of village hierarchy. It also occurred in upland areas where rubber and other plantation crops were grown on European-owned estates, often on so-called wastelands that were carved out of shifting cultivation systems. Alternatively, land was acquired for colonial forestry purposes through expropriation of fallows in the rotational cycle (the taungya system in Myanmar).

Anti-colonialism took access to land as a key revolutionary rallying issue in Burma and Vietnam in particular, due to the high rates of landlordism, usury and landlessness in core rice growing areas of these countries. "Land to the tiller", or vernacular versions of the idea, were based not only around the expropriation of land by colonial authorities and entrepreneurs, but also against comprador classes of local landlords whose land-based wealth and prestige had often flourished under colonial rule at the expense of subaltern groups. The attraction of socialist ideas as spearheads of anti-colonialism was thus based in significant part on questions of access to land.

Finally, land reform has been an ongoing land governance agenda since the transition from colonial to postcolonial rule. In the states that made a rapid switch from colonial to socialist rule (notably North Vietnam among the countries discussed here), land reform was the first key step in a move toward collectivised tenure and management. Elsewhere (notably South Vietnam), land reform was a pre-emptive countermovement to attenuate the landlordism that was seen to be fuelling support for the Communist cause among the majority landless and land-poor rural poor.

LAYING OUT THE TURF: POST-SOCIALIST AND POST-CONFLICT CONTEXTS OF LARGE-SCALE LAND ACQUISITION

The history of access to land as a rallying point in anti-colonial movements and socialist experiments emanating from the post-colonial period in the CLMV countries, transcends into a particular set of overlapping post-socialist dynamics in the current political economy of land governance across the region. Appendix 1 presents a timeline of key periods and transitions in the land history of the CLMV countries and of the Mekong Region as a whole. Here, we summarise briefly the background to this post-socialist context.

In northern Vietnam, land was redistributed away from landlords to poorer tenant farmers in what was later viewed as excessively zealous and often violent expropriations during the mid-1950s. The formation of cooperatives extended from the early 1960s into full collectivisation, whereby land was held and farmed on a fully socialised basis. Following unification of Vietnam in 1976, the collectivisation of land extended to the Mekong Delta and other parts of southern Vietnam. By the late 1970s, it was clear that what had, to an extent, worked in the Red River Delta when the country was on a war footing, was having disastrous results during peacetime. Throughout the country, peasants' aspirations were to produce securely for their families, rather than to cultivate voluntaristically for the wider good (Dao The Tuan 2007). Quite pragmatically, commune and state authorities responded to "fence breaking" actions by smallholders through policy changes (Kerkvliet 2005). In 1986, the Doi Moi (renovation) policy set the framework for a market-based socialism that would usher in Decree #10 in 1988 giving individual rights for households to farm. From 1993 onwards, these were long-term lease rights that could be inherited, bought, sold and mortgaged (the so-called "red book", or land use right certificate (LURC).

In Laos, after the Lao People's Revolutionary Party took power in 1975, the experiment with collectivisation was even more short-lived/limited. Only about a quarter of the country's farmland was collectivised, even though official policy was for fully collectivised production. By 1978-1979, it was clear that this experiment had failed (Evans 1995; Ducourtieux et al. 2005). As in Vietnam, there was a strong push for each province and district to produce rice sufficient to support its population. With the New Economic Mechanism from 1986, market-based production gradually took hold, but in a country where most farming was still being practiced on a subsistence-oriented basis, where land was still relatively abundant, and where there had been a high rate of population displacement during the bombing and civil war from 1964-1973. As a result, and in contrast to Vietnam, individualised production was not closely associated with longstanding claims to land in many parts of the country.

Cambodia went through the most fundamental upheaval in socialisation of landholding during the post-1975 period. The extreme Maoism of the Khmer Rouge not only forced people into large scale communalised production, but it displaced them geographically from where they had previously farmed. The family unit and any association that such units had with land were dissolved. While this tragic and violent experiment lasted less than four years 1975-1979, it had been preceded by five years of upheaval and fighting across the Cambodian countryside from 1970. Following the ousting of the Pol Pot regime, agricultural production remained partially socialised through "solidarity groups" (krom saamakhii) through the early to mid-1980s. The civil war that afflicted the country until the Paris Peace Accords in 1991 (extending until 1998 in some north western regions), meant that the break between people's pre-1970 patterns of land holding and their post-conflict tenure was all the more complete. Ironically, there are considerable continuities in the ways patronage, State authority and markets have shaped agrarian relations to the present (Diepart & Dupuis 2014).

"IN LAOS, MYANMAR AND VIETNAM, THERE REMAIN SIGNIFICANT CONSTITUTIONAL LIMITS TO INDIVIDUAL – AND THEREFORE SMALLHOLDER – RIGHTS IN LAND."

[PHOTO CREDIT: SDC]

In contrast to the Indochinese ideological practice that drew on Soviet- and Chinese-influenced precedents, in Myanmar the advent of the Ne Win government in 1963 saw a regime committed to "The Burmese way to socialism" that imposed quite a different model. The strategy focused on self-reliance, establishing farming cooperatives and collectives and placing quotas on farmers for provisions to the State. Generally, it was an inward-looking economic strategy.

While these histories of socialised agriculture and political economic configurations are now a generation behind us, the post-socialist and post-conflict context remains fundamental to understanding the political economy of land governance in a number of respects. These dynamics are briefly outlined in the following paragraphs (see country-level reports for a more detailed examination of how history has shaped post-socialist dynamics in land governance within each CLMV country).

In Laos, Myanmar and Vietnam, there remain significant constitutional limits to individual – and therefore smallholder – rights in land. While in all countries there are provisions for individual land holdings, in the one-party states of Laos and Vietnam the constitution stipulates that land is ultimately owned "by the people" as a whole and managed in trust by the State. In Laos, a new national Land Use Policy has been hostage to deliberation over a Lao constitutional amendment that may redefine land as state property, but there are strong interests within the Politburo to retain its current ownership status by the Lao people as a whole. In Myanmar, all land and natural resources are constitutionally owned by the State (Article 37). While there are constitutional provisions for private ownership in Cambodia through fully transferable land title, there are also concerns that, by default, the majority of remaining unsurveyed and untitled land remains the property of the State, facilitating the granting of concessions on that land (Dwyer 2015).

Thus, there are considerable ambiguities in the CLMV countries over the extent and meaning of public and private domains in land and related resources. With ambiguity comes negotiation, and the ability of State gatekeepers to derive private benefit in non-transparent land deals. During the period of decollectivisation, many public goods – including land – were privatised. In Vietnam, it was often Party cadres who took advantage of their gatekeeping position and access to knowledge to acquire collectively-used land and other assets as private goods. In the more recent land grabbing context, the continuing status of land as national or state property eases the process of concession granting, particularly where land has been zoned in such a way that fallow areas, grazing land, secondary forest and other supposed "wastelands" can be appropriated as vacant.

The issue of "wasteland" categories and associated discourses in support of land appropriation is certainly not limited at a global level to post-socialist and post-conflict societies. Nevertheless, in CLMV countries, the notion of underutilised lands gains an extra cadence from the ideological push for modernisation away from "backward", "inefficient" and even "undisciplined" peasant production toward a modernised set of labour relations found, for example, in the transition from shifting cultivation to plantation labour. This is deeply implanted in the ideological stance of socialist modernisation. The rhetorical traditionalism found, for example, in Thailand's sufficiency economy program where the espousal of the King's philosophy includes sometimes atavistic or romantic subsistence ideals, is not part of State discourse in the CLMV (post)-socialist states. The discourse here draws on neoliberal rallying calls to "turn land into capital" (de Soto 2000). However, in the case of Laos, there is a clever discursive transformation away from the idea of rural smallholders turning their most valuable asset into a household level wealth-generating engine. Instead, the policy drive is to turn a purportedly land-abundant country's asset into national wealth through expropriation (cf Barney 2009).

In all four countries, we see configurations of political economy in which neoliberal projects in land are enacted within authoritarian polities. The nature of authoritarianism is quite specific to each country, and there are ebbs and flows in the closing and opening of spaces for challenge to rights abuses. Vietnam, once considered one of the more authoritarian states in the region, now has significant openings for mobilisation on certain types of land issues – notably issues associated with compensation processes and alleged corruption in peri-urban and densely populated, agriculturally-productive delta areas. Land issues associated with unrest and displacement among ethnic minorities in the Central Highlands remains highly sensitive. In Laos, land grievances dominated a hotline set up by the National Assembly in 2011-2012. However, since late 2012, land issues have become extremely sensitive and civil society groups have been reticent about raising them (Sombath.org). In Cambodia, media and civil society organisations (CSOs) are quite outspoken on land issues, and the biggest constraint is extra-judicial killing, as well as other forms of violence and threats against complainants, often involving the police (Amnesty International 2008; 2011). In Myanmar, land issues dominate civil society advocacy, and the media has opened up considerably. Nevertheless, activists periodically serve time in jail. The various configurations of "neoliberal authoritarianism" thus frame the broad political economy of state-society relations around land grabbing and governance reform across the region.

CONFLICT AND POST-CONFLICT

War has been a common experience crucial to the histories of land relations in all four countries under consideration. Armed conflict is interwoven with land issues in fundamental ways. First, ideological and political differences at the core of many conflicts are intimately related to societal means of allocating and managing land. The revolution in Vietnam developed on the back of an anti-colonial movement in which the "land to the tiller" claim was a fundamental source of peasant support. The Khmer Rouge rode to power based on an analysis of Cambodian society as one mired in feudal relations over land and power.

Second, land is controlled by the authorities who have the upper hand in a conflict both during and following war. Post-conflict negotiations over territory, demobilisation, authority structures and investing in reconstruction to support peace-building all have implications for how land is managed, by whom, and with what new prospects for accumulation and dispossession. In Myanmar, the longstanding conflict involving armed ethnic movements against the central State are largely over territory. The resolution of such conflict puts land in the hands of the military, which in Myanmar includes not only the Tadmadaw (national army) seizing land for private as well as public purposes, but also the leadership of the armed groups gaining an upper hand in land deals with investors in the post-conflict arrangements (Woods 2010; Woods 2011). In north-western Cambodia, the role of former Khmer Rouge leaders in clearing and allocating land continues to be central to land relations and political inclusion in the carving out of the land frontier (Diepart & Dupuis 2014). Much of the public state land redistributed under the national social land concession program in Cambodia went to demobilised Khmer Rouge soldiers (Müller 2012).

Third, the displacements of war mean that the continuity associated with land tenure arrangements in peacetime are disrupted temporarily, in the medium term, or even permanently in circumstances where populations need to resettle elsewhere. In Laos, about one quarter of the country's population were considered refugees by 1975, and many of these settled in new places at the end of the war. This context of relatively recent settlement and ongoing population movement also facilitates the continuing policy of village consolidation and associated resettlement among ethnic minorities in upland areas (Baird & Shoemaker 2007). The Vietnamese Central Highlands continue to carry the legacy of wartime dislocations, including residual sensitivity to unrest among ethnic minorities who have links to relatives settled in the United States, France and elsewhere and whose disaffection over land issues can easily be construed as bound up with religious affiliation and political loyalty. In Myanmar, access to land and security of tenure are critical to facilitating the return of thousands of refugees and internally displaced people, though they rarely form part of negotiations for ceasefire agreements (Displacement Solutions 2013).

Fourth, post-conflict re-organisation of land relations can be shaped in a number of ways by the history and political memories of struggle (Baird & Le Billon 2012). In Laos, for example, Vietnam's assistance to the Pathet Lao continues to play a role in securing land concessions. The experience of dispossessed communities is also largely shaped by allegiances and alliances made in conflicts a generation or more in the past. Some communities are quite successful in resisting and negotiating dispossession by plantations, while others suffer expropriation of land for hydropower, mining and industrial agriculture with little opportunity for redress in light of historical associations with the losing side (ibid).

POWER CONFIGURATIONS

The political economy of land grabbing and associated land governance is shaped by social, economic and political power. Some of these transcend national borders across the Mekong Region, while others are specific to the configuration of each national system of power and authority. Power configurations can be framed in terms of actors and by the nature of interactions between them, as is discussed below.

ACTORS

Across the region, key actors exert power and make the decisions that lie behind land grabbing and attempts to respond to it.

PRIVATE AND STATE-OWNED COMPANIES

Developers of land that is deemed to be "grabbed" include a relatively small number of very influential companies, and a much larger number of smaller players. A significant proportion of FDI in plantation agriculture is sourced from Vietnam, Thailand and China. Large players include the privately-owned Vietnamese company, Hoang Anh Gia Lai (Kenney-Lazar 2012) and the state-owned Vietnam Rubber Group. Both have acquired land concessions in Cambodia and Laos, either directly or through powerful business tycoons, and both are partly capitalised by Deutsche Bank and the International Finance Corporation (Global Witness 2013). From Thailand, the Mitr Phol sugar corporation has been behind some of the more controversial land deals in southern Laos and south-western Cambodia. Other less prominent investors are also involved in more subtle forms of land acquisitions. Chinese investors in banana cultivation in northern Laos, for example, tend to be smaller companies and private investors that engage farmers in contract farming and land rental arrangements, either directly or through provincial or even district authorities (Friis 2015).

Investments in the oil, gas and hydropower sectors, as well as in agriculture and forestry, are often undertaken by State-owned Enterprises that are wholly or partially financed by governments in the region, including China, Vietnam and South Korea. State firms can operate differently to private firms in that they are essentially arms of foreign policy which lead to different investment decisions, such as decisions based on "national interest", compared to firms that follow exclusively profit-oriented imperatives. State-supported investments tend to be oriented towards longer-term goals, such as securing access to energy rather than short-term profit (Buchanan et al. 2013). In some cases, policy-driven corporations may benefit from direct government support in securing a project through government-to-government negotiations or interventions. Policy-driven corporations may also have an easier time of securing project financing, especially when it is provided entirely or in part by a State-owned bank or financial institution (Üllenberg 2009).

BUSINESS ELITES AND TYCOONS

In Cambodia and Myanmar in particular, tycoons and prominent figures are important actors in land grabbing, both in their own right and in collaboration with foreign investors. In Myanmar, connections with the military are important, while in Cambodia the most prominent tycoons have close connections with the ruling Cambodian People's Party (Milne 2015; Global Witness 2007; 2015). In Laos and Vietnam, wealthy business figures have emerged and tend to have strong Party connections. However, as one-party states, the relationship is based less on patronage and more on relationships built around corruption and gatekeeping. These private bases of power built on relationships with public authorities are discussed below in reference to interactions inherent in land deals.

STATE ACTORS

While a significant part of the literature on land grabbing refers to "the State" as complicit in land deals that dispossess citizens, states are in fact variegated and complex. Following national legislation that provides threshold requirements for approval of land deals of different sizes at progressively higher levels of government, many of the larger land deals are done at the national level, with the responsibility for finding land then devolved to local authorities. In other cases, local authorities have done numerous cross-border deals without reference to higher levels of government, which has had the effect of making inventories of land deals extremely difficult. Furthermore, there have been many cases of overlapping deals (LICADHO 2009) as different levels of government have acted without reference to one another. The granting of concessions often contravenes national policy in terms of the quality and topography of land that is granted (Affeld 2014: 8). Decentralisation, a plank of 'good governance' promoted by international donors, often plays into complex centre-periphery dynamics and is subject to elite capture at the local level. At a functional level, much of the land zoning in upland areas has been done by forestry departments, while land administration comes under different ministries. Hydropower dams, mining and SEZs fall under different ministries again. Royalties and revenues, meanwhile, go through ministries of finance. A number of abuses in concession granting, particularly in Cambodia and Laos, results from the lack of coherence of national policies and competing administrative interests between different ministries.

THE MILITARY

The military authorities of the CLMV countries have been significant actors in land grabbing. In some cases, notably Myanmar and Cambodia, military figures are implicated in abuse of authority for private acquisition of land. Military involvement in land grabbing also extends to the seizure of land for military purposes and military protection of influential persons in their seizure of land and other resources from local communities (LICADHO 2009; Woods 2011). In Myanmar, there has been extensive documentation of military confiscation of villagers' plantations, farmland and grazing land, both to make room for new military bases and encampments, and to grow food for soldiers based at these military centres. The problem is especially acute in ethnic minority areas (AASYC et al. 2009). Elsewhere, the military and police provide protection to land concessionaires when force is applied in evicting smallholders to make way for land concessions. In Cambodia, a number of incidents of violence against protesters in defence of their land have resulted in death or injury. More generally throughout the region, military ownership of forestry and other natural resource companies dates back to the post-revolutionary era when militaries had to assist in finding their own operational budgets. The military in all four countries has also had a close involvement with logging.

CIVIL SOCIETY

Civil society actors are concerned with land issues across the region. Of the four countries, Cambodia has the longest established group of non-governmental organisations (NGOs) working on land issues. The most prominent ones include LICADHO, Equitable Cambodia, the Cambodia Legal Education Centre (CLEC) and ADHOC, all of which combine legal challenges, community empowerment through information, and mobilisation around key cases. Human rights is an important framing principle for these organisations (Bugalski 2012). Viet Nam has seen the emergence of NGOs documenting and advocating on land issues, for example, the Land Alliance (Landa). The Land Issues Working Group in Laos and the Land Core Group in Myanmar are based around broad coalitions, including relevant government agencies and individuals concerned for progressive land governance reform in recognition of the conflicts and other problems associated with land grabbing.

DONORS

There is a strong and growing international donor interest in land issues. The SDC supports country and regional programs, including the MRLG project that has supported a state of knowledge review on which this analysis builds. GIZ has a longstanding involvement in land use planning and land administration in the region. Australian Aid has historically played a key role, alongside the World Bank, in land titling programs in Southeast Asia, first in Thailand from 1984 and more recently in Laos. The World Bank has been involved in land titling programs in both Laos and Cambodia, but both of these programs were aborted. This was largely due to the incompatibility between the program principles on the one hand, and the governance arrangements and political economic systems through which they were being administered, on the other. The former was geared at promoting transparent market-based property rights in land devoid of State interference and formalising existing smallholder usufruct. The latter saw unsurveyed land as being reserved for State projects to be handed over to wealthy investors (see Bugalski & Pred 2013). As noted earlier in the paper, there is a tense and challenging relationship between some of the international principles of "good land governance" on the one hand, and domestic political economy on the other. Particularly in the case of land, sovereign prerogative is a sensitive issue for the governments concerned, and donors have to take a cautious approach in imposing universalistic solutions.

INTERACTIONS

By definition, land deals involve combinations of actors rather than individual agencies, companies or government officials. Deals are done both within and across borders. The relationship between particular public and private actors is an important defining element of the political economy of land deals in the region, but it is manifested and represented differently in each country. At one level, the relationship often falls under the generic term "corruption", which can be blatant in some circumstances and much more hidden, nuanced or even quasi-legal in others. For this reason, we refer to public-private interactions in terms more specific to the political-economic circumstances of, and interactions between, the countries in question.

[PHOTO CREDIT: SDC]

In Myanmar, the term "cronyism" is often used to portray the cosy relationship between senior military figures and favoured tycoons. These include prominent figures such as U Htay Myint through his Yukaza Company (KDNG 2010; ALTSEAN 2014). In Cambodia, an important analytical term for the system of reciprocal political and economic favours is "neo-patrimonialism". This term describes the superimposition of modern, bureaucratic instruments of power onto a system of patronage that allows capture of legal and administrative machinery by those in authority and to maintain power through disbursement of favours through various levels (Kimchoeun et al. 2007). Land concessions rank highly among these favours. It has been reported that private investors pay informal fees as part of an economic land concession agreement, a portion of which goes to the party cadres and officials. This revenue is used to fund "patronage-based distributive politics via the provision of services and infrastructure in populated rural areas" (Diepart & Schoenberger 2016: 9). The two main titles associated with senior political/bureaucratic authority (Aek-oudom, or "Excellency") and wealth disbursed for the public purse (Ok-nhyaa) creates an elite network through which patronage is disbursed and political support is cultivated. For example, Ok-nhyaa Senator Ly Yong Phat and his wife Kim Heang received a large concession of 16,751 hectares for sugar cultivation in Kompong Speu Province under the guise of the Phnom Penh and Kompong Speu Sugar Companies respectively (Subedi 2012: 39). Global Witness has documented several other cases linking senior government officials and the recipients of land concessions through a complex web of subsidiary companies (Global Witness 2007; 2013).

In Vietnam and Laos, which are one-party states, the intimate relationship between public and private elites is less blatant. However, in the case of Laos, it has been established (in part) through kinship via intermarriage of influential political families, with wealthy families often having roots in the pre-1975 aristocracy (Stuart-Fox 2006). In Vietnam, private wealth has been accumulated more recently by entrepreneurs – many with strong Party credentials in their family backgrounds. Real estate has been an important source of accumulation for such families in a country without a history of a powerful wealth-endowed core elite. The Vietnamese company Hoang Anh Gia Lao, one of the larger regional land-grabbing enterprises, is a case in point here, having accumulated the capital now being invested across borders in real estate development in Ho Chi Minh City (Kenney-Lazar 2012). In Vietnam, corruption associated with land deals regularly gets reported in the media and is an important issue of concern and discussion within the Communist Party.

There is still a lot of research to be done on trans-boundary political-economic relationships that facilitate the land deals under discussion here, but the research task is challenging given the often murky and extra-legal arrangements and relationships inherent in such deals.

LAND POLICY AND LAW REFORM

Land law and land use policy are a key part of the regional land governance landscape. Legislation in each country has been considered part of the existing problem. For example, the 2001 Land Law in Cambodia provides for economic land concessions (Neef & Touch 2012), and the Vacant, Fallow and Virgin Lands Management Law in Myanmar, passed in 2012, allows for expropriation of smallholders' land for large scale agricultural enterprises (Obendorf 2012). Each is enacted on a country-by-country basis, and each country has gone through land policy and law reform at different times, in some cases through several iterations (see country-level reports for a more detailed analysis of policy and law reform issues in each CLMV country).

There are also mutual influences that transcend individual countries' reform agendas and processes. For example, there are common donor influences associated with organisations such as FAO, SDC, GIZ, DFAT (formerly AusAID), USAID and others seeking to promote progressive policy reform in the land sector. Land policies and laws of countries in the region reflect the diffusion of international legal norms that define the contours of good land governance centred on notions of transparency, participation, accountability and decentralisation, with particularly universalising effects. In some instances these have resulted in common categories, such as provisions for recognition of private land through titling programs, or customary and community-based lands and natural resource tenure. In practice, however, land formalisation processes vary considerably across the CLMV countries. In Cambodia and Laos, international donor agencies have played a significant role in land administration. In Myanmar, donor involvement in land titling is embryonic. Formalisation in Vietnam has been mainly endogenous, following the country's process of responding pragmatically to local practice and preferences (Kerkvliet 2005).

Communal titling also varies from one country to another. For example, the 2001 Land Law in Cambodia recognises communal land, but it sets up a number of hurdles that have made application for such land tenure recognition a drawn-out process. In Laos, communal land is being recognised on a pilot basis, and it is not tied to indigenous status. There is no provision here for different tenure criteria being applied for different ethnic groups (Baird 2013). In Myanmar, customary land-use rights are not formally recognised by the government under the current legal regime (Land Core Group 2009; Oberndorf 2012). A key concern is that without this formal recognition, the land and related laws passed in 2012 will exacerbate land tenure and food insecurity for smallholders, particularly ethnic minority groups who practice shifting cultivation for which land title is not available. Land formalisation experience has thus been specific to each of the CLMV countries. If there are cross-border links, it is the learning from experience of countries that have implemented similar programs. For example, Myanmar is looking to Cambodia's experience in communal land titling.

"SERIOUS RIGHTS VIOLATIONS CONTINUE TO ARISE AS A RESULT OF FORCED DISPLACEMENT AND DISPOSSESSION OF LANDS AND RESOURCES, OFTEN BACKED BY LAWS AND POLICIES THAT FAVOUR AGRIBUSINESS INVESTORS OVER SMALLHOLDER FARMERS AND ETHNIC MINORITIES."

[PHOTO CREDIT: RAEWYN PORTER]

Civil society is increasingly regionalised and when issues such as land concessions involve transboundary flows of capital and other forms of power, NGOs also collaborate across borders. Through various advocacy coalitions, the process of policy and legal reform has involved quite extensive public consultation in each country. International NGOs (often with funding from donors) have played a prominent role in helping support and coordinate consultation processes. The degree of inclusiveness and openness in consultation processes varies from one country to another.

Various laws and regulations in Mekong Region countries grant people freedoms and rights to peaceful assembly, protest, and to contest and appeal decisions through judicial and non-judicial arbitration. However, there has been limited progress in all four countries with regards to access to justice for victims of land rights violations. Serious rights violations continue to arise as a result of forced displacement and dispossession of lands and resources, often backed by laws and policies that favour agribusiness investors over smallholder farmers and ethnic minorities (Amnesty International 2008; Subedi 2012; ALTSEAN 2014; Baird 2011).

Political conditions in the CLMV countries places limits on resistance and public complaint, and determines the avenues and strategies pursued by communities and CSOs in seeking remedy and justice. Land conflicts are more open and confrontational in Cambodia and Myanmar, while in Laos they are more concealed with only non-confrontational forms of resistance tolerated. In Vietnam, increasingly bold direct actions are seen with regards to land conflicts. A growing trend among NGOs, particularly in Cambodia but increasingly also in Myanmar, is the provision of legal aid to help fight expropriation and land seizures on behalf of poor farmers and smallholders. Increased foreign investment in agri-business and other land-based developments have opened up some opportunities for pursuing grievance mechanisms targeting a range of public and private actors at scales and jurisdictions outside of the nation state where land investments are made, including consumer markets.

RESEARCH AND REFORM THEMES IN LAND GOVERNANCE

In this paper we have endeavoured to give a broad overview of the political economy of land governance in the context of concern over land grabbing in the Mekong Region. While this is a field much too large and complex to cover comprehensively in a single paper, we consider it important to understand the deep embeddedness of land issues in the histories and contemporary structures of power that shape regional relations influencing land.

Advocacy for policy reform in support of enhanced security of land access by smallholders, and by women and ethnic minorities (in particular), requires the mustering of a good evidence base and a coherent analysis. From the above review, the four country-level papers on the political economy of land governance in individual CLMV countries, and our broader assemblage of a repository of research materials relevant to land governance in the Mekong Region, it is clear that there is a wealth of existing and available research. There are also key areas in which further research may be pursued strategically, some of which include:

- Research on cross-border land investments, including analysis of value chains, flows of capital, goods and labour at regional scale.
- Regional geopolitics of land investments
- Benefits and costs of plantations - vis-à-vis smallholder contribution to productivity and growth (economic, investment, jobs, food and nutrition security, etc.)
- Commodity chains, value chains and investment linkages that identify points of intervention and certification for better targeted consumer-based governance leverage
- Ethnographic studies that examine the benefits, costs and risks of various private-public partnership models (e.g. contract farming) across various livelihood landscapes
- Action research involving multiple actors that collaboratively set the research agenda

There is a need for sustained and concerted effort for the research and advocacy communities on land issues to think and work together, and for a regional approach to build on and strengthen the busy advocacy coalitions on land in each country of the Mekong Region.

Research provides a fertile and necessary area in which scholars, NGOs, grassroots community actors, government research agencies, think tanks and parts of the private sector can seek to work together in order to support land governance reform based on evidence and on a common analysis of problem areas. Research is also a relatively "safe" approach to fostering informed dialogue among different actors and interest groups around an otherwise highly politicised, polarised and sensitive set of issues. In the longer term, engaged research is an essential element (though not sufficient in its own right) in building a community of technocrats, scholars and activists able to drive policy from within and to create a regional community of professionals with adequate knowledge and understanding of the complex issues involved at different scales. There is already a tradition in the region of research beyond the academic community, for example, in the community-based Tai Baan research approach to water-related development and governance (Stretthachau 2006; Scurrah 2013). In the case of land governance, wide gaps remain between grassroots research initiatives, knowledge generated by think tanks, consultancy reports and academic outputs.

To channel existing and future research into support for progressive reform around land governance, we have identified 12 key themes that emanate from the current political economy of land in the Mekong Region. We conclude this report with a brief overview of each of these themes, providing suggestions on the main reform issues connected with them, and identify key points of ongoing critique and debate in connection with each. A repository of research materials structured around these themes is available at rcsd.soc.cmu.ac.th/mrlg.

KEY LAND GOVERNANCE THEMES

TABLE 1: SUMMARISING OF 12 KEY LAND GOVERNANCE THEMES IDENTIFIED IN RESEARCH MAPPING EXERCISE

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
THEME: LAND POLICY AND LAND LAW		
Land law has a long history in the Mekong Region, going back to the colonial era. In the post-socialist CLMV countries, there has been an acceleration and elaboration of land policy formulation and legislation around land, including laws on investment, natural resources and other related fields. International donors have been heavily involved in law-drafting in some countries. Recent implementation of consultative processes around law formulation reflects the growing role of CSOs. Discussions around law reflect deeper tensions and debates around relation-ships between State and society in the countries in question. A fundamental issue is the extent to which rule of law actually applies in each country.	• Legal reform to increase investor confidence • Providing a basis for secure individual ownership or use rights under titling arrangements • Legal recognition of customary and communal land tenure • Consultative processes in law and policy • Matching compensation policy and practice to market prices for land • Constitutional definitions of rights in land between 'the people' (as collective, State, business entities and individuals • Formation of appropriate democratic and independent bodies to resolve land disputes and processes appeals	Recent land-related legislation is criti-cised for being too heavily oriented to attracting foreign investment, providing certainty for investors at the expense of smallholder security. Recent land legislation in some countries has entrenched regressive policy, for example, on defi-nitions such as "wastelands". Donors are sometimes viewed as being too much "in the driving seat" when it comes to legal drafting and managing consultation processes around land law and policy. The inclusiveness of consultation is open to question. There are continuing disparities and contradictions between rights given in law and enacted through policy on the one hand, and customary rights and practices on the other.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
THEME: LAND GRABBING/DISPOSSESSION		
Land grabbing is an over-arching term that denotes the illegitimate seizure of land from existing users, and sometimes owners, by more powerful commercial or State interests. It is associated closely with new transboundary investments in grain and biofuel production following the 2008 food and energy price spikes. There are many cases of outright seizure of land deemed unoccupied, underutilised or illegally settled by smallholders. However, there are many less clear cut, but nonetheless, oppressive means by which powerful interests have accessed land. In the Mekong Region, there is an investment dynamic that takes capital from China, Thailand and Vietnam to Cambodia, Laos and Myanmar. This is reinforced by structures of political power and vestiges of socialised landholding that dispossess smallholders.	• Moratoria on land concessions • Demarcation of land off-limits to land concessions • Inventory of land concessions • Compensation mechanisms and pricing principles • Transparency in land allocation.	Land grabbing includes appropriation of land for both public and private advantage and, in some countries (notably Vietnam), there is a clear policy distinction between the two. In Laos, Cambodia and Myanmar, on the other hand, land grabbing for private gain has been allowed if it is deemed to promote economic development. The new land use policy in Laos seeks to provide market-based compensation for those displaced, but with rates set by the State rather than by direct negotiation. In Myanmar, military involvement in land grabbing has made the process even less transparent. Critique often focuses on the fact that beneficiaries of land grabbing are foreign investors given advantages over local farmers, but State officials have also received private gain.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
THEME: FDI AND LAND ACCESS: ECONOMIC LAND CONCESSIONS, CONTRACT FARMING, SHORT-TERM AND LONG-TERM RENTING		
A significant part of the renewed land insecurity among smallholders in the Mekong Region is associated with FDI. Much of this investment is in the land and resource rich countries of Cambodia, Laos and Myanmar, and comes from the industrialising countries of China, Thailand and Vietnam. There is thus a strong cross-border dynamic to land based investments. Investment often links foreign capital with tycoons, giving access to land to foreign investors and further strengthening the hand of politically-connected business owners. Investment is in plantations, mines, dams and industrial zones. Often land deals are done before specific areas of land are identified, putting pressure on local authorities to "find" land for investors. Territorialisation has helped make such areas legible, hence identifiable for expropriation. Yet, at the same time, territorialisation remains incomplete, leaving many smallholders in a state of ambiguity and uncertainty.	• Greater transparency in land deals • Moratoria on FDI in the plantation sector • Limiting compulsory acquisition for FDI projects to those with a clear public interest • Legislation linking compensation to market values of land • Giving priority to smallholders in productive use of land, rather than prioritising foreign investors • Local government negotiating on behalf of farmers, rather than on behalf of investors.	Governments in the Mekong Region continue to seek FDI in plantation agriculture as a means to "modernise" agriculture and make use of "unproductive" land. Critique of large scale FDI in land-based production questions the efficiency and productivity compared with small-scale farming. There is confusion between land productivity and labour productivity. There is also obfuscation between private interests associated with transnational land deals and purported public interest that they are supposed to serve. Employment promised by land-based investment is rarely achieved, both in terms of numbers and in providing jobs to those displaced from their land by large enterprises versus imported labour. Tax revenues also fall short of expectations.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
THEME: FDI AND LAND ACCESS: ECONOMIC LAND CONCESSIONS, CONTRACT FARMING, SHORT-TERM AND LONG-TERM RENTING		
FDI also engages capital in contract farming and other relationships with farmers other than straight expropriation. Local and national State authorities often play an important brokerage role in such deals. Such arrangements can also lead to more subtle forms of dispossession, through increased commercialisation and social differentiation.		The potential benefits and costs of contract farming-type arrangements are a key aspect of current debates geared at finding more inclusive development models than that offered by large-scale agricultural land concessions.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
LAND RIGHTS RECOGNITION/ FORMALISATION/ TITLING/ COLLECTIVE		
Land rights and property rights are often confused. Tenure rights derive from societal, customary, political, historical and other forms of recognition. Property rights backed up by land titles may enhance security of tenure, but there are also risks and pitfalls associated with titling – especially if formalisation leads to neglect or undermined tenure security on non-titled land. There are some protections, such as communal land titling, but these also come with risks. Women and ethnic minorities have been disenfranchised by past titling programs, but progressive titling policy can also enhance security for targeted groups.	• Ensuring women's names are on the title deeds • Legislating for and enacting communal tenure • Distinguishing between lack of tenure and lack of title • Recognising, but not imposing, cultural association between tenure systems and ethnicity/indigeneity	Titling programs often lead to polarised positions. The extension of fully transferrable land title is seen as empowering by those emphasising the turning of land into capital by taking advantage of market opportunities. However, land titling is also seen as disempowering by those who see "fungibility" in land as a quick means by which the poor lose their land through distress sales and hence fall further into poverty. Communal title is seen by some to provide protection of indigenous land practices such as shifting cultivation. Others see it as isolating ethnic minorities from market opportunities and ability to take advantage of modern forms of production. There are also debates over the extent to which land titling should spread geographically, in particular its extension beyond urban areas to rural areas where land markets are not widespread, and where a variety of customary land tenure arrangements are in use.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
LAND DISTRIBUTION: CONCENTRATION/ DISPERSION, LANDLESSNESS		
Inequality in landholding is a longstanding issue in land relations and their wider place in the political economy of the Mekong Region. Historically, the distribution of landholdings in some countries and regions within them has been much more unequal than in others. This has been associated with land-lessness and the hunger, destitution and subservience faced by farmers with no other options than exploitative tenancy and/or poorly remunerated agricultural labour. While land reforms have period-ically sought to re-distribute land progressively, land grabbing and other processes seen to have recently reversed the "land to the tiller" ideal. This is complicated by the voluntary move of some farmers out of agriculture, together with the difficulties in measuring land concentration, dispersion and landlessness.	• Conventional land reform through land re-distribution, for example, through social land concessions • Conventional land settlement, but with a constrained land frontier • Checks put on allocation of concessions that concentrate land in the hands of corporations • Farm consolidation following, rather than leading, a move out of agriculture by smallholders • Land banks and other protective credit arrangements that minimise land foreclosure on the part of the poor • Provision for reintegration of refugees and internally displaced persons.	The attraction of capital to productive agriculture has in the past focused attention on landlessness in core rice growing areas such as the four main deltas (Red River, Mekong, Chaophraya and Irrawaddy). More recently, critique of regressive land policy has focused on upland areas where land concessions expropriate farmers' (mainly ethnic minorities') lands deemed to be "wasteland". In the process, livelihood practices are rendered illegal or invisible. This focus on land grabbing as the main source of rising inequality in landholding may hide more "intimate" processes and instances of accumulation and dispossession within villages, between neighbours, in part accelerated by the marketisation of land and other social relations.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
LAND CONVERSION, FOOD SECURITY AND ZONING		
An irony in the land-grabbing debate is that the 2008 food price spike that helped catalyse land deals has resulted in large scale investments in land that convert from food to non-food crops or other uses. Such conversion means that attracting capital into land-based investment has the potential to reduce rather than increase food security. Land conversion takes different forms in different areas. In peri-urban areas the concern is that highly productive paddy land is lost permanently to industrial, residential and recreational uses. In upland areas, forests and complex swidden-based farming systems are converted to industrial crops. The potential of planning and zoning to temper this conversion places tensions between market-based land use choices and socially or politically determined land use strategies.	• Identification of key food producing areas for agricultural zoning • Better alignment of national food security objectives and household-level food security strategies • Assessment of the existing food producing role of lands defined officially as wastelands • Better identification of non-agricultural employment options for those displaced by land conversion for non-agricultural uses in densely populated areas.	In rapidly industrialising Southeast Asia, market imperatives combine with national policy to take some of the most productive farmland out of cultivation in favour of higher value uses. In Vietnam in particular, this is a key area of policy debate. There is a basic incompatibility between land use planning based on crop designation, on the one hand, and market imperatives on the other, which is exacerbated in part by the residual socialist approach to land use planning set within a neo-liberal economic framework. There are also tensions between a production target approach to food security and one based on household entitlements, capabilities and diverse livelihoods.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
MARGINALISED PEOPLE'S LAND RIGHTS AND ACCESS: ETHNIC MINORITIES, WOMEN AND THE POOR		
The poor, ethnic minorities and women suffer marginalisation that is exacerbated by circumscribed access to land and insecurity of tenure. Women have seen customary rights in land weakened by formalisation that privileges officially designated heads of households, who are usually male. Decisions and meetings usually involve men. Land use planning can neglect land-based resources that are primarily in women's work domains. Ethnic minority land use practices (notably shifting cultivation) are criminalised, while citizenship issues and outright discrimination have excluded or displaced minorities from access to resources as majority farmers have increasingly availed themselves of land and other resources in the upland margins. In some cases, security-oriented programs have distanced ethnic minority communities from land and other resources that are the basis of their livelihoods.	• Legal recognition of women's tenure over household land • Inclusion of women in relevant public meetings and decisions affecting land use and tenure • Recognition of ethnic minority land-based livelihood practices in establishing tenure rights based on existing land use • Support for indigenous and other ethnic minority claims to land and farming practices thereon • Appraisal of investment projects with specific reference to impacts on land tenure security for women and ethnic minorities.	Land titling programs have been criticised for potentially marginalising women, but in some cases (e.g. Laos) there are more women's names on title deeds than men's. Nevertheless, there are often discrepancies between customary practice and official registration with regard to gender, for example, in inheritance. Elsewhere, particularly in Vietnam, women continue to be marginalised in formal household-held land use registration certificates. There is thus considerable debate over the gender implications of land formalisation. Similarly, ethnic minorities suffer disproportionate insecurity in land tenure. The reasons for such insecurity are embedded in wider societal discrimination, the land use practices commonly associated with minorities, as well as the incorporation of many minorities into marketised systems that have their own inherent processes of accumulation and dispossession. Simplified representations of marginalisation based on ethnicity and gender are thus subject to challenge.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
DISPUTE RESOLUTION AND ACCESS TO JUSTICE		
Increasing land pressures in the Mekong Region have generated numerous disputes. While many of these disputes are among neighbours, their generation is often an indirect consequence of policies and practices of more powerful actors and the displacements and competition over land generated by its commodification. Access to justice is circumscribed by limited access to legal redress and by the political limits to resistance and public complaint under authoritarian regimes. Land disputes are much more open in some parts of the Mekong Region than others, and legal redress is similarly quite uneven over the regional landscape. It is important to understand the specific contexts of dispute resolution and justice procedures in dealing with each case, and reform measures need to look well beyond land issues per se.	• Freedom from fear of retribution in the case of complaints • Specialised legal assistance for complainants in land dispossession cases • Equality before the law in land disputes • Recognition of customary claims • Sustained and open media attention to land disputes and their causes • Support for advocates of land justice within relevant government agencies • Corporate legal accountability for land-related human rights abuses by private companies and investors • More adequate compensation policies and their enforcement.	There is a continuing climate of fear around land disputes in most Mekong countries. In some cases extra-judicial State violence is the main constraint. In others, it is the influential private actors or military beneficiaries of regressive land policy who are behind the actual or threatened violence. The extent to which the courts can be relied upon for impartial justice is a key issue in all the countries in question. Within civil society, the seeking of justice through formal processes versus overt or quiet resistance continues to set choices that are closely connected with the specific circumstances surrounding each dispute.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
AGRICULTURAL MODERNISATION: KEY IDEAS AND DEBATES RELEVANT TO LAND TENURE SECURITY		
Modernisation is a key ideological underpinning of State development policy throughout the Mekong Region, and is also a basic rationale for regional economic integration. The drive for modernisation is particularly fervent in the post-socialist framework where lingering ideas of socialist modernity combine with a desire for "catch-up" based on a sense of missed decades of economic development. Aspirations for agricultural modernisation translate into land policy informed by key assumptions. These include: the need for FDI to modernise agriculture; the advantage of large- over small-scale farming; that land markets will put farms in the hands of the most efficient producers; that backward farmers should become wage labourers, if necessary, on land given over from subsistence to commercial farming; and that there is sufficient labour demand in the modern economy to provide jobs to those exiting unproductive smallholder agriculture. At the same time, some NGO programs are locked in an anti-modern mindset that is increasingly out of line with rural smallholder aspirations.	• Base assumptions associated with modernity on firm evidence, and if necessary challenge them • Create at least a level playing field to allow smallholders to compete with larger enterprises on an equal basis • Support civil society and educational programs that challenge fact-free claims of modernity-oriented policy initiatives • Support dialogue and debate within civil society on ideological bases for programs and their compatibility with farmer aspirations.	Modernity is a highly polarised ideological field in the Mekong Region. Many NGOs and academic studies have challenged modernist-informed assumptions on which regressive land policies and practices are based, but systematic mustering of data to back up these challenges remains a key task. In part this is because the debate manifests as one of values as much as one informed by facts. Challenges to anti-modernist discourses come from two main directions: Developmental State and commercial programs that accuse NGOs and others of wanting to keep countries and rural people in poor, backward circumstances, and Academic studies that identify gaps between communalist, subsistence-oriented programs for ethnic minorities on the one hand, and aspirations of many rural people for economic advancement within and beyond agriculture on the other.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
AGRARIAN CHANGE AND LAND: MIGRATION AND LABOUR		
Land governance in the Mekong Region operates in a context of rapid agrarian and demographic change. Migration has long been a key issue in land acquisition and governance in the region, but it has switched substantially – although not entirely – away from a mainly frontier-oriented movement of people in search of new agricultural land toward urban-destined movement in search of non-agricultural work opportunities. There is a major cross-border movement of labour from rural parts of the region, largely – but not exclusively – to Thailand. In most parts of the Mekong Region, the rural population continues to grow in absolute terms, even as it declines on a relative basis, but more slowly and with less exclusive employment in farming. Land pressures, dispossession and the growth of a rural-derived proletariat raises questions regarding the number and quality of jobs available in the cities and on land given over to industrial agriculture, plantations and other uses.	• Policies of farm consolidation and mechanisation that follow rather than force movement of labour out of agriculture • Labour protection in the mainly low-paid occupations available to those forced off the land • Value-adding through commodity-chain approach to rural development • Employment effects assessment of new land-based investments • Small and medium-sized enterprise programs geared to rural employment • Migrant support services in destination areas.	While a longstanding rural development objective has been to keep people on the land and away from urban slums, current patterns of agrarian change involve substantial voluntary movement out of agriculture, leading to critique of overly subsistence farming-oriented agricultural support programs. At the same time, modernist State programs to turn land into capital and farmers into labour are controversial and often predicated on unrealistic assumptions about the labour absorption capacity of the industrial sector. Cross-border migration is a subject of ongoing debate, particularly concerning the illegal or semi-legal status of millions of workers in several Mekong countries. The debate over labour is often ethnically charged and is heightened in the context of people trafficking.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
LAND AND THE ENVIRONMENT: POLLUTION, DEFORESTATION, CLIMATE CHANGE, CONVERSATION ZONING		
Land governance has become attached to environmental agendas in a number of ways. The best recognised of these is the cordoning off of forest land for conservation in national parks and other protected areas. In many parts of the Mekong Region, this has become an issue where conservation zones have been declared in areas previously settled, criminalising the largely ethnic minority farmers who find themselves living in such areas. More recently, "green grabbing" has become an issue as environmentally inspired programs such as REDD+ assign recoverable value in forest carbon – giving investors new incentives to acquire rights to forest land that is part of the livelihood domain of smallholders. Other environment-related issues include the pressures places on lowlands – especially delta areas – by climate change, the damage done to soils by industrial agriculture, and the environmental externalities of modern practices that impact on nearby smallholders.	• Co-management arrangements that recognise sustainable agricultural practices within protected areas • Benefit sharing through payment for environmental services • Progressive tenure reforms to ensure that returns to REDD+ go to the rural poor rather than wealthy investors • Adaptation programs in areas vulnerable to sea level rise and other climate change impacts • Setting and enforcement of environmental legislation to control agricultural practices with environmental externalities for surrounding farms.	Debate over the settlement, resource extraction and farming in protected areas continues to pit different civil society groups against one another, depending on their orientation toward livelihoods or more "dark green" objectives. Governments continue to employ protected area demarcation as means of territorial control, while often allowing large scale commercial activity within such areas. Critiques of payment for environmental services are in part based on the institutional and property rights challenges in implementing them, and in part on their neo-liberal basis that marketises "nature" and other values that have previously been off-limits to commercial reasoning. The near-universal under-regulation and under-enforcement of environmentally damaging practices by industrial agriculture in the Mekong Region receives media attention but little government attention to date.

OVERVIEW	KEY REFORM ISSUE	CURRENT CRITIQUE
LAND AND THE ENVIRONMENT: POLLUTION, DEFORESTATION, CLIMATE CHANGE, CONVERSATION ZONING		
Land has long been a basis for social mobilisation in the Mekong Region around issues of justice, inclusion and well-being. Most countries within the region have seen an explosion of civil society complaints, challenges and coalitions addressing intensified land-based disputes. However, the civil society landscape is also quite variegated. In the meantime, bilateral donors are heavily involved in land governance initiatives, recognising the centrality of land as a basis for livelihoods and food security. Foreign NGO and donor involvement in land tenure programs and policy debates raises issues of sovereignty and the matching of programs designed to the political-economic and socio-cultural contexts in which initiatives are being implemented.	• Making space for civil society input into land law and policy • Supporting coalitions for more inclusive land governance • Recognising grievances and creating less potentially punitive complaints procedures • Better alignment of donor programs in the land sector • Donor support for reform actors from all sections of society.	The category "civil society" is itself a topic of debate: should it mainly be focused on NGOs, or should media, educational and other civic institutions and social movements of various sorts also receive attention with regard to their role in land issues? There are also questions of the extent to which foreign NGOs working on land should be considered as civil society initiatives, but in some Mekong countries there is little political space for local organisational mobilisation around land issues. Questions arise over the role and effectiveness of donor-led initiatives on land governance, particularly given the sensitivities over sovereignty on this issue To what extent can development partners become involved in policy advocacy, and to what extent should their role focus on supporting domestic processes for progressive reform?

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APPENDIX

TABLE 1: TIMELINE OF KEY PERIODS AND TRANSITIONS IN LAND RELATIONS IN THE MEKONG REGION

	CAMBODIA	LAOS	MYANMAR	VIET NAM
1830s			British colonise Lower Burma	
1840s				
1850s			Colonial replacement of traditional usufructory tenure in Lower Burma by alienable property rights in farmland	
1860s	Establishment of French protectorate		Settlement and expansion of commercial rice cultivation in Ayeyarwady Delta	French establish control over Cochinchina (southern Vietnam)
1870s			Annexation of Upper Burma, colonial forestry expansion	
1880s				Establishment of French Indochina
1890s		Establishment of French protectorate	Land Acquisition Law 1894	

	CAMBODIA	LAOS	MYANMAR	VIET NAM
1900s			Taungya system in uplands systematically puts swidden domains in hand of Forest Department.	
1910s				
1920s	French rubber plantations established in Kompong Cham	French coffee plantations established on Boloven Plateau	Land registration in lowlands, encouragement of investment in land by wealthy, growing indebted-ness and landlessness in Delta	French rubber plantations established in Lam Dong
1930s	Establishment of land titles, usury, growing landlessness	French interests largely in logging and opium		Growing indebtedness, landlessness and unrest. Nghe-Tinh soviets.
1940s	Japanese occupation	Japanese occupation, Indochina Communist Party but little traction around land issues	Independence from Britain in 1947	Japanese occupation and French return, independence struggle with land as prominent issue
1950s	Independence from France in 1953, little regis-tration of land outside Phnom Penh and a handful of towns KR leaders conduct theses in France in part based on analysis of feudal land relations and land-labour relations during the colonial period.	Independence from France in 1954, little registration of land outside Vientiane and a handful of towns	Land Nationalisation Act 1953 puts land in the hands of the state	Independence from France in 1954, division of country North and South 1954-1956 Land reform "excesses" in North

	CAMBODIA	LAOS	MYANMAR	VIET NAM
1960s		Civil war and US bombing, little activity in the countryside other than USAID rural development projects in selected districts		Collectivisation in North Land reform under South Vietnam regime War leads to heavy disruption of agriculture
1970s	Land Tenancy Act 1963 places limits on land rents, provides for State procurement of paddy and other crops Land seizures from "undutiful" farmers unable to fulfil procurement requirements	Partial collectivisation of agriculture after 1975, unsuccessful and short-lived		1976 reunification and collectivisation of agriculture in South Rapid settlement of Central Highlands by Kinh farmers under New Economic Zones policy
1980s	Continuing lagging of farm sector behind that of neighbouring countries	Return to largely food provisioning through subsistence farming 1986 New Economic Mechanism, start of opening for investment, market-based economy Economy largely based on forestry, rice farming and hydropower		"Fencebreaking", household responsibility scheme 1986 Doi Moi, switch from centrally planned to market economy 1988 Decree #10 allows individual land plots

	CAMBODIA	LAOS	MYANMAR	VIET NAM
1990s	1988 upheaval and repression, followed by opening of the country for business	Land and Forest Allocation Ambitious plan for hydropower development	1991 Wastelands Instruction	1993 Land Law, Red Books
2000s	2001 Land Law Economic land concessions proliferate Some indigenous land titling applications commence, slow progress A small amount of land distributed as part of social land concession program, slow progress. Donor-driven "countermovement" more successful with community-managed forestry, fisheries, and protected areas.	2003 Land Law Land titling, AusAID/World Bank support ends 2009 due to differences with Lao agencies Land concessions proliferate Rising land pressures	Business orientation, continued procurement of crops from farmers dampens agricultural development, sanctions place limits on investment but growing role of Chinese capital in farming	2001 Ethnic unrest in Central Highlands based on land pressures 2003 Land Law Vietnamese companies raise capital through urban real estate dealing, invest increasingly in neigh-bouring Laos and Cambodian plantations

Mekong Region Land Governance

Unit 11, House No. 262, Ban Saphanthong Kang,
Sisattanak District, Vientiane Lao PDR

PO Box 2973, Vientiane Lao PDR 01000
P +856 21 454 807
F +856 21 454 807
E info@mrlg.org