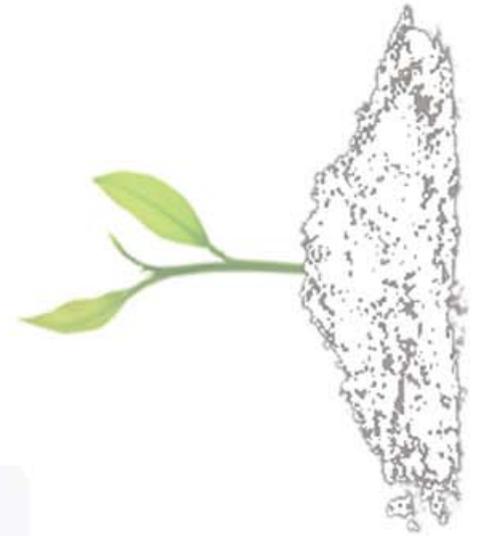


Land Grabbing



Local Action Links (Thailand)
April 2015

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Researcher Team

Danny Marks

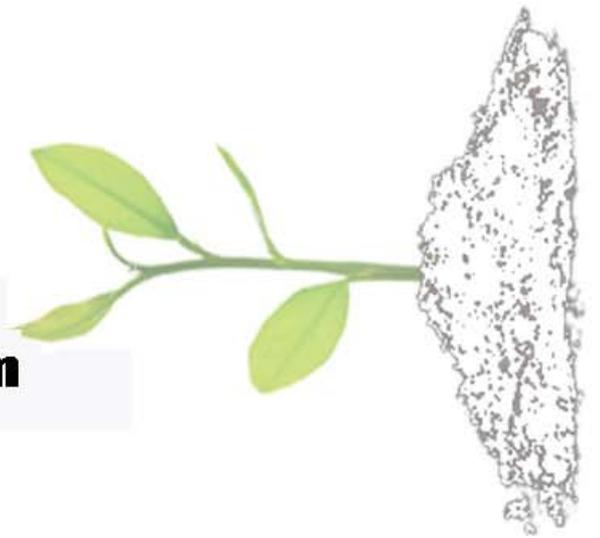
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Land Grabbing and Impacts to Small-Scale Farmers in Southeast Asia Sub-Region

1. Introduction

This paper is part of a research on Land Grabbing in Southeast Asia Sub-Region conducted by Local Action Links (Local Act, Thailand). It aims to study the situation of land grabbing and its impacts on small-scale farmers in 5 countries, namely Thailand, Myanmar, Laos, Cambodia and Vietnam. This paper presents the first report of the study on cases of land grabbing only in Thailand, Myanmar, Laos and Cambodia with the support of Oxfam Solidarity and CCFD.

One of the biggest problems in the Southeast Asia Sub-Region countries, namely Thailand, Myanmar, Laos and Cambodia is land grabbing. For the purposes of this paper, land grabbing is defined as a large-scale acquisition (normally 200 hectares or more) by a corporate investors or government entities through buying, leasing or accessing land in order to produce food or non-food crops or to use this land for extractive purposes, such as hydropower dams and logging. They make these acquisitions for the purpose of increasing supply of goods for domestic and foreign markets or making a favorable return on an investment. The FAO's definition of land grabbing adds that these acquisitions undermine food security in the host countries.

Land grab have caused a number of people in these four countries to become landless. This is because they do not have legal security over the land they live on, some of them living on state-owned land. Others have been being evicted after the state or companies with backing from the state have seized their land. As land-grabbing has become bigger in scale and more systematised in recent years, the number of



people who have been evicted has skyrocketed. Millions of hectares of land have been grabbed and handed over to either foreign or domestic investors. By altering land laws

to favour the interests of investors, national governments have accelerated land-grabbing. At the same time, codes of conduct have mostly been ignored or breached by foreign investors. They have rarely safeguarded the interests of those who have been evicted as a result of these projects and make sure that they are no worse off. Sometimes, their actions have broken laws in both their own countries and the host countries.

Land grabbing disproportionately affects the poor. They are usually the first group to lose their land, often due to distress sales, particularly if they do not possess formal property rights. Large-scale land titling programmes has rarely benefitted them and having customary rights does not protect them much from the law. New sources of livelihood are not easily available because it is normally too expensive for the poor to buy new land in other locations and they often lack the skills needed to work in other sectors.



Land grabbing has become a severe opportunity cost in these countries because these investments in land crowd out investments in other sectors, such as mass manufacturing and services, which could potentially create good jobs and nurture the growth of a middle-class. Further, land grabbing is happening at a time when many developing countries are experiencing considerable growth in mass manufacturing, receiving significant foreign direct investment (FDI) in this sector.

Land-grabbing therefore degrades the governments who have sold and leased the land because they have unscrupulously given higher priority to short-term profits and their own wealth over the needs of their citizens. It also degrades the meaning of

citizenship because it evicts communities who have been living in these areas for centuries without them having a say in this process. Further, it degrades the environment, often poisoning the land, water, and air in these areas. Consequently, land grabbing is egregiously damaging these countries in many ways.

In this section, the report gives a general overview of land grabbing in these countries. First, it discusses land-grabbing in the neoliberal context, detailing how neoliberalism has contributed to it. Second, it details these linkages between global economic activities and land dispossession in these countries. Last it describes the similarities between these countries, including the role of state and non-state actors and institutional arrangements facilitating land grabbing.

❖ **Land grabbing within a neoliberal context**

During the past few decades, neoliberal reforms supported by international financial institutions such as the International Monetary Fund, the World Bank, and the Asia Development Bank (ADB), have facilitated trade, opened up financial markets around the world, and enabled increased cross-boundary investment. As the neoliberal model spread during the past couple of decades, many governments in developing countries, such as in Asia, Latin America, and Africa, reduced restrictions on the export of capital, liberalized their land markets, and set-up regulations to protect private property. These reforms have encouraged both transnational and national actors, including corporations, aspiring wealthy individuals and national governments, to search globally for 'empty' land from which they can profit by growing and exporting crops, logging, building mines, or developing dams.



Mainland Southeast Asia (Cambodia, Laos, Myanmar, Thailand, and Vietnam) is one of the regions where such neoliberal-led investment has been occurring. It has

both countries who desire resources and have significant capital, such as Thailand and especially neighboring China, as well as research-rich but impoverished countries willing to use land for development, such as Cambodia, Laos, and Myanmar. Vietnam is in the middle, poorer than Thailand, but still wealthier than Cambodia, Laos and Myanmar, and therefore its companies, with support from the state, are also turning land into development in its western neighbors and Myanmar.

However, neoliberalism is not hegemonic. Rather, it should be viewed as a process which interacts with local variables and combine together to set the rules and the role of the state, such as in areas of land rights and usage. This is certainly the case in countries like Cambodia and Laos. In these countries, neoliberalism has created opportunities for well-connected government officials to informally influence the market and consequently reap financial rewards personally. For example, in Laos, the Politburo, military, provincial governors and their cronies still play a large role deciding which forests will be logged and which land will be converted into investment projects. In Cambodia, transferring ownership from the public to the private sector, including that of land, was prescribed by international donors to make public holdings more competent and profitable. But due to the country's existing political system, in which Hun Sen and his cronies have centralized power around themselves, this process merely placed these assets in the country's patronage system. The role of corruption in relation to land grabbing will be discussed later.

❖ **Dispossession of land and integration of global economic activities**

A coming together of a number of global crises—financial, environmental (climate change), energy, and food—during the past few years (from 2005 onwards) sparked a rush to grab land, particularly land in developing countries. In particular, the food price spikes in 2007 and 2008 challenged the assumption that food prices will remain low. While prices have decreased since this spike, structural factors driving this high price remain. Simultaneously, constraints on agricultural productions in some countries, such as China and Korea, due to dwindling water and arable land supply, the expansion of biofuel production, and increasing urbanization, has created food supply problems domestically in these countries. This limited food supply, the high price of food, plus the high demand for food, particularly in large countries like China, has been a key driver of the current land grab. High demand in richer countries for other resources too, such as energy, minerals, and wood, which they currently lack have also contributed to the current land grabbing phenomenon. Many governments and private actors from a variety of business sectors, such as mining, forestry, agriculture, and

bioenergy, have thus looked abroad to acquire large chunks of land to build large-scale extractive, agro-industrial projects.



Therefore, globally a new idea has gained momentum: both national governments and private actors should control large landholdings beyond their own country's national borders. For governments, they are seeking to sustain their own population in the future. For private actors, they are seeking to extract resources which are less affordable and available in their home countries.

While large land deals are not new – they have been occurring since colonial days – the sheer scale of the phenomenon is unprecedented in the majority of the recipient countries, including those in mainland Southeast Asia. The World Bank calculated land acquisitions from 2008-2009 and found that the total was 56.6 million hectares worldwide, equivalent to the size of Ukraine. While two-thirds of this land was

in Africa, Southeast Asia was also an important recipient: eight million hectares were acquired in this region during this period.

Three global economic processes have enabled land-grabbing to have occurred on such a large scale: (1) globalization, (2) liberalization and titling of land markets, and (3) the worldwide boom in FDI. As Thomas Friedman wrote, globalisation has made the world a flatter place. New communication and transportation technology has made it possible to communicate, transport goods, and travel long distances quicker. These improvements have made it easier for foreign investors to buy land and export goods in not only distant countries but also neighboring countries. This is certainly the case in mainland Southeast Asia.

Second, the creation of free land markets and the conversion of collective and customary land rights into formal, individual titles have also played a large role fuelling global land grabbing. The World Bank and other development organizations have spent considerable time and money to help set-up land titling systems, such as in Cambodia, Laos, and Thailand, seeking to create transparent and vibrant land markets. However, by systematically commodifying huge swathes of land into the global land market so that their ownership can be more easily transferred, these programs enabled land grabbing on a scale previously impossible. Further, they had negative and unjust distributive effects (detailed below).

Third, during this period, there was a rapid increase in FDI to developing countries, which enabled types of actors to purchase and use of land. For example, in 2007, FDI rose 32% from the previous year to US\$ 500 billion, of which \$13 billion was invested in the poorest countries. FDI can be defined as an investment in a business by an investor from a foreign country for which the foreign investor has a significant degree of control over the company in which it has invested. In numerous instances, FDI can be harmful to the host country because multinational companies seize profits from the host countries for themselves for future investments. Therefore, once the initial investment turns profitable, the capital generated from FDI will often return from the host country to the country where it originated. Also FDI has traditionally relied on natural resource use and extraction without much concern for environmental externalities, thereby spurring environmental destruction in host countries.

While investments from FDI have been directed to numerous sectors during the past few years, much of it has been directed to mining, biofuel production, and agriculture, thereby increasing demand for land. This growth in demand was partially met by governments selling state lands or granting concessions to use land and partially by individuals selling their own land. Many of these individuals sought to profit from

rising prices. However, one problem is that in much of this land the individuals did not want to sell the land but the government and other actors pressured them to do so. Another problem is that in the land sold or conceded by the government, many communities were living there sustaining their livelihoods. In collusion with private sectors, government agencies subsequently evicted them, relocated them to infertile areas, and gave them inadequate compensation.

Overall, as discussed in depth below, host governments, such as Cambodia, Laos, and Myanmar, where the land grabbing is occurring have generally welcomed this increased foreign investment, even though much of their own population lacks food and they are importing environmental harm as a part of these investments. While a significant portion of this foreign investment is between developed and developing countries, another significant portion is intra-regional.

The global land rush has marked a move away from family farming, which has long been the backbone of agriculture in many recipient countries, including in much of the mainland Southeast Asian countries, and towards large-scale, mechanised agriculture. One sector in particular symbolizing this shift and where global processes have impacted land grabbing is the fast-growing tree plantation sector. Tree plantations can be seen as a 'flex crop' or a commodity since trees and forests have multiple uses. They can be used to extract the wood for industrial purposes to foreign countries, especially middle-income wealthy ones such as China and India. At the same, a plantation is useful because of the rising demand for wood chip biofuels, which can be used as carbon offsets. During the past decade, the growth of this sector and the land grabbing associated with it has been discernable. This sector and its associated land acquisitions is likely to enlarge in the foreseeable future.

For example, in Cambodia, the unreliable official database of land concessions of the Cambodian Ministry of Agriculture, Forests and Fisheries shows that at least 108,000 hectares have been granted to local and foreign owned companies aiming to produce sugar, cassava, oil palm and jatropha from 2006-2011. Interest from Plantheon, a subsidiary of the Thai company Charoen Corporation Group, prompted a joint venture between the company and Mong Rethyhy Investment Cambodia Oil Palm Company, a Cambodian company owned by one of Cambodia's wealthiest one, in order to build a palm oil factory which exports its oil to Europe and other Asian countries.

In Laos, foreign companies have been drawn to creating large-scale tree plantations, particularly eucalyptus and jatropha. Oji Paper Company of Japan, and Grasim Birla of India, and Stora Enso of Finland have been granted millions of hectares for plantations. The government also granted several thousand hectares of land to a

Korean company, Kolao Farm Company. There have been accusations of primary forest clearing and logging associated with some of Kolao's plantations. In 2006, a Lao subsidiary of Oji Paper, a Japanese corporation, purchased a 154,000 hectare concession, including 50,000 hectares of degraded forests, and subsequently converted this area to eucalyptus plantations. They hired villagers in this area to cut down the remaining vegetation. After the plantations, while villagers in those areas could earn money from working on the plantations, they lost control of substantial portions of swidden land which they had previously controlled for generations. They were also worried that the Japanese company would take additional land from them. Ethnic minorities, one-third of Lao's populations, are particularly vulnerable because of increasing rates of forest clearance and land grabbing in areas where they live. In contrast, many of Vietnam's tree plantations are owned and operated by rural households on small plots of land and consequently not much land grabbing has occurred in this sector.

In addition, preferential trade schemes have contributed to land grabbing. A good example is the European Union's (EU) Everything but Arms initiative. Under this initiative, the EU will allow least developed countries, which include Cambodia, Laos, and Myanmar, to export certain goods duty-free and without duties to the EU. While this scheme was made with the intention to help smallholders access foreign markets, in some instances, it has unfortunately promoted land seizures. In Ko Kong province in Cambodia, a joint venture between foreign and domestic investors seized over 100,000 hectares of land, mostly from smallholders, in order to construct a large sugar plantation. These investors then shipped this sugar to Europe. Cambodia exported 97% of its sugar, equivalent to US\$ 14 million, to the EU in 2012.



❖ **The role of state and non-state actors as agents of capitals**

The state has been a major player in land grabbing in mainland Southeast Asia in two ways. First, government agencies and state-owner enterprises of wealthier countries which lack resources, such as China and Thailand, have supported land grabbing in poorer but resource-rich countries. For example, in Thailand, the Electricity

Generation Authority of Thailand has supported hydropower development in Laos which has involved significant land-grabbing and salvage logging to build the reservoirs for the dams. As another example, Chinese overseas hydropower projects are often tied to aid packages given by the Chinese Government to the recipient country. For example, the agreement to build the Kamchay Dam in Cambodia, which worsened the livelihoods of communities living nearby the dam, was part of a US\$ 600 million dollar aid package from China to Cambodia. The State Council of China must approve all overseas projects worth over US \$200 million and Chinese loans to overseas entities over US\$ 100 million before these projects can commence. This suggests that the Chinese government is supporting these large foreign investments in Cambodia and elsewhere.

Second, as mentioned, national governments in the poorer countries of mainland Southeast Asia have also been supporting increasing foreign acquisitions of land in their own countries. Their support is reflected by a number of policies and strategies together with ambitious development and growth targets. For example, in Laos, since 2001, as envisioned by Deputy Prime Minister Lengsavad, the main foundation of the government's economic development plan has been an investment-centric strategy to convert large tracts of land to rapidly achieve economic growth through production and extractive projects. This approach has focused on utilizing land for hydropower and irrigation, harvesting timber, extracting mineral resources, and growing cash crops in plantations. For example, hydroelectricity constitutes 16% of Laos's total wealth. Laos also has set to eradicate shifting cultivation and opium production and consequently turning land where these activities occur into capital is attractive to them.

In Cambodia, the government issued the current sub-decree on Economic Land Concession (ELC) in 2005 with the purpose of promoting agro-industries, generating employment in rural areas and fiscal revenue. In a government-supported investor magazine *Invest in Cambodia* the government advertises, "For investors looking to grow and process crops, Cambodia is an ideal location with plenty of land available for agricultural concessions. " And in Myanmar, according to the Ministry of



Agriculture and Irrigation's Master Plan, the government is seeking to woo foreign investors to convert 10 million acres of 'wasteland,' which is though currently occupied and used by millions of smallholders, into 'productive' land through private commercial

agricultural and industrial production, such as textile factories and palm oil, rubber, and cassava plantations.



In addition, these governments welcome foreign investors because some have brought gifts to the government along with their investments. Not only are they paying particular government officials, but also they are using their own money to build infrastructure which can help the country develop. For example, in Laos, a Thai investor named Peter Chang, who was granted a 5,000 hectares concession to build a coconut plantation, had earlier built a primary school, gave an indoor sports complex to the Ministry of Defence, and, most conspicuously, funded the construction of the Lao International Trade Exhibition and Convention Centre, or Lao-ITECC. As another example, the Vietnamese conglomerate, Hoang Anh Gia Lai Joint Stock Corp (HAGL), who has invested heavily in projects in the rubber, palm and hydropower sectors, built a \$40 million airport in Attapeu province in southern Laos in 2012.

Nobody would question a government of a poor country for seeking to attract investment in order to promote economic development, create jobs, modernize the

agriculture sector, improve infrastructure, and generate public revenue. The problem, however, has is that the promised benefits of these projects have often not materialized and when they have, they have been unequal, favouring the wealthy and powerful. For example, Chang not only refused to compensate villagers for villagers for the farming land he acquired but he also cut 3,000 hectares of dense forest and reneged on his promise to plant a coconut plantation, thereby not creating any jobs. In other instances, local communities whose land has been seized from them now work on plantation in this land and make less income than they did when they could freely use the land. Further, while the GDP of these countries, such as Cambodia and Laos, has grown rapidly in the past few decades, the growth has been highly unequal: the elite and the upper-middle class have benefited while the poor have not. Income inequality has grown in recent years.

A big problem is that the process of investing in these project is conducted in a top-down manner ignoring most of the context of the area where the investment is taking place. Sometimes, investors, such as Chang, only want to access this land to log forests. Rarely is the social context of the area taken into account, such as the livelihoods of the communities living there, their ethnic-cultural practices, and willingness to relocate. Consequently, these international investments are occurring in areas where they are not most needed.

Numerous studies reveal the key role of national elites (politicians, businessmen, military leaders, and senior civil servants) in land grabbing in Africa and Southeast Asia. For example, the World Bank study found that nationals accounted for 97% of the land area acquired in Nigeria, and 78% in Sudan, and 70% in Cambodia. These countries have single-party political regimes or military dictatorships with weak legal systems rooted in the colonial system which the elite can easily manipulate. This means that this increased flows of international capital has given national elites newfound opportunities to engage in underhanded business activities and reap personal gains. Therefore, the state plays a central role in these countries because national elites have been able to manipulate state institutions to control natural resources, including land. Further, these newfound opportunities to accumulate wealth and consequently political patronage allows them to maintain their control over these institutions. The elite play multiples roles in this process: land acquirers, intermediaries, and partners working with international investors.

At the same time, in these countries, land grabbing has not been driven by not only international capital and opportunities to export goods abroad but also domestic factors. That is, a significant share of land acquisitions had been made by local actors targeting their own domestic markets. While they have always interested in rural land, a

process that started before the global land rush began, their enthusiasm has grown in recent years due to numerous factors such as these countries' economic booms, technology improvement, and improved security. These national elite either use their own capital or combine it with foreign capital. For example, a Cambodian company partnered with a Thai company to develop a 20,000 hectares of sugarcane land. On this plot of land, they evicted numerous local communities without paying them adequate compensation.



❖ Institutional arrangement facilitating land grabbing

These countries' institutional and legal arrangements are facilitating land grabbing. Global inventories of land acquisitions reveal that most deals involve long-term land leases or concessions on state-owned land. However, in some instances, the state has passed laws enabling them to seize private land. In Thailand, over one million rural dwellers have lived in forested areas for decades but they lacked any official land ownership documents. A few decades ago, the government classified much of these forested areas as "Protected Forest Areas" which meant that this land now belonged to the government. Subsequently, the government has arrested some of these people,

declaring that they have been trespassing and illegally residing in these areas. For example, almost 300 farmers in the North were charged under this law in 2011.



More commonly, however, these countries' land titling programs and recently-passed laws have facilitated land grabbing and weakened customary rights of smallholders living in these areas. Thailand's land titling scheme, which was implemented a few decades ago with support from the World Bank. The scheme, however, was plagued with corruption. Numerous deeds were handed out to people using false names and other problems arose, such as titles indiscriminately dividing communal lands. Although unintended, the scheme led to large areas of land being seized from the poor and handed over to the rich who have often left the land idle. The program kindled numerous land conflicts in rural areas. Despite these conflicts, numerous protests, and lawsuits, not much has changed since the program was finished. This is due to the unequal power structure in Thailand—wealthy landowners are often government leaders—and the high degree of fragmentation in the land sector. Sixteen agencies have various responsibilities governing land and rarely cooperate with each other.



In Cambodia similar trends have emerged. Economic land concession laws have allowed the government to give almost three-quarter of arable land to investors (equivalent to 15% of Cambodia's total land). However, the government gave these concessions without following the legal system. For example, the 2011 Land Law defined new property categories did not unambiguously demarcate between state public and private land, which is mostly forested areas. Consequently, the government

has granted significant swathes of state private land to investors. Also, the government has rarely enforced many items in the Land Law. This is because of the state's weak capacity and complicity between the state and private sector.

In Myanmar, the government passed two laws in 2012 which favor large foreign investors and have set the legal foundation for giving large-scale agricultural and industrial concessions to foreign investors. Under the Vacant, Fallow, and Virgin Land Law, the agricultural ministry has exclusive rights to manage. The law grants hardly any statutory land rights to farmers. The second law it passed is, the Foreign Investment Law which enables investors to be granted the right to use land for up to 70 years. This time period is much higher than the period in the previous law. The law also enables foreigners to own land for the first time.

In Laos, the legal framework for the granting of state land concessions is in many cases not clear to every party involved, as well as to the general development community. Numerous contradictions between laws and decrees exist. Because their legal hierarchy is undefined, the terms of concessions are subject to legal interpretation by the concerned parties, normally meaning that the more powerful party will interpret the regulations to support his or her case.

Corruption, lack of political representation, and related weak rule of law have been key facilitators of land grabbing. It is easier for foreign investors, state-owned enterprises, and other actors to buy large swathes of land in poorer countries if they are dealing with weak and corrupt, autocratic governments. Indeed, a World Bank study found a strong correlation between weak protection of local land rights, corruption, and levels of agricultural investment. This suggests that weak land governance regimes and corruption are enabling land grabbing. In these countries, the property rights of those who are not well-connected are neither honoured nor well-protected. The governments are ruled by corrupt elites who are both politicians and landlords. This is certainly the case in Laos. It has also been estimated that of logging companies' total costs 20% consists of bribes to senior officials to secure quotas and a further 15-20% consists of bribes to lower-level officials. As Martin Stuart-Fox, a leading expert on Laos, told Reuters, "It's simply a matter of greed. Officials are grabbing what they can. Companies need land and are prepared to pay well. It all goes under the table."

Another key driver is the land tenure insecurity of local populations. Smallholders often lack legal documentation of their land. Also, many governments have criminalized land use practices, such as shifting cultivation and have zoned large areas of their country as either public state or private state land. These legal practices have made it

easier for government to legitimize why they are targeting these areas for land concessions to investors. In Cambodia, government actors or companies colluding with them have systematically degraded forest areas so that they can legitimize the designation of these forested areas as concession areas.

Moreover, the land titling registration process has been captured by national elites, who have either used it for their own gain or impeded its progress to pursue their own interests. They have resisted granting collective land titles to indigenous groups in valuable forested and upland areas because these titles would obstruct logging, agro-industrial, and mining companies from exploiting these areas. In Thailand and Cambodia, business elite have lobbied both the national and local governments to not grant these titles. Further, in some instances, governments have sometimes granted concessions in these areas already reserved for indigenous groups. One reason why this is occurring is because bureaucratic elites have captured the policy process, thereby increasing their power and generating opportunities for rent-seeking. As an ADB report on Cambodia argues, "The present system also creates large incentives for local officials to maintain the current titling system or obstruct any new land system that eliminates opportunities for rent seeking."

Further, in marginal areas, smallholders can rarely afford the costs of measuring and registering land. Banks rarely deem farmers creditworthy even if they possess property titles. Therefore, these land programs have had negative distributional impacts. Those who have more social and financial capital are able to register their land at the expense of those who do not. Also, registration has favoured male household heads while women have often lost out.

❖ **Capital flows within the Lower Mekong Sub-Region**

In mainland Southeast Asia, it is also important to note the intraregional nature of capital flows. While certainly some of the capital fuelling land grabbing is coming from Western countries and other Asian countries, such as Taiwan, Korea, and Japan, a significant portion is from richer countries within the region, such as Thailand, Malaysia, and Vietnam, or neighbouring ones, such as China. Actors from these countries, often business elite supported by their governments, have becoming some of the leading land grabbers in the region. For example, Laos's neighbours and other regional countries, who are richer and more powerful but have a dearth of natural resources, have pressured the government to open up the country so that they can access Lao's abundant natural resources. It is estimated that 85% of agricultural concessions have been given to foreign companies, most of them Southeast or East Asian.

This section will discuss the role of the international financial institutions (IFIs), ASEAN and the likely effects of the incoming ASEAN Economic Community (AEC), which will begin next year, and summarize intraregional and investment from other countries in Cambodia, Laos and Myanmar.



❖ **IFIs, AEC and ASEAN**

As discussed earlier, the IFIs have facilitated land grabbing in these countries. As strong evidence, in 2009, two of the major World Bank (WB) land titling schemes in Southeast Asia were cancelled. While the WB gave face-saving explanations for terminating the schemes, the reasons they did so were much deeper and were closely linked to key factors behind land grabbing in these countries. In Laos, numerous tensions within the program arose. Foremost was the government's reserving of large areas of land for economic concessions and therefore keeping this land out of the areas to be titled. Second, the government designated land along roads and in special economic zones to be used for development. Both of these tensions led to local communities being evicted. In Cambodia, as discussed earlier, the WB's land titling scheme was corrupted into becoming a reward system for loyalty to Prime Minister Hun Sen. Cambodia's climate of violence has disrupted any notion of transparency in the scheme.

Programs initiated and funded by the ADB in these countries have also encouraged land grabbing. In Laos, the ADB supported the Land and Forest Allocation Programme (LFAP) which had the goal of stabilizing shifting cultivation. However, studies found that in the village of Ban Sivilay, under the LFAP, areas of the village's 'degraded forest' had been zoned for commercial tree farming development. In many areas, under the program, upland communities practicing shifting cultivation were forcibly resettled by the government to lowland areas. However, fertile lands suitable

for permanent cultivation were already occupied. Thus, overall, the LFAP worsened land and food security and poverty.

The ADB and World Bank have additionally supported large hydropower development in the Mekong. For example, one of the ADB's flagship projects in the region is the Mekong Power Grid which encourages hydro-power projects in China, Burma, and Laos to distribute electricity across the region through a regional power grid. However, large-scale hydropower development has led to large-scale evictions and salvage logging in Laos and Cambodia



Last, IFIs have supported plantation development. In Cambodia, The World Bank-supported Draft Forestry Law does not clearly distinguish plantations and forests, stating that a forest can be "natural or planted". This deliberate confusion has helped the promotion of plantations in the country. Similar to companies in the dam building industries, plantation companies receive subsidies and preferential financing from IFIs and other donors. However, as discussed above, some plantation companies have been heavily involved in land grabbing.

Next year marks the beginning of the AEC, whose blueprint was adopted in 2007. The blueprint consists of a number of laws, rules and institutions. ASEAN hopes that the AEC will make ASEAN a more competitive and integrated single market in

which goods, investment, and labor can flow freely. As of August 2013, about 80% of the blueprint's measures have already been implemented. ASEAN plans to implement the remaining measures by 2015.

The Heinrich Böll Foundation worries that the AEC will enable the region's elite to acquire more power and wealth while the rest, especially smallholders in the region, will be worse off. The AEC's policies to woo foreign capital, particularly FDI could create a system which prioritizes to profits, capital flows, and market forces, not smallholders' interests. This is because governments will seek to deregulate their countries' economies so that they can attract investment. This could encourage foreign and multinational companies to increasingly participate in land-grabbing and undertake other predatory actions.

As of now, ASEAN has not done much to defend smallholders from land grabbing. The organization has created a number of frameworks and groups, such as the ASEAN integrated Food Security Framework (AIFS), an ASEAN Working Group on Climate Change, and the ASEAN Multisectoral Framework on Climate Change: Agriculture and Forestry toward Food Security (AFCC). But they so far had a negligible impact because they lack funding, manpower, and political will. These frameworks and group also do not encourage civil society participation. Also during ASEAN meetings, including the ASEAN Ministerial Meetings on Agriculture and Forestry, smallholders have had limited opportunities to voice their concerns. Moreover, ASEAN has not yet endorsed any codes of conduct which could discourage land grabbing in the region.

❖ **Key accounts of China, Vietnam and Thailand investment**

Overall, it seems that most private sector companies who are granted land concessions in Cambodia, Laos, and Myanmar unfortunately seem unconcerned about their social responsibility. For example, these companies frequently break the law by expanding their investments and logging beyond the concession areas granted by the government. They also seem to often have no qualms about bribing officials.

Chinese Investment

China has been a heavy investor in mainland Southeast Asia. It is the number one country of origin for agricultural FDI in Cambodia and Laos, especially in rubber and rice. However, its investments have adverse affected the environment and local livelihoods in these countries.

In Cambodia from 1994-2011 China's investments in land, along with mining, dams and other investments, have totalled US\$ 8.8 billion. This amount is more than double than that of South Korea, the second-rank investor. In the past two years, the Cambodian government has granted over 4.6 million hectares of land to Chinese companies. Of this total, 3.3 million hectares were forest concessions, almost a million hectares were ELCs, and the rest were mining concessions. Consequently, Chinese companies control about one-fourth of Cambodia's 17 million hectares of agricultural and forested land. Critics have lambasted Chinese investment for making corruption worse, debilitating governance, violating human rights, and damaging Cambodia's environment.



The situation is similar in Laos where Chinese investment comprises almost half of all foreign investment in agricultural land, totalling 113,000 hectares. This surge of Chinese activity is especially prevalent in northern Laos. In 2005, Chinese investors signed 15-year contracts to produce sugarcane and cassava in 100,000 hectares in the northern province of Luang Nam Tha. As Chinese farmland increasingly diminishes, Chinese agricultural firms are looking to produce elsewhere, such as Laos. Besides harvesting agricultural produce, the Chinese have heavily invested in rubber plantations in the north. As the demand for cars grows, the country is expected to consume 30 percent of the world's rubber by 2020 and to meet its needs, Chinese companies has recently looked to produce rubber on Lao land. Rubber overall accounts for a large share of the land areas acquired by Chinese investments.

Chinese companies have also significantly invested in Myanmar. For example, in 2008, a Chinese Company Jilin Fuhua and the Union of Myanmar Economic Holdings agreed to develop the 'Sino-Myanmar green agricultural zone,' covering 12,000 hectares. Three years, the two state-linked companies signed an additional memorandum on agricultural cooperation projects.

China still has not developed any comprehensive safeguards to apply to its foreign direct investment. These Chinese companies' activities are largely unregulated by the government. Consequently, this approach has created numerous negative impacts in these countries and the economic presence of China has stirred resentment in the region. As a Burmese Monk lamented it, 'We are China's kitchen. They take what they like and leave us with the rubbish.'

In recent years, China has promoted its "Develop the West" policy which has the goal of connecting Yunnan province to Southeast Asia's markets and developing trade relations. It is driven by southwest China's relative poverty to the rest of the country, especially Yunnan Province, and its proximity to Thailand's wealth. This goal has been one of the factors driving Chinese investment in Laos. In addition, these investments have helped improve energy security in China and helped the country gain additional natural resources to help feed its resource-intensive development.

Vietnamese investment

Wealthy Vietnamese investors have played a key role in the rubber sector and subsequent land grabbing in both Cambodia and Laos. In both countries, the governments have granted Vietnamese companies large swathes of land in a short time period. This process has gone smoothly largely because of the high degree of political support these investors have from the Lao and Cambodian governments as well as the influential position of the well-connected Vietnamese Rubber Group, who has played a key role lobbying for rubber investments. These Vietnamese companies have fostered strong relationships with both governments, ranging from the local to national level. The close relationship between Laos and Vietnam after the Second Indochina War has fostered economic collaboration between the two countries and positively affects collaboration between Vietnamese investors in the South of Laos and the Lao government.

A Global Witness report describes how two of Vietnam's largest companies, Hoang Anh Gia Lai (HAGL) and the Vietnam Rubber Group (VRG), have been granted land concessions in Laos and Cambodia to build rubber plantation. In these areas, local villagers have been expelled from their land and lost access to forests, including spirit forests and burial grounds. These companies, however, have denied any wrongdoing and the Vietnamese government has not punished them. There is worry that as the AEC begins next year and the regions' borders become more open, Vietnamese companies will expand these land-grabbing practices.

Thai investment

Thai NGOs are worried that is that after the opening of the AEC, Thai agribusinesses, particularly Charoen Pokphand (CP), could harm traditional smallholder systems in other countries as they have already done in Thailand. In particular, they worry that these companies will introduced GMOs and unfair contract farming initiatives, and potentially seize land in neighboring countries. CP has already established a monopoly in Laos' poultry industry and is a major player in the corn for animal feed sector in Myanmar through using contract farming schemes. Local Burmese NGOs have already raised concerns about the CP model, particularly its contract farming schemes.



Khon Kaen Sugar Industry, a Thai company, already partook in land seizures in Koh Kong Province in Cambodia. It owned 70% of a Cambodian sugar company given a land concession to build a sugar plantation. Cambodian company viciously expelled more than 4,000 villagers and relocated them without their consent so that the land could be cleared. The villagers were not consulted and declared that the land transfer was illegal. Khon Kaen sugar has refuted charges of any wrongdoing.

In addition, in recent years Thailand's energy, construction and finance companies have played a big role encouraging hydropower investment in Laos which has had led to land-grabbing in certain reservoir areas and worsened the livelihoods of many Lao communities living in these areas. Hydropower is highly profitable because of the terms of the contracts, enabling these countries to import electricity cheaply into Thailand. On average, electricity costs 3 Baht (\$0.10) per unit in Thailand but they can import it for 1.7 B (\$0.06) per unit in Laos. Consequently, Thai companies have the highest share (37%) in hydropower projects in Laos (excluding those in the feasibility stage). Thai banks have been heavily involved in financing projects because they are guaranteed high rates of returns but have yet to sign any international standards for

responsible investment. While they have CSR policies, they are based upon merely aspiration statements, such as Thai Military's Bank goal to maximize "benefits to its shareholders, customers, and community at large." The banks seem to give highest priority to profit margins rather than how these projects will adversely affect local communities in Laos.

❖ **Summary of investments from other Asian countries**

While investors from these three countries (China, Thailand, and Vietnam) are the biggest ones in Cambodia, Laos, and Myanmar, companies from other Asian countries, primarily Korea, Taiwan, and Japan, have also made significant investments in agriculture and been involved in land grabbing. For example, Korean investors have mostly invested in rubber, cassava and cashew nuts, either as sole investors or partnering with Cambodian companies. A joint venture between Mong Rothy, a company owned one of Cambodia's richest man, and Borim Universal, a South Korean company plus Lavanaland, a Malaysia company, established an oil plantation on 3,800 hectares of land. 300 families in four villages lost land to the plantations and felt that they were coerced into giving it up. Also, the aforementioned sugar plantation project in Koh Kong which led to widespread evictions involved not only the Thai company KSL which owned 50% of the project but also Ve Wong, a Taiwanese company (30%) and Ly Yong Phat, a Cambodian Senator and businessman (20%).



From 2000 to 2010, in terms of agriculture investment in Cambodia, Thailand is the largest investor (21.7%), followed by China (17.6%) and then Vietnam (14.8 percent), Korea (6.5 percent), Singapore (4.8 percent), India (4.4 percent), USA (3.6 percent) and Japan (1.8 percent). These companies are primarily involved in crops and forestry.

The Japanese have also triggered land grabbing in Burma. After the Japanese government and the Myanmar government signed an agreement develop the Thilawa special economic zone (SEZ) in April 2012, the government ordered hundreds of households in Thanlyin and Kyauktan Townships to vacate their homes in order to clear land for the development of the SEZ. In October 2013, villagers decried that state agencies had threatened to bulldoze their homes and pressured them into accepting an unfair compensation offer for the loss of their farmland.

While European and North American companies have so far had a limited role in land grabbing in these countries, their governments' actions have encouraged it. In particular, their mandates of mixing agro-fuel into petrol and diesel fuels, such as US's American Clean Energy and Security Act and the European Union's Renewable Energy Directive, have encouraged both domestic and Asian companies to clear land in these countries in order to build plantations to produce agro-fuels.



2. Case Study on Land Grabbing and Impacts to Small-Scale Farmers in Thailand

Thailand has a total land area of 513,115.020 square kilometers, or about 198,953 square miles. It is located in the center of Southeast Asia. It is like a door to Southeast Asia and Mekong Sub-Region. In 1995, Thai economy was one of the fast growing economies of the world with an average growth rate of 8-9% per year. After recovering from economic crisis in 1997-1998, Thai economy continued to grow again, although with stagnations at some intervals due to global economic recession and unstable politics, as well as great flood. Economic growth also means growth in land market at the same time due to expansion of production and investment. However, the gains from prosperous economy are not equally and fairly distributed. As a result, Thailand sees big gap in income and opportunities, especially in the North and the Northeast where poor population are concentrated (World Bank 2014).



2.1 Political History related to Land Administration in Thailand

The history of land administration evolution of Thai state is very different from other countries earlier mentioned due to the land administration system developed since the reign of King Rama V until now, while political systems in other countries also changed, and their land administration systems also change. Land administration evolution in Thailand can be classified into 2 periods according to major historical events related to land administration system, namely in the first period it was introduction of private ownership, and in the second period it was prosperity of land market.

1) Introduction of Private Land Ownership

During the reign of King Rama V, neighboring countries of Thailand were ruled by western powers. Although, we could say that Thailand has never been colonized by any western countries, but land and forest resource administration of the country was influenced by western administration system from that time onward. Earlier, there no clear demarcation of national borders. The Thai state has started to conduct survey to clearly define national borders. Although it was understood that this move was a direction to prevent western invasion, yet there are academic studies showing that such a move aimed more at collecting revenues from exploitation of natural resources. The border survey started when the administration in Bangkok wanted to monopolise the power in granting logging concession and collecting revenues from logging in the northern Lanna Kingdom, which was under the rule of Bangkok (Vandergeest and Peluso 1995). Later, Department of Forestry has been set up in 1896 to specifically manage revenue from logging. The first director of this department is H. Slade, an English man who had a task of forest administration in India for the British colonizer.



Regarding land administration, private land ownership has been first recognized during the reign of King Rama V, which was also driven primarily by economic interest. The colonial period saw high economic expansion and growth. Foreign countries were in need of products from Thailand, especially rice and timber. Therefore, to expand cultivable land, a project on irrigation canals was initiated for agriculture and transportation of the yield to market. Expansion of farmland resulted in high incidents of conflict on land, especially along the irrigation canals. Yet, there are no systematic official evidence for use in investigation and verification of rights to land possession. These conditions had influence on development of land administration system in the later date (Sayamol, 1990: 36).



After setting up the Department of Forestry for 5 years, Department of Land has been set up on February 17, 1901, and title deed has been issued for the first time in this same year. Later, this and the following orders protect rights of citizen to land, which is an absolute ownership. As a result, transaction and transfer of land is done by market mechanism without any intervention by the state, except when the state wants to expropriate land for development or security purposes. Beside protection of private ownership rights, the law on land also has an objective of entitling the state to collect revenues from land possession by citizens, because the announcement of title deed issuance in 1901 also provides that land with title need has to pay land or farm fees to the government every year (Sayamol, 1990: 38).

Apart from collecting revenues from land that citizen possess and farm, the state also passes the law to demarcate certain plots of land as state ownership. A law that is much mentioned, and that the state uses as instrument to arbitrarily claim rights to land but it is not the law on forestry, is the act on forestry A.D. 1941, which provides for the first time that all the land in the country, whether it is forest land or not, and if it

is not claimed for ownership by anyone, namely no legal title deed, is the land under state ownership.

The law that protects private land ownership for the purpose of revenue collection, which has been used until now, is the act on land codes enforced since December 1, 1954, which is the master law on land, and gathers all dispersed laws related to land into the same codes. However, at present classification of land, issuance of title deed and other land rights documents, and land right claims are still complicated and confusing, and also lead to serious conflict over the country. For example, there are several types of land titled deeds indicating rights to land, such as Sor Khor 1, Nor Sor 3, Nor Sor 3 Gor, title deed (Nor Sor 4). When there is dispute on rights to land, many local people claim their rights to land by referring to other rights system beyond legal ownership system, such as traditional and customary rights and community rights, etc.

After applying the private ownership system, land in the country managed primarily under market mechanism while the state does not have any serious measure to limit the size of land ownership although it is well aware of the problem of land concentration with the existence of land reform law, and with attempt to pass law limiting land ownership size. Actually the democratic system and adoption of liberal capitalist economy make it difficult to limit and control land ownership. The state tries to do land reform under land market mechanism. For example, it has the idea of enforcing taxation on land, or doing land reform by buying private land and allocating it to poor farmers. However, redistribution of land ownership has not made significant or concrete progress, partly because land reform would negatively affects interest groups that have high economic and political powers, while the government has not allocated financial resource to buy land for redistribution to landless farmers. The past land reform was only a distribution of state land, which is mainly deteriorated forests, to farmers. This effort later caused the problem of land loss from the hands of farmers due to failure in farming.

2) Prosperity of Land Market (1988-present)

Economic development of Thailand has been continuously carried out since the end of 1950s when the Thai government introduced development policy and the first national economic development plan as per recommendations of World Bank. Such a development resulted in expansion of land possession and use, like urban industrial development, or expansion of farmland in rural areas. However, the prosperity of leaping land market occurred during the government of Gen. Chartchai Choonhawan in 1988-1991 under the policy of changing war field to trade area, with a policy to develop

Thailand as the 'fifth tiger' of Asia, which means a newly industrialised country (NICs). This policy has accelerated massive investment in real estate, and also speculation of land owned by small owners with a hope to rapidly sell it at a much higher price without an aim to use it for production or any other business enterprise on.



More or less at the same time, the Department of Land has started a project to accelerate issuance of land title deed across the country with financial support from World Bank and Asian Development Bank in 1985-2004. Based on its principle, World Bank perceived that title deed would ensure land right security, and be a motivation for investment in production or use of the title deed to raise more fund for investment in more effective production (Land Titling Office, 2001: 14). The Thai state also realized the need to accelerate issuance of title deeds because it has not been able to issue title deed fully for the whole country since the first introduction of land law during the reign of King Rama V, due to the current land market situation and projects of the Department of Land. Therefore, in 1991-1992, issuance of different types of title deeds was sped up and expanded (Land Institute Foundation, 2002: 6-5). The main impact is concentration of land. World Bank reported that before 1980s, distribution of land was good. However, when World Bank provided financial support of 183 million US dollars to enable the government to speed up issuance of title deed to farmers in 1984, real estate bubble burst out in 1990 while farm price fell down sharply. As a result, many farmers sold their land to investors, which increasingly worsened land concentration (Environmental Defense 2002, cited by Manin, 2011). A survey conducted by Land Institute Foundation in 2002 shows that land concentration is classified into 2 types, namely ownership of a single plot of large track of land over 200 rais, and ownership of several plots by a single person. Most lands are not fully used. In Thailand, plots of large track of land with over 100 rais account for 5% of all lands, while the majority at 87% is smaller than 5 rais (Land Institute Foundation, 2002).



Apart from land ownership transferred under market mechanism, during this period there was also many cases of land grabbing carried out by state agencies in the name of development and conservation of natural resources. Since the end of 1970s, the state introduced a policy on acceleration of economic development, resulted in introduction of many development projects, such as construction of large dams for power generation and irrigation, building of government complexes, industrial estates, as well as development of infrastructure, such as road and express way construction, and so on. These projects needed large track of land, mainly possessed by local people with and without title deeds. As a result, disputes between state agencies and development project owners, against local people who possessed the land. Regarding land grabbing in the name of conservation of natural resources, most cases occurred in state forest areas, where in reality millions of people are living without legal rights. Also at the midst of 1980s, the state gave priority to conservation of natural resources. It has introduced a policy to expand conserved forest areas, as well as implementing different projects, such as projects on allocation of farmland for poor people in deteriorated forests, conservation and recovery of watershed with a claim for conservation of forest areas. Moreover, there were also cases that the state grabbed forest land from the people who lived there for their livelihood, and granted many concessions to private enterprises for reforestation and economic forest plantation.

Apart from ongoing land grabbing for speculation in land market, expansion of trade and investment in Thailand in both agricultural and industrial sectors also lead to greater need for land. Compared to the other 4 countries, Thai economic development achieved longer continual growth, resulted in ongoing growth of land market. Although Thailand suffered economic crisis in 1997, it could be said that such crisis caused stagnation in land and real estate markets only for a short period, which was recovered

and grew up again shortly after that, side by side with expansion of trade and foreign investments in the process of economic globalization.

Regarding foreign investment, Thai laws do not allow ownership of land in the Kingdom by foreigners. However, there are also laws that grant rights to foreign investors to lease land for a long term. In this regard, the Department of Land has tried to modify the act on land lease for commerce and industries 1999 to expand land lease period by foreigners from maximum 50 years to 99 years, which is favorable to foreign investors to do business in hotel, shopping centers, trade and industries (Tharn Setthakit, 2013). Investment promotion enables foreigners to possess the land in the country. It is reported that at present one thirds of the land in Thailand, or about 100 million rai are possessed by foreigners (Sriracha Charoenpanit, 2012).

2.2 Case Study on Land Grabbing by a Big Company in Petchaburi Province, Southern Thailand, From Rice Field to 100 Billion THB Project 'Bangkok 2'

The situation of land grabbing in Petchaburi Province, two hours to the south from Bangkok, has started in 1977 by B.C. Company¹, which started its operation by buying large track of land to grow pineapple feeding canned pineapple factories.² During the initial period of land grabbing, land acquisition was done in general with no specific area. It used the method of proposed purchase and gradually accumulates the land until now (2014). B.C. Company spent over 37 years in buying the lands. This plot of land covers the total area of around 15,000 rai³ in 5 sub-districts of 2 districts, namely Cha-am and Tha Yang of Petchaburi Province. After buying land at the initial period, there was no plan on project implementation on the land. It has been left idle. Until 1992⁴ when Thailand was under military government, the ruling National Peace Keeping Council introduced a policy to expropriate private land that was left idle. As a result, B.C. Company Group came in to clear and level the land for pineapple growing, but it was not profitable. Therefore, it has stopped this operation. Later, it has dug wells and built roads, and conducted land planning. It has also dug a large pond on an area over 100 rai to get the soil for new 4 lane road, with reallocation of land space.

¹ There has been no chance to check the title deeds, but it is confirmed that it is only one investor which bought this large track of land. Therefore, this study will call assumed name instead.

² 1st interviewee, as a local Real estate agents, at Nong Sala Sub-District, Tha Yang District, Petchaburi

³ The size of land is not accurate because it has not checked title deeds at the district land office. 1 hectare equals to 6.25 rai

⁴ Before 1977, the state had a flexible policy on encroachment of state land. After 1977, an order was issued by the Office of Prime Minister on solution of encroachment of state land 1977, which has threatened investors to lose their land.

A new town construction 'Bangkok 2' mega project has been born when pineapple growing project to feed canneries and export has stopped due to its non-profitability. It has moved the growing area and built a new factory at Cha-am factory. The land development plan for 2016 developed by B.C. Company, which included a plan on land development for new town 'Bangkok 2'⁵ building, is a large project with a plan to build a road along the coastline with construction of a ferry dock linking Chonburi and Petchaburi. At present, the Company has started to dredge canal linking the sea.

Initial Reason for Farmers in Tha Yang and Cha-Am Districts to Sell their Land

1) Debt

At the beginning, the main reason of the farmers for selling land was indebtedness, which was the main factor for them to make decision to sell their rice fields⁶ due to their pressures caused by several factors, such as rising cost of living, falling farm price, and expenses on education of their children, including the long life story in rice farming when they only had straws and debts. All these factors pushed them to easily make decision.

The major creditor of all times of the farmers is Bank for Agriculture and Agricultural Cooperatives (BAAC). Debts due to other banks or informal funding source were minimal.



⁵ The same person.

⁶ Piyaporn Arunpong, "Debts, Land and Food in the Current of Vulnerability of Producers", in 'Peasants: the Detrimental Life', Pongtip Samranjit, editor, 2013, p. 128-129

2) The Future without Successors

*"Now, the children are not interested in rice farming"⁷
"After finishing her study, my daughter has got a job as civil servant in town. She is married and settles there. She will not come back to do farming like me."⁸*

The value taught throughout generations of the Thai rural poor is 'study to be a master and a boss'. All parents of farming households sending their children to study with an aim for them to live a life without difficulties, hardship and instability, while are easily and always exploited and manipulated, and without bargaining power. Therefore, they teach their children to study and become civil servants, or work in secure companies, which is happier and more comfortable than rice farming. As a result, most decisions to sell their rice field were not opposed by their children. 'I gave the land to my grandchild, who immediately sold it'.⁹

The major problem that separate children from their farms is an educational system. It partially plays a role in providing alternatives in livelihood, which might be better than farming. Education also injects the perception that farmer's life is full of hardship and has no future. Furthermore, social and economic changes are the factors influencing decision of children how to choose their way of life to exist without great hardship. In addition, state policies do not encourage curriculum of educational institutions to teach children true values of farmer's way of life. Yet, it should not be forgotten that the path of children in leaving rice field is pushed by their parents so that they would get education and quit farming occupation.

"Sometimes, it is family members who play a part. For example, father does not want to sell the land, by his son sells it. Father has to sell the land to distribute the money to his children. When this child sells the plot near the road, the children who have the plots at the back, are forced to sell their land because their plots do not have access to the road."

3) Price Current

⁷ The same person.

⁸ 2nd interviewee, at Tha Khoi Sub-District, Tha Yang District, Petchaburi.

⁹ 3rd interviewee, as a farmer who sold her land, at Bang Luang Doad Sub-District, Bang Barn District, Ayuddhya

Farming society based on the culture of subsistence is attracted to change called 'development' through export-oriented economic development policy since 1961. As a result, farmers have learned more skill from production based on human or animal labor with natural inputs to purchase of production inputs, which require costs and wages. Market and trade emerge and enter into all households. Farming society has changed its traditional value towards materialism, while the only medium of relationship in society is 'money'.¹⁰

Farmers in the current of economic-based development promoting the value of materialism, which takes rice field merely as asset that can be liquidated, following the government policy under the leadership of Thaksin Shinawatra in 2003.¹¹ It is the year that rice fields of farmers were sold the most,¹² while the price has soared up from 100,000-150,000 THB to 250,000 or 300,000 THB per rai for land along main roads. Furthermore, as the impacts of the policy direction plus economic expansion, investors have come in to buy land. There is a process of land speculation, which pushes land price to continue rising non-stop. As a result, many farmers faced financial failure, or did not have successors, and, thus, decided to sell their rice fields.

"Farmers have not thought about this in those days. Those who sold their land later spent all their money and they do not have land anymore. They only have a small plot on which their homes were built. In the future, how their children would live. We sell our land when we see others selling their land. We want to be rich like others."

4) Pressure and Threat

The cultural way of agriculture of farmers takes possession and inheritance of land as important. Furthermore, the key principles on good land include that it should be located along the road, easily accessible, closed to canals and have good neighbors. Therefore, farmers respect one another with traditional agreements that they should share walkways and water for farming. It is a reciprocal living in farming society. Therefore, when other farmers sold their farms which would block communal walkways, those who live on inner plots of land would not have neighbours or bargaining power because new land owners are influential outsiders. As a result, they are not confident in their future if they could have access through the land owned by others. The new owners are not their cousins or community members. 'Some realized that they do not

¹⁰ Thararat Bamrungsri, "Change in Life of Farmers in Thanu Sub-District, Uthai District, Ayudhya, after Selling their Land", dissertation 2010, p. 3-4.9

¹¹ Read in Order of Office of Prime Minister on Policy on Securitization 2003, points 1-27, copied from <http://www.kodmhai.com/Rbk/New2/N30.html>: March 9, 2014

¹² 1st interviewee, on March 3, 2014

have friends or access to main road. At the end, they had to sell their land. Many were forced to sell their land because their plots are land-locked.¹³

Regarding threat, there is no clear evidence. However, there are some surrounding factors from the mechanism of buying lands in different forms, which have put pressure and threats as shown in the following examples.

- Large machineries are brought in to level the land with loud noise and spreading information on the project on mega urban area development as 'Bangkok 2', surrounding rice fields.
- Sent key agents to talk on a regular basis to put pressure and persuade farmers. ***'Going once it might fail, but a few visits will finally force them to sell.'***¹⁴
- Sent local influential people to come and offer to buy the land
- Spread news on the network of influence and status of those who are behind this purchase, both the project owner and influential people who benefit from the project.

"At that time, B.C. company had to visit this local influential guy. Then, this guy contacted local agents to assign one to contact land owners. Beside this local influential guy, the chief of provincial administration organization always facilitate this transaction."

Mechanism of Investors in Grabbing Land

1) Awareness of the situation of bankruptcy: Every time after the state introducing special loan or economic promotion projects and attracting farmers to take part, farmers will become indebted and bankrupt soon. At the end, they will get notice from banks to pay their debt and lawsuit will be filed to confiscate their land. As a result, farmers are forced to sell their land as soon as possible to pay off their debts. The state mechanism implementing this operation provides opportunities for farmers to seek loan to invest in their farming. The main financial institution is Bank for Agriculture and Agricultural Cooperatives (BAAC). Moreover, following boom crops and

¹³ Same person, March 5, 2014

¹⁴ Same person

market price are also additional factors that push farmers to be indebted, such as a project on cropping to replace rice farming, second rice cultivation, chicken farming, etc. Indebtedness results from lack of skill on the part of farmers and fluctuation of prices while cost of production is rising.



The coming of B.C. Group is always at the right time when farmers were facing financial pressure. In addition, the overall economic situation also pushed the farmers to hurriedly make decision to sell their rice fields because most farmers started to follow the mainstream society in consumerism.

2) Building Price Current: The ongoing land price attracted farmers to sell their rice fields in the midst of fluctuation of rice price and the rising cost of production every year, while they lacked labor. As a result, a good number of farmers liquidate their assets, i.e. rice fields, as capital, and changed their occupation. One can see the rising price of land for the past 3 decades (1977-2014) when the price was about 60,000-70,000 THB to 100,000-200,000 or even as high as 3,000,000 THB per rai. This

land price corresponds to the state policy on acceleration of title deed issuance process and various agricultural loan projects.

“Agents will get price quota from influential guy in the province. Then, they will buy land at lower prices. If they could do it, they would make gains from surplus.”

3) Selection of agents: The successes of B.C. Company Group in buying land started with selection of land buying agents. They must be ***‘good and well-known persons’***.¹⁵ In addition, they should have a capacity to ask or know local people at all levels. Therefore, the network of agents buying land for B.C. Company in Tha Yang and Cha-Am Districts is big and complex, with some directly accountable to local representatives and independent who get their earning per plot of land. The network of agents will get their share in different forms depending on agreements ranging from village level where they have roam around the village to enquire for information. At the sub-district level, there are 1-3 agents. For example, in Cha-Am District, Nong Sala Sub-District has 5 agents, Bang Gao Sub-District had 3 agents, Na Yang Sub-District has 1 agent, while in Tha Yang District, Nong Tapong Sub-District has 2 agents and Puktian Sub-District has 2 agents.¹⁶ All agents are directly controlled by ‘a millionaire’ who is the influential guy in the province who deals with the Company and mediate with state agencies, with a support from the chief of provincial administration organization. ‘The influential guy’ will determine the price on each plot of land, and inform commission for agents who can buy the land. Then, ‘the influential guy’ will contact and facilitate ownership transfer process after the transaction is concluded.

“If farmer did not want to sell land on the first visit, he will sell on the second, or the third visit.”

4) Ongoing Follow-up: Transaction on land deal is not easy, because the way of life of Thai people, especially farmers, is traditionally and closely linked with land. Therefore, buyers should be popular or well-known person who come in on the right time and is respectable, showing sincerity, and make regular visit. In particular, the agent should be patient with good technique of negotiation and persuasion, knowing when to push forward, all of which are essential qualifications of agents, which helped achieve successful deal of land grabbing at a large track of 15,000 rai.

¹⁵ The same person

¹⁶ The same person

5) Process of forming Landlocked Farm: Practically, large track of land can be bought by buying smaller plots in disperse depending on willingness of farmers. Small plots are gradually accumulated. Based on administration principle, agents tried to buy plots surrounding major spots and seal off entrance to other plots, preventing owners of inner plots from having access to communication and bargaining power. This is a key mechanism pushing for massive sale of lands. Therefore, the process of making inner lands landlocked is another core method pushing owners to sell their lands.

6) State agencies and officials are involved in facilitating the process: Money power normally lays its foundation by building good relationship with local politicians and civil servants, and people popular and respected to local communities by providing some benefits. It provides fund or machineries for local development, such as building road for the people to travel, digging canals, allowing the people to stay on and make their living, etc. Images of the agents, B.C. Company¹⁷ and relationship with local civil servants and community members make it difficult for farmers to refuse selling their land.

"At this moment, farmers want to sell their land, but the price is not high because my boss want to keep the price low. Therefore, no one have sold their land"

Life of the Farmers after selling their Land

Normally, farmers do not carefully plan their spending and investment. Therefore, when they cannot control their money, while they don't invest in their production, their money will be finished soon. Certainly, many farmers have become poor, landless and indebted. As a result, they finally have become landless workers.

While B.C. Company is strong and continues to buy land on important location, such as buying the whole village like the case of Ban Muang when the Company negotiated to buy the whole village, but the people do not want to sell although all their rice fields were surrounded by the lands bought by the Company, except the village. If the people decide to sell their village one day in the future, it means that the company has deleted some villages from the map of Thailand.

¹⁷ Assumed name

2.3 Conclusion

Private land ownership administration in Thailand basically follows mechanism of land market. This causes land concentration and speculation. The state minimally interferes in this market mechanism. However, the state plays a role in indirectly facilitating land grabbing by promoting private and foreign investment in different businesses, especially agri-business which requires large track of land for cultivation while the state does not have measures to limit or control land grabbing by both private and foreign individuals and business corporations. On the contrary, the state tries to be flexible or exempt some strict measures on control of land possession for investment promotion. However, beside land grabbing for production, it is evident that the non-interference by the state resulted in land price rise, concentration and speculation. Consequently, private land is left idle, and leading to distort land market and economic revenue, while many people need land for their production, especially small-scale farmers who want land for their farming.

3. Case Study on Land Grabbing and Impacts to Small-Scale Farmers in Laos

Laos is a country surrounded by mountain ranges. It is considered to be one of the poorest countries in this region. In the past decade, there was big change in land use in rural areas under the government policy that supports growth and market economy. Laos has become a major source of raw materials, the land for large scale plantation, and power production for economic development in other countries, such as China, Thailand and Vietnam, which share the same borders. About 7-8% of its GDP comes from natural resources, mainly mining and hydro-electric power. Rural population continues to engage in subsistent farming. Concerning administration, Laos is ruled by people's revolution party, which is communist. This means that all the land belongs to the state, and investors can have access to land through seeking concession or lease for a period of 25-50 years.



Large scale investment on land is normally done by transnational corporations supported by financial investors. These corporations try to have access to land in developing countries to produce food and non-agricultural items, including bioenergy.

Access to land is mainly done in the form of lease. Laws in Laos do not allow foreign investors to buy land in the country, but allow land lease for a period of 35-75 years, which are renewable (Kenney-Lazar 2011: 2).



3.1 Land Use under Investment and Trade Policies of Laos

Laos has adopted socialism since 1975 following the model of Soviet Union, and has started moving towards liberal market economy in 1986 with the policy on new thinking through New Economic Mechanism (NEM), which promotes greater economic relationship with foreign countries. It also set up a one-stop service for investment promotion through Department for the Promotion and Administration of Domestic and

Foreign Investment (DDFI) with measures on investment promotion of foreigners in Laos. As for special cases based on agreement with Lao government, foreign investors will enjoy rights and benefits from investment if that investment are large and significant to economic and social development of Laos. For example, foreign investors have the rights to lease land in Laos (for 30 or 50 years from the state), and have the rights to transfer this rights and benefits from the lease, as well as having the rights to ownership and rights to transfer all properties acquired and produced from the leased land.

Regarding the rights of foreign investors, the Land Law clearly state that foreign investors do not have the rights to ownership, usufruct, or other rights to land use as the rights of Lao citizens. Foreign investors have the rights to use the land only when they sign land lease contract or are awarded with land concession by the government. In other case, they can sign lease contract with Lao citizens, or enter into join business venture with Lao citizens, only by using the rights in land as shares. The proposed land for lease can be private land with usufruct or land use rights, or state land, or land with original ownership of land rights belongs to the state. These mean to two land types, the state land has not yet allocated or granted rights to any citizen, or the private land with land use rights granted by the state.

Ownership of such land is important because the right of investors to land lease includes procedure in concluding legal contract between state land and Lao citizen is different. In other words, if it is a lease or concession of state land, maximum lease period is 50 years, renewable on a case to case basis as agreed by the government. In this case, application for land lease must be submitted for approval. In case of mega project, concession has to be sought according to the provided model, directly with the government. In case of leasing land from Lao citizen, it basically depends on agreement of the contracting parties, with a maximum lease period of 30 years, renewable depending on each case with approval from Land Administration Authority, which is the main organization responsible for land issues in Lao PDR.

Foreigners cannot have land ownership. The Land Law in Laos provides that Lao citizen may transfer land use right to foreigners through lease, purchase or sale, or inheritance. Foreigners investing in Laos may apply for right to land use through lease or concession as the case may be. In general term, foreigner could seek land lease for a maximum period of 30 years, except in some case that the government might consider special lease conditions, such as land lease for investment and business operation for a period of no more than 50 years, and lease of land in special economic zone at a maximum period of no more than 75 years.

3.2 Contract Farming for Rubber Cultivation

To do contract farming, foreign or local investors have to apply for permission on contract farming directly at the provincial office where cultivation will be done. The provincial office will facilitate contacts, negotiation and conclusion of contracts in advance with Lao farmers (at present, Lao PDR is in the process of developing standards on advance business contract enabling Lao farmers be aware of punishment if contract is not respected). In this case, farmers entering into this contract will be growers and caretakers of rubber trees on their land, as if it is their own investment. It is different in that investors will be responsible for expenses on inputs, such as seeds, tools and equipment used in rubber cultivation, as well as providing appropriate advice on rubber cultivation for the farmers, like care of rubber trees, and tapping. Besides, investors will buy all rubber latex at the agreed price, while rubber wood will be shared by half each for investors and farmers. Investment in contract farming is found in the northern part of Lao PDR, especially in 3 main provinces, namely Luang Namtha, Bor Kaew and Oudomxai.



Rubber plantations in Laos are dispersed in different areas with favourable geographic conditions. In the North, there are 3 provinces, namely Luang Phrabang, Oudomxai and Or Kaew. In Central Region, there are Boli Khamxai, Khammouane and Savannakhet, and more concentrated in 3 southern provinces, namely Champasak, Salavan and Attapue, which account for around 40% of all growing areas. In the past 2 years, Laos has improved Land Law on ownership and leasing several times, resulted in

the rising lease fee several times higher from earlier less than 1 USD per rai per annum. At present, the lease fee will be calculated from the size of land, its location and zone. In the past, provincial office was able to approve unlimited land lease for investment. However, at present, land lease of over 100 hectares requires approval from the Land Administration Authority.

3.3 Concession of Large Track of Land in Laos

Study on impacts of land concession projects for agri-business¹⁸ reveals that land concession has been first granted in 1992 according to Land Law, which grants land concession to Lao citizens and foreign investors. This study discovers that granting concession is to grant rights on the land overlapping people's farmland that Lao authorities have allowed the people to use the land under the policies of the Department of Land and Forest of Laos.

In particular, about 167,000 ha in southern part of Laos have been granted concession for mono-cropping as an economic investment. About 80,000 ha are cultivated with eucalyptus trees, and 46,600 ha are cultivated with rubber.

The following information is examples of land survey for concession on large track of land applied by foreign investors.

- ◆ Oji Company from Japan applied for 50,000 ha of land in Bolikhamxai and Khammouane Provinces.
- ◆ Aditya Berla Grasim Company from India uses 30,000 ha of land in Savannakhet Province.
- ◆ Viet-Lao, DakLak, and Dau Tieng Companies have concluded investment agreement on rubber cultivation on over 30,000 ha in Champasak and Salavane Provinces.

The study on impacts from concession of large track of land explains that expansion of rubber industrial business from land concession in Laos has yielded massive changes, especially its impacts on communities on land use in the concession area. What is very apparent is land conflict between investment companies and local communities.

¹⁸ 1) Centre for Research and Information on Land and Natural Resources, National Land Administration Authority, Office of Prime Minister, Lao PDR, Faculty of Social Sciences, Chiang Mai University, Thailand, Foundation for Ecological Recovery, Bangkok Thailand, 2009.

2) "Introduction to Lao Land Issue" Managing Land, Forest and Natural Resources: Growing in Equality or Growing Inequity? Document developed by the Land Issue Working Group. 2012. Publication documentary.

3) Andreas Heinemann, Peter Messerli. Coping with a land-grab world: lessons from Laos. Global Change. Issue 80. April 2013.

- ◆ Model of granting concession is loose and overlapping. For example, most concessions have been granted without land survey and lacked consideration of physical conditions of the area appropriate for cultivation. The land also overlaps land officially granted for use by local communities. There is no study and assessment of social and environmental impacts, as well as study on cost effectiveness of the investment. Further, there is no consultation with affected people in communities. There is lack of monitoring mechanism, inspection of investment for control and effective land use. It is also found that there is a patron and client relationship in granting concession when investors have to adjust themselves to this relationship for some privileges, which is the origin of corruption in granting land concession.

- ◆ Concession for large track of land for rubber cultivation yields more adverse effects than benefits that local communities would get, such as loss of land ad rights to land use, shortage of food and income from collecting forest products for a living, destruction of natural resources and sources of richness, like soil fertility and richness of watershed, and so on.

- ◆ Local communities are not able to be economic self-supporting after losing farmland. There is no mechanism to compensate this loss and security in ensuring employment of people who lost their land.

- ◆ It is difficult for communities losing their land to concession for investment in agri-business to adapt themselves to new environment, since existence of local communities depends on the size of remaining land after concession is granted, and family labour who would generate income for their households.

Moreover, this concession granting is a factor pushing price of real estate in Laos to continue soaring up high. The worst current adverse effect is the decrease of farmland of the people. The price of land is so high that the people cannot afford, while more foreigners come in to invest and buy land. There is also conflict related to farmland and residential areas since land under concession overlaps with land of the people.

TABLE OF SUMMARY OF LAND AREA OF CONCESSIONS ESTIMATED FROM DIFFERENT SOURCES

SOURCE	DETAILS	AREA OF LAND (HECTARES)
GTZ, and MNRE*	GTZ and MNRE worked between 2009-2011 to create a database of land concessions in all provinces.	233,000
Land Matrix**	Land Matrix is a freely available online database of land deals compiled from varied sources.	210,772
GRAIN***	RRAIN is another freely available online database of land deals compiled from varied sources.	330,000

Information from: Lao Statistics Bureau and Lao PDR Ministry of Planning and Investment: FDI INTO AGRICULTURE SECTOR IN LAOS (2005–2011)

* <http://www.giz.de/themen/en/30296.html>

** <http://landportal.info/landmatrix/get-the-detail/by-target-country/lao?mode=table&limit=0>

*** <http://www.grain.org/article/entries/4479> -grain-releases-data-set-with-over-400-global-land-grabs

TABLE OF ESTIMATED AGRICULTURAL CONCESSION AREAS BY PROVINCE

PROVINCE	ESTIMATED AGRICULTURAL CONCESSION AREAS (HA)*
Attapeu	17,591
Bokeo	1,896
Bolikhamxai	2,761
Champasak	41,146
Houaphan	NA
Khammouane	1,143
Luangnamtha	12,191
Luangphrabang	9,275
Oudomxai	1,399
Phongsali	2,769
Saravan	14,130
Savannakhet	45,286
Sayabouri	3,767
Sekong	495
Vientiane Capital	1,980
Vientiane Province	62,551
Xiengkhouang	14,929
Total	233,309

* Preliminary findings of MNRE project

Source : GTZ¹⁹ and MNRE (the Lao Ministry of Natural Resources and Environment (MNRE))

3.4 Conclusion

Acceleration of economic development is the major factor causing land grabbing in Laos with an aim to develop infrastructure and gain economic growth from various development projects, such as development of power sources and infrastructure, especially roads linking different countries, as well as promotion of private investment in cash crops on large track of land. This economic development also opens opportunity and promoted investment of foreign private companies in the region, as well as industrial development, agriculture focusing on growing crops on large track of land for

¹⁹ the German development agency Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)

world market. These development processes resulted in grabbing of people's land, although these are under the national programme to eradicate poverty.

4. Case Study on Land Grabbing and Impacts to Small-Scale Farmers in Myanmar

Myanmar has a total land area of 676,578 square kilometers. It is the largest country in Southeast Asia, and the 40th largest in the world. Information from World Bank indicates that 67% of its population live in rural areas, and are primarily engaged in farming. Therefore, land is the major input for livelihood of the majority. Myanmar is classified as the poorest country in Southeast Asia. Around 25% of its population lives under poverty line with high rate of poverty in rural areas. Moreover, the information also shows that 30-50% of rural households are landless, especially in border zone where the majority is ethnic groups. Myanmar has over 135 ethnic groups. On the whole, economic system of Myanmar has opted capitalism later than 4 countries, namely Thailand, Vietnam, Cambodia and Laos. Yet, land market in Myanmar has rapidly expanded in the past 2 decades, resulted in land ownership for commercial purpose to expand considerably, while the price of land in urban and rural areas has rapidly soared up (USAID 2013a: 4-5). Regarding the ratio of land use, the information from World Bank and FAO states that around 17% of the national land area is cultivable land, 2% is permanent farmland, 0.47% is grass land for animal grazing, while 49% is forestland and around 25% is irrigated farmland (FAO 2011a; World Bank 2012a quoted in USAID 2013a: 6)





Myanmar has just adopted market economy during the rule of State Law and Order Restoration Council (SLORC) after 1988. However, the land expropriation at the early stage by this government, especially in different states of ethnic groups, has not resulted from economic factor, but significantly political aim. In other words, it aimed at stability of the army by moving and stationing its troops in ethnic states. Expropriated land was then distributed to families of military officers stationed in these ethnic states (Foundation on Human Rights in Mon Land, 2004). Later, SLORC government has formulated market economy develop plan by different programmes of privatization so that private sector would have access to and administration of resources. This policy has resulted in expansion of domestic and foreign investments (FSWG 2011: 28). A decade after adopting this plan, it is found that the rate of land ownership in the country has rapidly expanded. Report of Ministry of Agriculture and Irrigation in 2003 indicates that between 1993 and 2003, land ownership for agriculture by households has risen 25% with ownership of smaller than one acre rising at 150%, over 50 acres rising at 385%. During this same period, land ownership for commercial purpose has risen as high as 900% with the total sized of land under private ownership rising at 325%. This rapid increase is resulted partly by expansion of cultivation on idle land (Woods 2001 quoted in USAID 2013a: 18).



Recently, the government introduced its more intensive national development policies along the direction of neo-liberalism. There is renewal of farming system by granting local and foreign private sectors the right to land. This policy has resulted in rapid soaring land price and large scale transfer of land, especially land in urban area, although there is no infrastructure, such as water and electricity, in many areas. Land price in rural areas also rises due to speculation by people of Myanmar without investment in production on the land. It is purely land concentration for speculation. Land speculation is a result of expectation that there would be foreign investment after the end of military rule and massive economic and political reforms (USIAD 2013a: 18). Such situation will inevitably push economic system of Myanmar to suffer from bubble like the one occurred in Thailand during 'Tom Yam Kung' economic crisis in 1997.

4.1 Case study on Land Grabbing in Shan State

Investment-induced land grabbing and land seizure by military has been detrimental to the lives of those affected. Some overview discussion prior to field study suggested the land grabbing cases have soared after quasi-political reform and ceasefire agreement.

Land commercialization for agriculture has taken place since early 1990s. According to the report produced by Food Security Working Group (FSWG) in 2011, a government appointed committee began to allocate large blocks of land for commercial plantation in 1991 in supporting the transition to the market economy and enhancing the potential for agriculture development. By 2010, a total of 1,728,269 acres had been reported as allocated to 216 companies in eleven states and divisions.²⁰(FSWG 2011)

²⁰ As cited by FSWG in its 2010 report from Department of Agricultural Planning (DAP), 2010, p 82

In Kachin State, Shan State (South) and Shan State (North) altogether 32 private corporations have invested in large scale commercial farming contracts totaling 393,292 acres, 65,772 acres and 40,937 acres in each of the regions respectively. (FSWG 2011) Shan State itself is the state with the second largest iron deposit in the country. Companies from Thailand and China have aggressively invested Shan State mainly for agriculture and mining. Foreign investment in Myanmar's mining sector is reached more than US\$ 2.8 billion by the end of 2013. (The Nation 2014)

Another salient aspect in studying the land issue in Shan State is the ethnic diversity and identity. Decades of armed conflicts contribute to the absence of land tenure security. This is also the case in Myanmar where the central government and armed ethnic opposition groups disagree over control of large areas, including access to the resources in these areas (land, forests, water, minerals etc).²¹ This is a crucial element in defining actors involved in the land grabbing. Military government has been playing a prominent role in confiscating and allocating the land for the private sector. Some armed ethnic groups after ceasefire agreement earned concession to confiscate the land under pretext of being engaged in developing some areas.

Research Method

Studying land grabbing in Myanmar in a brief research period requires some specific angles. From the outset, the study is aimed at drawing lessons on building strategies to reclaim the land. Defining actors involved in the land grabbing and an account of the past and recent political context serve as salient aspects in studying land grabbing. In particular, the study of land grabbing in Shan State was preceded by several discussion with activists and groups in Yangon such as Paung Ku, Metta Development and Food Security Working Group. The discussion was to elicit general background of land issue in Myanmar.

Focusing on land grabbing in the Shan State, the study was expected to elaborate further the process of reclaiming the land confiscated by military and private companies by taking into account significant political change that took place by the end of 2010. The study involves several interviews and discussion with local groups and communities in Aung Ban, Heho, Taunggyi, Inlay and Kayah State.

²¹ Land Core Group (LCG), The Role of Land Tenure Security for Smallholder Farmers in National Development. *A policy discussion brief by the Land Core Group of the Food Security Working Group*

Set of questions encompassing actors of the land grabbing, the spontaneous and organized forms of collective resistance, land ownership and livelihood. The discussion also looked into people perception on political change and whether it creates more space for people to develop further strategies in reclaiming their land. The later one includes people's perception on the role of political parties. This was to assess their point of view on State instrument such as parliament and land investigation committee.

Most of the land grabbing cases elaborated in this study took place in 1990s and early 2000. The more organized strategies to reclaim the land took place after 2010. It is worth to learn the process of consolidating and recalling collective memories and overcoming the perpetuated fears. Interaction with local non-government organizations (NGOs) and diaspora of the youth helped change the mindset of the villagers in terms of understanding their rights and law.

We also interviewed representatives from two organizations, New Generation (NG) and Union of Farmers and Land Workers. The interview covered various points including organization structure, scope of work and political activities as to contextualize the land issues, supporting system intact in sustaining the organization and their long-term political vision. The stories elicited during the interview and discussions are structured as follows; background of case studies, quasi-political reform, forms of collective resistance in reclaiming the land and supporting organizations.

It might be too early to draw conclusion, as the process of reclaiming the land is still an ongoing struggle. However, portraying the struggle in reclaiming the land amidst political transition, in which based on the interview there was an indication of low trust to the function of State instruments in facilitating the people to reclaim their land, can help build an understanding on politics of land grabbing

Pangpet Steel Mill No (2)

Union of Myanmar is the country with rich mining deposits such as gold, cooper sulphate, coal, iron, cinnabar, amber etc. Under British colony, the mining was operated under British companies then after 1948 independence the State-private joint venture was introduced. After 1960s when the private foreign companies were nationalized, the State took over the mining and mining processing companies.

Land confiscation under decree of Ministry of Industry for the establishment of Pangpet Steel Mill was started in 2004. The conversion of agriculture land affecting 5000 families and 10 villages resulted in the prolonged land conflict. The research portrayed the process in which the villagers went through a negotiation with State and

its agencies. Pangpet is one of the areas where Pao ethnic group resides. Thus, a brief history of Pao armed group is taken into account as an additional background depicting its role in the case of land dispute.

Deployment of the national armed forces to seize the land has been a common feature of land grabbing in the country. U Teng Thung (42 yo), an organizer, recalled the day in 2004 when the military troops were deployed to the villages forcing people to sign a piece of paper, agreeing to give away their land for the State project. The villagers resisted the order until the military returned with full armed forces.

Then the State managed to confiscate 5000 acres of land without proper compensation. The compensation was based on rather subjectivity of the authority that some villagers were given Kt 5 *laks*/acre (US\$ 500/acre) and some Kt 5000/acre (US\$/acre). For the villagers in Pangpet, the land was sacredly inherited from their ancestor as the whole generation had been cultivating the land for staple crops like corn. Pangpet is one of the main food suppliers for Taungyi, the capital of Shan State.

For the villagers in Pangpet, losing the land means loss of livelihood and culture. The villagers, during the interview, argued that they did not seek for sufficient compensation as their lives depended on the land they cultivated. At present, only the old people reside in the villages as most of youths migrated for jobs to China and Thailand. Some also migrated to Menet Mountain to work at opium plantation.

Aung Ban Military Hospital Project

Aung Ban is a business town famous for its vegetable products and market. It supplies vegetable to big cities like Yangon and Mandalay. In 2000, the State military launched its project, 700-bed military hospital, the second biggest military hospital in the country. The military hospital project in early 2000 was only one of the land confiscation cases in Aung Ban. In 1993, the military confiscated the pear farming land in 7 villages to be sold to a Korean company, Mid Flower. The company used the land for an apple plantation.

The experience of military penetration in the daily life has been recurring in Aung Ban. During the intensive civil war, the National Army arbitrarily recruited the youths mainly high school students to become porters carrying army ransom and ammunition. In the early 2000, the military distributed letters to the villagers asking them to sign the letter, an agreement to give away their land for the hospital project. One of the villagers interviewed said that people in Aung Ban have lived with the traumatic experience of brutal casualties by the national army during 1988. U Chi Mong, 61, said

that the second floor of his wooden house still bear the story of casualties as the bullet holes from 1988 casualties still remain. All villagers still have a collective memory of armies opening the fire in random. Thus, when they came back in 2000 forcing people to give up their land, people were terrified.

Most of the people live in Aung Ban are from Danu ethnic. The stories of the national army disrupting the peaceful life of the people have been experienced by many generations. During the land confiscation in 1990s, the army picked up some high school students to become the porters. The military also made it a compulsory for the students to perform heavy work during military ceremonial events.

The collective memory of fear and military terror remain in the people's daily lives. When the military forced the people to sign a letter stating that they agreed to give away their land for military project, many people quickly signed it without any resistance. Few resisted by continue working on their farmland and forced to undergo a punishment in a form of terror. After the land being confiscated, two farmers in Aung Ban had heart attacks as they were shocked by the reality of being dispossessed. Around six people interviewed mentioned that in the beginning, they were confronted with the reality of losing the livelihood. Without other skills than farming, all of them became petty traders and street vendors.

Land grabbing by military does not only confine to military infrastructure project and military acting as a broker for the private companies and developers. In Heho, for instance, the military seized the land for its additional institutional income under the pretext of zoning the land for security purpose.



Early 1990s, the government seized the land in Heho for the purpose of developing new variety of rice. The land itself had been a customary land. Since early 1990s then the government had allowed the villagers to grow the land as tenants that they In 1996, the Ministry of Industry declared the land in Heho to be used for national

industry purpose for growing raw material for medicine industry. It was said that Virginia Tobacco also planned to establish a plantation site in that area.

Since the State claiming the land in early 1990s, the villagers have been obliged to pay an annual tax for cultivating the land. In early 1990s, the tax was 500 Kyat. Then later in the end of 1990s, the military took over the land, the villagers were obliged to pay the tax at Heho military head quarter. The military argued that the land was under their authority as the State declared it as a security zone. The villagers, since then, have been obliged to pay annual rent for approximately 1.5 acres of land they cultivate. This year, the annual rent costs 45000 Kyat (USD 45).

For the military, the annual tax is an additional income generating that they earn 12 Lakhs/year (1200 USD) from this annual tax. Around 300 people from 30 villages in Heho are affected by this security zone policy. In July 2013, the military and the township parliament members signed an agreement stating that the military would return the land to the people. After signing the letter, the military commander summoned three opinion leaders to Taungyi military head quarter where they were forced to sign another letter stating that the military would not return the land to the people but rather conduct an investigation of the land ownership. The villagers believe that it was a strong gesture from the military denying the people's ownership over their customary land.

Inle Hotel Zone

Inle Lake is one of the famous touristic areas in Myanmar. After 2010, there has been an increasing foreign tourists influx to the country encouraging the establishment of tourist zones by the private companies. The land grabbing in Inlay was started early 2013 when the government claimed the land as the property of forestry ministry. The Shan State government then hired two private companies, ***Pyusing*** which means "purity" and Taungyi Mio Company to clear up the agriculture land and make it ready for construction site. Around 83 villagers from 6 villages are affected by this hotel zone project.

From the outset, the State denied the rights to proper compensation for the affected land. Hence, the State compensated only the crops demolished during the land clearing. The compensation for the crops was based on harvesting season. It offered 40000Kyat/acre for one harvesting season within 3-year period. Then, the 83 villagers decided to take up a protest by trying to stop the land clearing process. In the end, 65 out of 83 decided to accept the compensation, as they feared of the consequence of

halting the ongoing State project. Eighteen people continued to fight against the land clearing. Another two walked out from the fight; with only 16 remain, the government started taking legal action by filing a lawsuit against the 16 on February 9, 2013. They are charged with article 18 and 55 b.

Aung Jon Mio, 24 y.o, one of the 16 recalled the legal process that he had gone through without legal aid provided. He had to attend the court at Nangsuy every week. Then the trial venue was moved to Kelo court in Taungyi. The other villagers, dropping their demands for the compensation, express their solidarity support by accompanying the 16 in going through the legal process.

Kayah Land Grabbing

Kayah is located in the eastern Myanmar on the north border of Shan State. The case study of land grabbing in Kayah focuses on the land grabbing by private cement company, Square Power, China-German investment. The representatives of the company measured and marked 1000 acres of land to be used for the plant site. The land is a customary farm-land cultivated with maize, seasonal fruits, paddy and peanut.

The company published a blue print elaborating the construction plan and route from limestone quarry, cement raw material, to the plant site. The land measurement included the area for raw material. Around 5000 people from 20 villages are affected by this project plan. The most affected ones are those who live in villages like Parchea and Loikaw, the place where the karst mountain-limestone quarry are located. The company earned the license to measure the land from the local government based on the approval of the central government. The company offered different range of compensation based on the level of damage and land loss. Intimidation by national armed forces and different range of compensation instigated horizontal conflict among villagers. Later, a committee consisting of representative of villagers was set up by some activists to consolidate the villagers in anticipating further division and reclaiming the land.

Kayah is also affected by a military project, High Grade Military Training School No 14 in Maphrosay where 4000 people are affected. The project demolished paddy and maize field. The national armed forces built this school to secure the investment in the area, which is geographically and strategically linked to Naypyidaw military base.

Strategy of land reclaiming

The strategies taken up involve actors including non-government organizations (NGOs), mass organizations and political party such as Generation 88 and National League for Democracy (NLD) and also local organizers. The discussion and interview on the strategy was also to assess whether there had been some political space and leverage could be seized within the struggle in reclaiming the land.

In the case of Steel Mill no (2), the experience of the villagers in engaging to legal procedures or going through legal framework in reclaiming their land was started through their involvement in farmer forum organized by Paung Ku in Yangon in 2013. The forum came up with a statement with six demands, those are giving back the land to the dispossessed, providing farmers with micro loan, creating a fair market allowing the farmers to benefit from their farming activities, land registration for farmers, stipulation of land law that protects the farmers and rights to freedom of association for farmers.

From the forum, the organizers learnt to build a network with other farmers. After the forum, a hearing was organized at parliament in Naypyidaw where they met with some members of parliament and land investigator committee. The land investigator committee from the township visited the area affected by the establishment of the Steel Mill and offered the villagers some compensation. However, the villagers refused the offer, as reclaiming the land has always been their demand. In 2012, Pao Youth organization helped advocating the case by inviting the media. After the hearing, the police summoned the organizer to go to the police station. Nevertheless, the event brought the media attention on the situation at the village. The villagers have lost their faith in the State. According to organizers interviewed, the political reform was so superficial that the supporters of the military regime still play a prominent role in shaping the country's direction.

To certain extend, diaspora helps build understanding on the salient of organizing in the context of reclaiming the land. The people in Aung Ban, for instance, learnt a strategy to address their grievances by sending a letter to the President from three educated youths who studied in Yangon. When they came back to their hometowns, Ngaung Kone and Thor Mai Kham villages, they disseminated their political insight to the villagers including the changing political constellation in the parliament.

The resistance from the villagers in Inle took a different form as the land grabbing took place after the political reform. The 83 villagers affected by the land clearing held a protest during the demolition of their rice field. The independent media

such as Radio Free Asia (RFA) and Democratic Voice of Burma (DVB) played a prominent role in covering the protest. Nevertheless, during the interview, the villagers hoped that 2015 general election could bring some positive impacts, as the political parties would compete in offering program during the campaign.

The emergence of the organizations and role of NGOs Union of Farmers and Land Workers of Myanmar

The organization was founded in 2011. Its main activity is to provide assistance and legal aid for those affected by land grabbing. During the interview, U Win Shane Myat, the Vice President, mentioned that currently, their main activities were to tackle the Ladpadaung case and land grabbing issues in Aung Ban, Shan State. The organization is in the process of preparing local networks to support the national-level organization.

The executive committee of the union consists of 17 people with job divisions such as supporting committee providing assistance to farmers, legal aid and organizers to form organization branch at the local level. The union has been trying to set up branches in all States, however, in some States, the government still imposes the ban for people to organize. U Win Shane Myat claims that the union is independent from the foreign donors. They earn support from the activists of “88 Generation” who also provide an office space for the union in Yangon.



The union argues that the military must either return the land or pay the compensation according to current market price to people whose land was dispossessed. This must be applied in retrospective manner. Another issue about land grabbing by military is that very often the military only use 30-40 percent of the land

they seized and they deny the fact of exact scale of land they seized. The union currently assists the villagers affected by the land grabbing in State like Kayah, Shan and others to establish villagers council in which representatives from villages affected by the land grabbing could discuss their strategy in reclaiming the land.

New Generation

The New Generation was founded in 1993. Activists involved in the students uprising initiated the founding of this organization. It was U Tun Myint from Taunggyi one of the signatories to Pang Long agreement who insisted that the activists needed to set up an organization. In 2005, some people and members of New Generation, was released from 79-year prison sentence. The organization was founded to strive for peace building, Shan State autonomy, and human rights.

Regarding the organization structure, the New Generation is chaired by what they call a patron. Taking form of a collective of small number of people rather than well-structured organization, New Generation applies job division system in which everyone is assigned to do a specific task such as monitoring the ongoing ethnic conflict and involve the affected communities and groups in finding a peaceful solution.

NG also engages to some political activities with a certain level of cautiousness. During the interview, Ko Moe, the member of NG said that being in good terms with some political parties could come in handy especially in putting more pressure on the government in dealing with land grabbing issues. NG, itself, according to Ko Moe, takes a political stand not to establish a political party. Nevertheless, NG believes that civil society organizations (CSOs) play a prominent role in shaping the political course. Thus, CSOs need to be ready in playing more active role in the political dynamics in 2020 election.

4.2 Conclusion

Even the military government argued that the military infrastructure projects, mining, hydro power, tourist investment and other mega projects are for purpose of economic development and security of the country, but the ethnic minorities and local people perceived these as land grabbing, as these projects confiscated land and livelihood from them. Especially when those development projects were implemented in the way of human right violation, deployed military and force to take away the lands from the people. The emergence of local organizations and national network are

developed gradually through the experiences of reclaiming back the land with significant support of some NGOs.

However, reclaiming back the rights of the people and amending land policies to be in favor of the people still require a long way to go with various strategies and lessons. At least the local organizations and networks are working together to strengthen their members and strategies to reclaim their rights. The so called political reform just only came out from the starting point, but from now on it will be pushed forwarded by the people who had been suffered such a long time from politics and economic development. The next 2020 general election can be somehow a pin point to consider how far the space for reclaiming back the land of the people will be created by those important sectors in society, politicians, journalists, and civil society organizations.

5. Case Study on Land Grabbing and Impacts to Small-Scale Farmers in Cambodia

Historical and Current Context

Cambodia is one of the countries with high rates of land grabbing. Despite recognition of land rights in national laws, ordinary citizens remain facing difficulties in claiming their full rights over the land. Over 770,000 people (almost 6% of the total population) have been negatively affected by land grabs (ADHOC, 2014, p. 26) and more than 2.2 million hectares of land have been transferred from villagers into the hands of the corporations and rich people under the economic land concession scheme (LICADHO 2014, p.10).



The roots of the issue can be traced to the Khmer Rouge regime during 1975-1979, when private ownership was abolished and all land records were destroyed. There was no legally private ownership over any plot of land across the county. Possession rights have been recognized again by Land Law 1992 and amended by Land Law 2001, which states that Cambodian citizens who occupied the land prior to August 31, 2001 (the first day the law has been passed) and fulfill five conditions, i.e., the

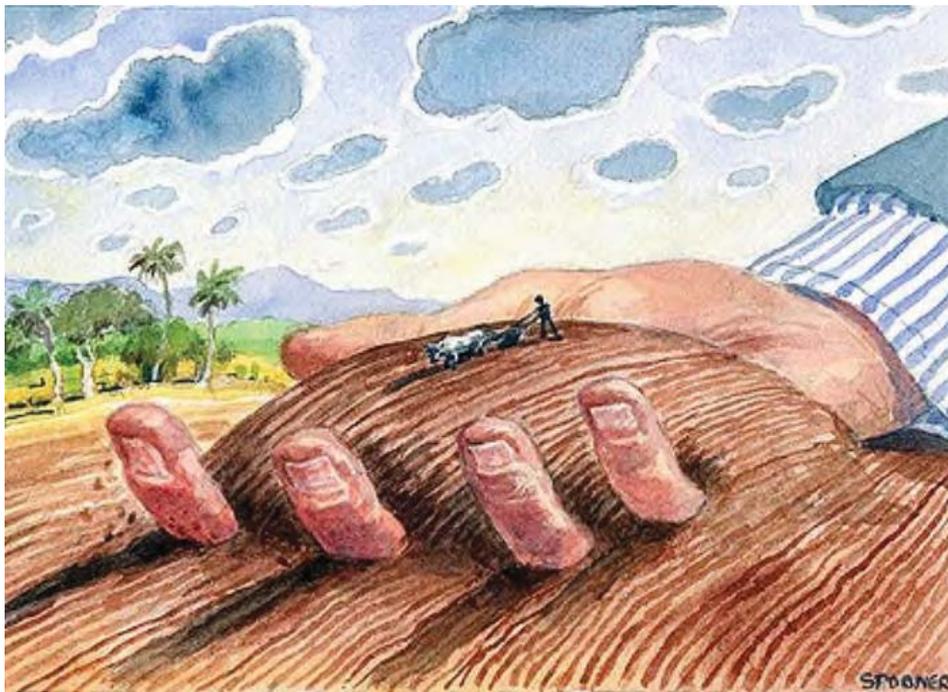
possession must be continuous, peaceful, in good faith, unambiguous, and known to the public, have the right to use the land for living and for doing business (article 38).

The possessors have many of same rights as the owners, including the right to prevent other people from entering or using their land. Land Law 2001 (chapter 19, article 248) considers that *'an act or conduct, in fact, that is a hindrance to the peaceful holder or possessor of immovable property in an area not yet covered by the cadastral index maps, the ownership rights of which have not yet been fully strengthened'* as a violation of legal rights and a penal offense *'under this law'*. This means that the rights of land possessors who do not have legal titles should also be protected, not different than land owners and it is illegal to interfere with their occupation, including through eviction.

The possessors can request land titles or turn their possession into ownership when they have continuously enjoyed their legal possession for at least five years. However, in reality the land registration system is complicated and costly. Vulnerable people/communities are hardly to complete the process (UNHR 2012, p. 24; Palthy 2007, p.27). Additionally, both local authorities and people have limited or no knowledge of law and regulations (Yat and Shi 2014) due to poor legal dissemination. While people have not received their land titles yet, power holders have often taken advantage of them by grabbing their land. In many cases, state actors, including police, military soldiers, military police and local authorities, have been also actively involved in these unlawful actions (Schwedersky, 2010).

In November 2014, approximately 3.7 million land titles have been delivered to people across the country (Ministry of Land Management Urban Planning and Construction, 2014) but millions of plots of land in Cambodia remain unregistered. It is estimated that the registration process could take more than 10 years to be completed whereas some people predict that it might take even 45 years (Murotani, 2014, p. 204). Recent years land title program has made some progress due to Prime Minister Hun Sen issued the campaign of Directive 001 in May 2012, which *'provisionally suspend the granting of ELCs'*. The first phase of the program has been completed in June 2013,

only one month before the general election in July 2013, raising the question about its long-term commitment and sincerity as it seemed more like a pre-election ploy to attract voters. ADHOC, the Cambodian NGO, criticises that although the programs have successfully delivered the land titles for hundreds of thousands of people, they 'have failed to address the needs of people who are most in need of land tenure security, i.e., people who live in informal settlements and disputed areas, as well as indigenous people' (2013, p.22).



Today, land grabbing and conflicts over the country remain high despite the adoption of the Land Law and other related programs. The problem is extremely complex as a consequence of a turbulent history, together with the present economic, social and political contexts and requires much more attention.

Purpose of Study

This report identifies patterns and impacts of land-grabbing in Cambodia, based on case studies of three communities in Sihanoukville which is one of provinces with high number of land disputes and forced eviction.

Method and Material

The study is based on secondary sources and information collected in Sihanoukville during 17-19 September 2014. The study cases of communities include Okampuchea, C.E.5 and Spean Ches and information was gathered through interviews and observations.

The interview in Okampuchea was conducted with 13 villagers, Spean Ches with 8 villagers and C.E.5 with a representative of the village. All interviews were facilitated and translated by two staff of Coalition of Cambodia Farmers Community (CCFC), a Cambodian NGO. In addition, interview was conducted with the staff of CCFC in order to gather information from their experience of resisting land-grabbing in Cambodia.

Causes of Land-Grabbing and Forced Eviction in Cambodia

In Cambodia, the common causes of land-grabbing and forced evictions include economic land concessions (ELCs), state's city beautification and development projects and land speculation; details below.

❖ Economic Land Concessions (ELCs)

More than 2.2 million hectares of land have been leased out to both domestic and foreign investors under ELCs, equivalent to more than a half of Cambodia's total arable land. Although the land law 2001 announces that the state can grant on only 'state private'; in reality the land often overlaps with communities' areas, affecting over 420,000 citizens of Cambodia (Herre & Teodorott, 2014; LICADHO, 2014). Most of ELCs have been granted for large-scale plantations, including rubber, sugar cane, cassava, rice, corn and etc., resulting in loss of livelihoods, violation of human rights and massive displacements of affected individuals and communities (United Nations, 2007; Subedi, 2012).

❖ City Beautification and Development Projects

In some circumstances, people have been evicted for the creation of city parks or erection of monuments and etc, attempting to develop and modernise the country.

In the Cambodian context, the beautification is the mechanism that the military use to remove poor people from their squatter settlements in the city; then the state can sell the land to investors and build up modern buildings (Springer, 2003). Development projects, such as construction of infrastructure, dams, mining or other extractive industries, have often lead to forced evictions to serve so-called public interest.

❖ **Private Development Projects**

In some cases the state forcibly evicts people from their land in order to make a way for private development projects such as tourist and casino developments and etc. The case of the Chinese Union Development Group, which has signed a 99-year lease to land in Koh Kong province, is one of examples. As a result of its resort and casino development project on the 36,000-hectare site, thousands of villagers have been forced to relocate from their land (Mony, 2013).

❖ **Land Speculation**

In the last few years, land has been grabbed for speculation purposes as land values increase. Investors purchase the land in urban areas and economic zones and sell it for a high profit. In Cambodia, due to ineffective implementation of land rights, powerful individuals and groups can obtain the land for speculation or 'unproductive purposes'. This land acquisition may occur through lawful or unlawful actions, including 'outright land-grabbing' (Engvall & Kokko, 2007, p.25). The government officials often receive money from these investors or speculators and forcibly evict people from their home and mostly with inadequate compensation (ADHOC, 2014; Westeröd, 2010).

In the following section, the cases of land-grabbing in Sihanoukville will be examined. Based on secondary data, observation in affected villages of Sihanoukville and group interviews with representatives from villages and co-coordinators from Coalition of Cambodian Farmer Community (CCFC), a Cambodian civil society group, the study views the eviction process, impacts and patterns of land grabbing.

Land Grabbing in Sihanoukville

Sihanoukville (also known as Kompong Soam and Preah Sihanouk) is a coastal province and located about 230 kilometers southwest of Phnom Penh. The province is divided into 1 municipality and 4 districts (Mittapheap, Prey Nob, Stueng hav and Kampong Seila), composing of 27 communes and 111 villages. It is important in terms of abundant resources and its significant development on trading, industry, agriculture and tourism (Council for the Development of Cambodia, 2013, p.94). Sihanoukville is one of the first Special Economic Zones (SEZs)²² which is state-owned and managed by Sihanoukville Port Authority in cooperation with Chinese government.

Fast Fact

- Total area: 253,668 ha
- Total population 196,851 persons
- Population Density 230 persons/km²

- Provincial Border
 - East - Kampot & Kampong Speu Provinces
 - West - Sea (Gulf of Thailand)
 - North - Koh Kong Province
 - South - Sea (Gulf of Thailand)

- SEZs area: 2,508 ha
- ELCs to Agro Industry: 12,800 ha
- Concession to Eco-tourism project: 3,300 ha

Sihanoukville's economy and tourism seem to be steadily growing; meanwhile, there are a high number of land-grabs. Villagers have been evicted from their lands and hardly able or unable to claim their rights. The NGO Forum found that Sihanoukville was one of the provinces with the highest cases of land disputes from 2008 to 2009 (2010, p.10) and in 2010, Sihanoukville ranked first in land disputes resulting in forced eviction with eight cases (2011, p.7). In 2013, there were 15 cases of land disputes, affecting 1882 households in the province. Today the number is still high and the number of affected households in each case of land disputes in Sihanoukville is usually less than 50.

²² Special Economic Zone is defined as the special area for developing economic sectors with different regulations such as tax incentives and lower tariffs in order to attract foreign investments.



Site Map of Case Studies²³

1) A Case Study of Okampuchea village

Okampuchea is located in Ream commune, about 30 kilometers far from Prey Nob district. The village was formerly located in Kbal Hong area since 1993, with only 13 families mostly dependent on subsistence farming and fishing. The number of households has risen by more than 50 during 1995-2000 and villagers lived there peacefully on the five-hectare area without any prohibition from the state actors until the threat of eviction from the Navy Army in 2004. The Navy began to violently evict all villagers from their residential areas in 2007 and eventually, villagers relocated to the present site in 2009. Now there are almost 60 households living in a small piece of land without farming area.

²³ The map is edited from Google map.



Okampuchea at the current site,
surrounded by the Navy camp and the Chinese company

On February 19th, 2007, one of villagers was prohibited to repair his own home by seven members of the Navy. They threatened that he would be arrested and his house would be burnt down if he rebuilt it again. On February 27, nine of Navy



personnel armed with seven guns returned to the village and announced that they will confiscate the village's land. The violent fight took place for a very short period of time during their meeting and no agreement was reached. On April 24th, approximately 60 of Navy personnel came to the village again. They burnt down five houses, beat two villagers and arrested

one of them. This time villagers dared not to fight against the Navy.

After the brutal violence and conflict, villagers filed a complaint to the Ream Commune authorities and sent letters requesting assistance from other relevant organisations and some NGOs such as ADHOC and LICADHO; however, they were still not able to find the solution.



Houses of Okampuchea villagers burnt down and destroyed on April 24, 2007

On January 1st, 2009, fifty villagers were called to the meeting, which was attended by the Naval Military Commander and the naval soldier at Ream Base, Ream Commune authorities and the chiefs of neighboring

villages. Villagers were informed that they lived on the site of the naval military school and had to leave immediately. The commune authorities tried to negotiate with naval soldiers to provide new land for the evicted villagers so finally they offered the Okampuchea area, which is their current location.

Each of 45 families has been offered a 20 x 30-meter plot of land without any other compensation. They received no money from the state and had to build new houses by themselves with support from NGOs. They have been left on the bare land without direct access to a public road and connection to water, electricity, sanitation, and other services. Additionally, the new site is far away from schools and livelihood opportunities.

1) A Case Study of Spean Ches village

Spean Ches or Mittapheap 4 community is located in Mittapheap District, Sihanoukville, close to Otres Beach. In 1984, 17 families came to settle down in the area and cleared the forest for cultivation and they have the right of ownership to the land under the Land Law 2001. The number of households has gradually increased and

currently there are more than 100 families. They lived peacefully on the 16-hectared land, mostly dependent on farming and small-scale fisheries. “Before the eviction, in addition to fishing, almost all families had farmland upon which to grow rice, fruit trees and cash crops like water melon, and they also raised animals” (United Nations Human Rights, 2012, p.52).

On October 26, 2006, the cadastral office issued an eviction notice, demanding that villagers had to move out of the area within 15 days. The office claimed that the land belonged to the wife of an advisor to a high-ranking Government official; although she never showed any proof of her ownership. They again sent the notice to the village on January 19, 2007, demanding that villagers had to leave the land within one week. Villagers submitted their complaint to the court but the authorities did not wait for a court decision.

In early morning of April 20, 2007, 150 of the Cambodian Armed Forces, military police and police armed with guns, electric batons and tear gas arrived with an excavator and two water trucks. 117 families were violently evicted on that day; they were sprayed with water, threatened by gunfire and beaten; their houses were burned, farms were destroyed. 18 villagers were injured and 13 of them were arrested and imprisoned for more than a year.



The previous area of Spean Ches before eviction, surrounded by a high wall and unused

Villagers became homeless and landless within one day. They had to relocate without any housing or shelter from the state and did not even receive any alternative land and compensation. This is one of numerous cases that Cambodian authorities have used inappropriate force and have undertaken unlawful eviction. The related officials had not ever been investigated or punished after this violent action; although it is against the constitutional law and violates human rights.

Due to fear of further abuse, villagers did not dare to return to the area. They have moved to live on the roadside adjacent to their own land since then, while the disputed land has been fenced off and not been used yet.

2) A Case Study of C.E. 5 (C.E. Pram) community

C.E.5 community is a part of Pou Thoeung village, located on 110 hectares of land in Bet Trang commune, Prey Nob District. There are 126 households (more than 200 people). Villagers have firstly occupied the area since 1993. Most of villagers earn their living from cassava, small-scale fisheries, and working in garment factories.

In 2005, the land prices in Sihanoukville rose high, leading up to eviction for speculative purpose. In the end of that year, villagers were ordered to meet with authorities at the Sihanoukville governor's office for several times with 10 villagers per meeting. The authorities convinced them that their land belonged to the private companies; nevertheless they never presented any land title document as evidence. They ordered villagers to vacate their land immediately but villagers refused. However, the authorities still came to the community occasionally until the violent eviction occurred in 2008.

On February 2, 2008, more than 100 police arrived the community, confronting with approximately 200 villagers. They burned two houses and arrested the chief of the village. All of villagers decided to fight back until the police released their chief and withdrew the community. In that circumstance, some villagers were beaten and injured.

Although authorities still came to the area from time to time after the violent event, villagers decided to fight for their own land with supports of NGOs. Sun Sopath has been chosen as a representative of the community in dealing with the issue. With the loyalty and strong will of the representative and the efforts of villagers to resist forced eviction, C.E.5 is one of a few success stories.

Sun refused the enormous amount of money from people who tried to evict the land. He believed that several high-rank politicians were behind this eviction. To protect his community land, Sun has contributed many things; for example, he spent his own money to buy food for other villagers when they had to engage in a variety of activities, such as road protests, for resisting forced eviction. Meanwhile, villagers have a sense of solidarity and are ready to fight to protect their own land. They have not only utilized direct action but also the tactics. For example, Sun has donated a significant amount of money to the Sihanouk governor's office and was awarded a certificate acknowledging his contribution in front of hundreds of people, giving him the power to negotiate with authorities. Sun states that *'we have to play a number of different roles to deal with these power holders'* (Interview, Sun Sopath, male, age 36, Sihanoukville, October 19, 2014).



Sun Sopath, a representative of C.E.5 community

Today villagers still stay on their land and eventually obtain the legal documents that allow them to occupy the land. However, they have to continue their resistance to gain the official land certificates. Furthermore, the village is now surrounded by factories and some of them have fenced off their sites which obstruct the travelling path of villagers. They are determined to deal with this problem as well.

Effects of Land-Grabbing and Forced Evictions

- **Effects on Social and Economic aspects**

Forced relocations tend to have negative impacts on livelihood and employment of affected people. Most of people have become landless and homeless. In many cases they have lost their farmland and cannot grow their own food. Furthermore, they have to spend a lot of money to build new houses without proper compensation from the state.

In case of Okampuchea village, although they have been provided the new land, they still lack land insecurity. They have not received land titles yet and each of them has been given only a written receipt issued by the Navy, with the name of the recipient, plot number and stamp of the Navy. With this document, villagers are allowed to stay on the land but not to own it. Furthermore, on November 1st, 2013, the naval school warned the representative of Okampuchea that the village's present land will be transferred to a foreign company. They thus remain concerned about further eviction.

Okampuchea villagers were left on bare land without any shelter during construction of new houses. The site does not include infrastructure and services. Villagers have to collect water from a distance of about 2 kilometers. Additionally, villagers complained that the new land is inadequate for farming which makes them facing food insecurity.

In particular, the new site is isolated and surrounded by the Naval Military School and a Chinese company, blocking access to public roads so it is difficult to travel. Consequently, some of children dropped out of school and villagers lost their livelihood opportunities.



The traveling path of Okampuchea villagers is blocked by the fence of a Chinese company

The new site is in the middle of the naval base and the Chinese-owned Yi Jea investment group. Yijea Company receives a concession of more than 3,000 hectares of land in Ream National Park under the Economic Land Concession (ELC) scheme in 2004 and develops it as a tourist place. Since April, 2014, the company has fenced off its area, blocking the road leading to the village. This makes it extremely difficult for villagers to travel.

This eviction has destroyed the livelihoods of small-scale farming of the community. Without farming land they have lost food and regular income. Today Spean Ches villagers earn their living from construction work, housekeeping for guesthouses at Otres beach, collecting forest vegetable for sale and some are still unemployed.

- **Effects on Physical and Mental health**

The Centre for Child and Adolescent Mental Health conducted the assessment of mental health of families evicted from Dey Krahom, Phnom Penh and found that they

suffered from severely mental problems after the eviction. They have depression, difficulty in sleeping and etc. due to their anxiety about food, shelter, livelihood and fear of further displacement (UNHR, 2012, p.60). Although the official assessment of mental health has rarely been conducted; it is reasonable to assume that affected people from other evictions have been suffering very similar symptoms.

Spean Ches village has not received any compensation. They have been living in slum-like settlement on the roadside, facing with more difficult situations of life, worse health condition, and risk of road accidents. The village has tried to submit the complaint to related authorities at both local and national levels to give their land back or at least to grant them a new suitable land but there is still no positive response. They were once offered an alternative land but it is located in a remote area, far distant to places of employment and facilities such as school. Living on the roadside without the ownership document, villagers still fear of further forced eviction.

During the case study interview, a 53-year-old woman of Spean Ches village recounted that

'It seems like we were in Pol Pot regime. On that day my husband was shot and imprisoned. We are in our own country but have no land. We are Cambodians but our social ranks are even lower than foreigners. After eviction, many people are hopeless and depressed; some are committed suicide' (Interview, a villager, female, age 53, Sihanoukville, October 19, 2014).

- **Impacts on Children's Education**

Forced evictions often have affected on children's education. They had to stop going to school during relocation and even had to drop out of school due to the new site is too far from their school. In many cases, it could be the result of changes in parental employment or income.



Patterns of Land-Grabbing

- **Land-Grabbing Through Forced Eviction**

Land rights are stated under the Cambodian constitution; however, in reality, unlawful evictions have been frequently carried out by the powerful, including authorities, army groups, elites and private investors. The authorities frequently claimed that villagers do not have land titles, despite the fact that they have legal possession rights under the Land Law 2001.

According to Article 5 of the Land Law 2001, it is stated that *'no person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and after the payment of fair and just compensation'* (as cited in Hensengerth, 2014, p.288).

As mentioned above, forced evictions are unlawful under the Cambodia's land law but according to three case studies and most of other cases throughout the country, the state actors, who should protect citizen rights, are often involved in these unlawful actions, especially the military which has no legal right to carry out eviction.

The case of Spean Ches community clearly illustrates this pattern due to involvement of three state agencies, comprising about 150 of police, military police and soldiers. There was no any investigation after they burnt down the community's settlements and beat villagers. Furthermore, the community's complaints have not been fully resolved yet. This illustrates the patronage system, lack of law enforcement and corruption. In the case of C.E.5 community, villagers were able to prove that the authorities used fake titles, claiming their right over the land and some of these were tried and found guilty. This is certainly the very case that villagers could win over the authorities.

- **Inadequate notice and without prior consultation**

For example, in the case of Spean Ches, a few villagers were given the eviction notice from the provincial governor's office (but not issued by the court) in the morning of April 20, 2007 and all of them were forcibly evicted from their homes on the same day. And in the case of Okampuchea community, the naval personnel armed with guns suddenly arrived without notification in advance. Affected people had no opportunity to participate in the decision making process. Although C.E.5 and Okampuchea had meetings with the authorities, they were ordered to accept the evictions, rather than engage in decision-making.

- **Unlawful, unjust and unnecessarily violent**

The 1993 constitution of Cambodia (article 44) states that *'the right to confiscate possession from any person shall be exercised only in the public interest as provided for under the law and shall require fair and just compensation in advance'*. But in reality, the implement of this law is not very effective and most of illegal land seizures still occur across the country without penalty.

Even though they are possessors of the land who have not yet received the land certificates, their possession rights must be protected as well. The Land Law 2001 (article 248) states that it is illegal to interfere with people's peaceful occupation of their land even for a public interest. It is therefore illegal to evict or attempt to evict the possessors off their land until the area is registered by the Cadastral authorities. That is to say eviction depends on the powerful and wealthy elites rather than the land law. The obvious example is how military involves in eviction although without legal authority to enforce it.



Today the Kbal Hong area, the former site of OKampuchea, has become the territory of the Navy Military School. Villagers claimed that the school has rarely been used. In the meanwhile, the former site of Spean Ches is still bare and not used. Villagers believe that since their story has spread across many countries; so the authorities have grabbed their land for speculative purpose and now they are waiting for the chance to sell it to investors or rich people.

As illustrated in the case studies, the evictions were forced and violent. The authorities used firearms, batons and water to expel people from their land and burnt down their houses. This pattern of violence has been repeated across the country. Furthermore, a number of evicted villagers do not receive proper compensation for their loss, as mentioned above.

- ***Vulnerable people more subjected to eviction***

Due to weak enforcement of laws and unequal power, the poor and marginalised usually are subjected to land-grabbing in particular who stay on desirable areas in terms of tourism and industrial economy. With assistance of several NGOs, Cambodian evictees have tried to submit complaints to local and national authorities and even to the prime-minister but mostly never received a response. The complaints of land-grabbing from affected villagers usually have been denied by the courts for the interests of the wealthy and powerful (Adhoc 2014, pp.40).

In the meantime, it seems that the richer and the more powerful the community is, the more chance it will be safe from an eviction. C.E.5 community is one of the obvious examples. They had money to donate to the provincial governor's office and to engage in a variety of protest activities and had some influential friends to negotiate with state actors.

- **Linked to ELCs scheme**

Under Land Law 2001, the state can lease private state land up to 10,000 hectares to each company with rights to manage and harvest the land for a maximum period of 99 years. Today ELCs has leased more than a half of Cambodia's total arable land to private corporations, which makes ADHOC ask the significant question that *'where will Cambodia find enough land for the next generation...?' (Ibid.)*.

Resistance to Land-Grabbing

As land-grabbing and violent forced evictions continue throughout the country, community resistance to land-grabbing has emerged and is increasing. The oppression

of the state has led to the opposition of citizens through a variety of demonstrations. Many peaceful protests have been brutally repressed by police, military police and soldiers; protest leaders usually have been arrested and detained and mostly their complaints have been ignored. However, they have no choice but must protect their own land.

- **Assistance of NGOs & Civil Society Organisations**

Many Non-Government Organisations, such as LICADHO, ADHOC, CNRO, CCFC, etc. have provided various forms of assistance to vulnerable people and communities, including humanitarian aid, capacity building, and legal support.

In Sihanoukville, Cambodian League for the Promotion and Defense of Human Rights (LICADHO) and the Cambodian Human Rights and Development Association (ADHOC) have played important role in legal support to affected communities. They helped communities in dealing with the government agencies and the court. In case of Spean Ches, LICADHO has immediately sent the medical team to the community after the violent eviction. In addition, the Cambodian National Research Organization (CNRO) has provided capacity building of villagers in access to justice and raise awareness among private companies and government officials. These have encouraged communities to stand up for their rights. In many cases, they have been prevented to help communities by the authorities; moreover, some of NGO workers have been threatened, harassed or even detained.

- **Community Resistance & Networks**

Community movements against land-grabbing have been growing in time. Many communities have worked together as networks, helping each other defend their land and fighting against the government. Coalition of Cambodia Farmers Community (CCFC) is one of several community networks, founded by 12 communities since January 2011. CCFC aims to facilitate the collaboration among communities and to deal with land problems and evictions. Currently, CCFC is working with 74 communities in 10

provinces. CCFC staff regularly visit Sihanoukville communities and provide consultation, empowerment, training sessions, etc; although, they have been threatened by the authorities.

In Sihanoukville, 19 communities have been working together as a network since 2009 with assistance of NGOs. During the study interview, some of villagers declared that after experienced with threats and harassment, they have attempted to move without identifiable leaders and have not had the name for their network, avoiding at risk of being targeted. The community network has been working to resist the land grabbers through protests, marches, petition, road-blocking, etc. However, their problems remain unresolved. During the interviews, some villagers expressed feeling of hopelessness. One of them said *'nobody can help; only the Prime Minister Hun Sen can resolve this problem'*. Nevertheless, villagers resist that they will continue their fight against land grabbers.



Approximately 400 villagers from 10 communities blocking the road to pressure the Sihanoukville provincial government in resolving their land problems – October 13, 2014

Source: CCFC Facebook

Conclusion

Cambodia is one of the countries with high rates of land grabbing. Over 770,000 people (almost 6% of the total population) have been negatively affected by land grabs and more than 2.2 million hectares of land have been transferred from villagers into the hands of the corporations and rich people under the economic land concession scheme. Today, land grabbing and conflicts over the country remain high despite the adoption of the Land Law and other related programs. The problem is extremely complex as a consequence of a turbulent history, together with the present economic, social and political contexts and requires much more attention. In Cambodia, the common causes of land-grabbing and forced evictions include economic land concessions (ELCs), state's city beautification and development projects and land speculation.

Sihanoukville's economy and tourism seem to be steadily growing; meanwhile, there are a high number of land-grabs. Villagers have been evicted from their lands and hardly able or unable to claim their rights. The three study cases of communities in Sihanoukville illustrate the patterns of land-grabbing for speculative purposes, in the context of weak enforcement of law, corruption, patronage system and imbalance of power. Land-grabbing has various undesirable effects. Villagers not only lost their home and farmland but also their livelihood, their physical and mental health and their access to basic services. Furthermore, many of children have dropped out of school.

Key actors who involve in land-grabbing include government officials (local authorities, police, military police and soldiers), both domestic and foreign investors, wealthy elites and the powerful. They have grabbed the land of vulnerable people through violent force and unlawful evictions. Evicted people mostly have not received proper compensation. Although this kind of action is obviously against the constitution and land law, those involved usually have not been punished. There is a big gap between the law and reality.

The oppression of the authorities has led to the opposition of citizens. Cambodian people are rising to resist land-grabbing across the country including those of Sihanoukville with help and supports from NGOs and civil society organisations such as ADHOC, LICADHO, CCFC, etc. 19 affected communities and those which are at risk of land-grabbing and forced eviction in Sihanoukville have collaborated as a network to deal with land issues. They demonstrate, sign a petition, march, block the road, etc. to suppress the state and the powerful; nevertheless, their problems are rarely resolved.

Overall Conclusion

The overall picture is that land grabbing in the Sub Region Southeast Asia, whether by the state or the private sector, has been taking place with either direct or indirect state facilitation. Direct state action has involved national security or national development as a rationale, and state policies of encouraging private investment, especially foreign investment, to exploit large tracts of land without any intervention in the land market, played an indirect role. To allow the land market to function freely without a regulatory regime has been a controversial issue everywhere. There are people who disagree with treating land as a commodity. As land remains essential to the livelihoods of many poor people, these poor people in the Sub Region are in the process of fighting against violent land grabbing and forced eviction. These poor people reaffirm on their land and community rights with the support of different people's and NGOs' movement. ,

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