

# RIGHTS-LINK PROJECT DOCUMENTATION OF TOOLS AND APPROACHES

Draft



# INTRODUCTION TO THIS BOOKLET AND THE RIGHTS-LINK PROJECT

The initial seeds of the Rights-LINK project (Rights-Land, Information, Networking, Knowledge) were sown in 2001, when Village Focus International (VFI) field staff observed that large-scale land acquisitions were having profound impacts upon rural farming families in southern Lao PDR (hereafter Laos). After working with farmers to help secure their land and livelihoods, the Rights-LINK (RL) phase I project began with an inception phase in 2007, supported by Swiss Development and Cooperation (SDC), and ran through two full phases for eight years from 2009 until December 2016.

Land-based investments continue to fuel Laos' rapid economic growth, yet the benefits have not always been equally shared. Communities' lack of knowledge and information about land rights combined with increasing pressures on land has resulted in some rural communities losing access to and ownership of their land.

To address these challenges, Phases I and II of the project (RL-I and RL-II) pioneered the **rights-based approach to land issues in Laos**. Village Focus International (VFI), through our Rights-LINK project, continues to be a leader in Laos in the field of land rights, natural resource management, forestry, agriculture and rural livelihoods.

A rights-based approach is a conceptual framework for the process of development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. In the context of RL, a rights-based approach is used to empower rights-holders (rural communities affected by land issues) and to build capacity of duty bearers (local government, policy-makers, private sector actors) to uphold these rights.

The **overall objective** of RL continues to be to empower rural communities to fully exercise their land rights in a sustainable and equitable manner.

Over the past eight years, RL-I and RL-II has successfully worked with over 350 rural villages in eight districts across four provinces: Sekong, Salavan, Luang Namtha and Bolikhamxay. RL has achieved the following key milestones:

- » Produced and disseminated communications tools and materials to provide rights education, training and information to over 300 villages;
- » Trained 180 village paralegal volunteers and set up 60 Village Mediation Units;
- » Worked closely with over 100 partners, including central government Ministries, provincial and district offices, donors, local and international non-profit organisations, and private sector companies;
- » Established four Land Information Resources Centres;
- » Produced evidence-based reports and case studies to inform policy dialogue on the National Land Policy and Land Law;
- » Established and coordinated several platforms for multi-stakeholder dialogue on land issues, including the National University Research Forums and Responsible Agricultural Investment Working Group; and



Conducted participatory land use planning (PLUP) integrated with land rights education in over 80 villages

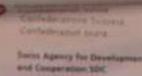
**The purpose of this booklet** is to compile the tools and approaches developed, tested and applied by the Rights-LINK teams. VFI hopes that others will be able to capitalize upon the successes of the RL project, to adapt, replicate and scale-up the tools and approaches contained in this booklet.

The booklet is divided into four main sections, covering four ‘themes’ or intervention areas of RL:

1. Access to Justice and Legal Information
2. Strengthening Land Governance
3. Alliance Building and Policy Dialogue
4. Private Sector Engagement

Under each theme, the specific tools and approaches that have been developed, tested and applied by RL are described in more detail. There are nine key tools and approaches captured in this booklet, although the RL team has been involved in many different areas that are not included here since they were not solely RL initiatives. These include the FLEGT network, training and capacity building for local nonprofit associations (NPAs), action research on hydropower and resettlement, community-based environmental protection plans, agro-ecology initiatives, and many more.

This booklet is produced with the intent of showcasing the most successful RL approaches that can be useful for other development actors to apply in their own work.



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## I. ACCESS TO JUSTICE AND LEGAL INFORMATION

### INTRODUCTION

One of the cornerstones of the Rights-LINK (RL) project is to ensure that rural communities have access to justice, resolve conflicts through appropriate channels, and have access to a variety of legal information, especially related to land and natural resources. In Laos, the justice system can be difficult for villagers to navigate. While there are channels for submitting grievances, such as through the National Assembly Hotline or People's Provincial Assembly Hotline in Champasack Province, there is no system for tracking how these grievances were resolved or if complainants were satisfied with the outcome. The RL project found that conflicts related to land were increasing due to more pressures on land. At the same time, rural communities and local authorities alike did not fully understand laws and regulations related to land, and accessing legal information was difficult.

The Gap Analysis conducted by RL in its target provinces (Bolikhamsay, Sekong, and Luang Namtha) provided a guiding framework for developing interventions to support improved access to justice and legal information. The RL project developed several tools and approaches for supporting communities and government partners to provide access to justice and provide legal information. The RL team also noted that villagers and local authorities did not fully understand their rights under international and domestic laws. RL found that conflicts were best resolved at the local level before escalating to higher levels, so a key approach was to strengthen the Village Mediation Committees and implement a strong paralegal program.

For government officials, RL delivered capacity building to assist officials to carry out their responsibilities relating to conflict resolution, provision of information, and functioning justice mechanisms. RL also developed a suite of training tools and materials to equip duty-bearers with skills and knowledge to ensure they can carry out their duties. For villagers, RL created a suite of community legal education tools that make complex legal concepts easier for villagers to understand. These legal education tools are also used by village authorities, civil society organisations, and government officials, to deliver legal information – especially about land and natural resources – directly to villagers in a culturally and linguistically-appropriate manner.

## APPROACH 1: VILLAGE-LEVEL CONFLICT RESOLUTION

Village mediation plays a vital role in preventing and resolving conflicts at village level using compromise approaches, which are one of the grassroots justice tasks in line with the Master Plan for Law Development to 2020<sup>1</sup> to promote Lao as a state fully governed by the rule of law. This objective to work towards the “state of law” from the grassroots level and developed-village clusters through line organisations to build equality on law basis and create opportunities for people to access justice by gradually improving and upgrading the quality of village mediation.

In Laos, Village Mediation Committees (VMCs) are village-level conflict resolution units comprised of five village representatives elected by the whole village. VMCs are often the first step for villagers to seek justice or advice for resolving conflicts. The VMCs are mandated to resolve village-level conflicts on a variety of topics, including land and natural resource management, before escalating grievances to higher levels. RL’s approach to strengthening villagers’ ability to resolve conflicts involves ‘Training of Trainers’ (ToT) capacity building for local government officials, which is described in detail below.

Previously, Village Mediation Committees were called Village Mediation Units (VMUs). VMCs were enacted under Prime Minister’s Instruction No. 01/PM on 6 January 2016 and Ministry of Justice No. 404/MoJ on 28 April 2016. After the Instructions, new VMC members were just beginning to be elected according to VMC guidance, so there are few organisations working with VMCs. RL was one of the first and only projects to fill this gap and meet the needs of government and village-level conflict resolution committees.

A key advantage of the VMC is that it is an official body under the Department of Justice, and already plays an important role in village life and conflict mediation and resolution. RL’s approach to strengthening the VMCs encouraged exchanges amongst VMC members to share lessons learned. Another strength of the new MoJ legislation that established the VMCs is that the roles and responsibilities of the complainant as well as the VMC members are outlined clearly. Under the new legislation, the elected members can be anyone from the village, not just from village authorities or mass organisations.

VFI staff members of the RL-II project completed several steps to assist VMCs in conflict transformation, beginning with a needs assessment for government trainers to identify gaps in the current conflict resolution processes. The needs assessment was conducted in coordination with the Ministry of Justice (MOJ) and Ministry of Agriculture and Forestry (MAF). Based on the needs assessment, the RL team then drafted a training curriculum with participation and collaboration from MOJ and line agencies. This curriculum was used to deliver ToT training for local officials to become ‘Master Trainers’, and these Master Trainers use the skills they learn to train VMC members in their district in effective conflict management and resolution. Following the ToT training, the government participants helped to develop and strengthen the curriculum further. The curriculum comprises six chapters including the mission and responsibilities of the VMCs.

<sup>1</sup> August 2009, issued by MoJ, Office of the Supreme People’s Prosecutor, People’s Supreme Court, Ministry of Security.

Thirty trainers (7 women) from three provinces and six districts have been trained so far. These trainers were from the District Agriculture and Forestry Offices (DAFOs) and Provincial Agriculture and Forestry Offices (PAFOs), the Department of Justice (DoJ) and Provincial Departments of Justice (PoJs), Lao Women's Union, and District Offices of Natural Resources and Environment (DoNREs). These officials returned to their jurisdictions and helped VMC members to better understand their roles and responsibilities when helping villagers to resolve conflicts, especially those related to land.

Officials who participated in the training told RL staff that they could “more deeply understand the systems and methods for solving complaints” after attending the training, and they asked for further training and a “reference book” that could be provided to VMCs for further guidance.

There are some challenges that remain with the strengthening of VMCs. For example, the election of the VMC members is not monitored by RL, so the project cannot be sure if the whole village is involved in the decision-making. In addition, there is not yet a monitoring system to follow up if and how well the government Master Trainers train the VMC members. The curriculum of the VMC training has been drafted but not yet tested, and RL plans to test and revise the curriculum in the future. VFI recommends focus on these areas in future iterations of the Access to Justice component. VFI also recommends to broaden the scale of the training to develop VMC skills related to effective management of land and natural resources, including the provision of basic legal information. VMC members also need better understanding about what mechanisms to use if they cannot resolve conflicts at local levels.

## APPROACH 2: PARALEGAL PROGRAM

Community paralegals are grassroots advocates who use their knowledge of the law to seek concrete solutions to achieve justice for community members. Based on the needs of a given case, they may employ such tools as mediation, legal advice, education, and advocacy to local authorities. RL developed a suite of legal empowerment tools that these ‘frontline legal defenders’ can use, and also built the skills and capacities of paralegal volunteers in 60 villages in six target districts of three provinces.

Three main groups were selected to be paralegal volunteers: (1) villagers with some legal background<sup>2</sup>, (2) women, and (3) individuals with responsibility for land issues. The paralegal volunteers are individuals who do not hold an administrative position in the communities. Consulting with the paralegals is free of charge and may sometimes be quicker than going through other legal channels for advice. Both paralegal and VMC mechanisms have a duty to disseminate laws and attend to grievances brought before them.

RL supported local authorities in identifying participants to be part of the paralegal program, and provided ToT training to these authorities to then train the paralegals. The ToT training comprised several modules, including basic facilitation and training skills, basic laws (especially land laws and regulations), mediation and dispute resolution, community outreach and engagement skills, and how to escalate cases to higher levels if local level solutions cannot be reached.

In total 180 paralegal volunteers were trained by trained district and provincial officials: three volunteers (two men and at least one woman) per village in 60 villages, across three provinces (See table below). RL's paralegal program worked with MOJ and MAF at central level, as well as provincial and district line agencies. The Lao Women's Union was also engaged.

As a next step, VFI recommends that paralegals be connected to professional lawyers, such as through the Lao 2 For example: MoJ has a long-running program where people may be selected or choose to attend “san ton” which provides three months training on basic laws, and they then receive a Certificate of Law Training.

Bar Association, in order to access legal advisory services and to escalate complex cases to higher levels when they cannot be resolved at village level.

No.	Province	District	Number of volunteers		
			Gender participation		
			Female	Male	Total
1	Luangnamtha	Sing	8	22	30
		Nalea	11	19	30
2	Bolikhamxay	Paksan	12	18	30
		Borikhan	10	20	30
3	Sekong	Lamam	11	19	30
		Thateng	10	20	30
Grand total			62	118	180

### APPROACH 3: LAND RIGHTS EDUCATION AND INFORMATION DISSEMINATION

In 2015, RL-II's Gap Analysis in three target provinces (Luang Namtha, Bolikhamxay and Sekong) showed that there were limitations on information dissemination. For example, there are few channels for dissemination, most of the data is in the form of documentation, and the context is too academic, while agencies and organisations also have limited budget and difficulties in accessing communities. These factors prevent communities from receiving necessary legal information. Furthermore, officials tended to use out-dated approaches to disseminate information, which were too official and lacked participation of villagers.

The Gap Analysis focused on assessing issues and related information on agricultural land use, gaps on agricultural land management and natural resources in order to collect baseline data and identify areas for interventions, as well as to plan the project strategy. Previously, the government and many sectors had received information from various channels such as radio, newspapers and local advertisement. RL built on its expertise from Phase I to develop innovative tools and approaches for facilitating legal education and information. RL is well known in Laos for its suite of communications materials, tools and products. These materials are commonly referred to as Information, Education and Communications (IEC) materials. RL's approach to developing IEC materials is very participatory and collaborative – the team works closely with government partners, civil society actors, and other partners to develop and disseminate the materials. In this way, RL developed IEC materials to help villagers, government, civil society and private sector actors to more clearly understand complex topics related to land and natural resources, including:

- » Free, Prior and Informed Consent (FPIC)
- » Land acquisition and allocation processes
- » Contract farming
- » Compensation and resettlement
- » Land registration, titling and land use planning
- » Land and natural resource tenure
- » Collective decision-making
- » Public participation in Environmental and Social Impact Assessment (in process)
- » Grievance mechanisms
- » Village Development Funds
- » Cooperation agreements between villages and companies
- » Sustainable agriculture

- » Villagers' Rights and Responsibilities
- » Community-led conservation

A flagship communications product co-produced by RL and a consortium of Land Information Working Group (LIWG) civil society organisations, development partners and government agencies is the Annual Land Rights Calendar. Each year since 2009, based on information from target villages, the Calendar Taskforce identifies key concerns about land or other issues facing villagers. These topics are then distilled into a series of explanatory cartoons taken directly from Lao laws, and compiled into a land calendar. For example, topics covered Lao labour laws, compensation and resettlement, gender equity, and negotiations with investors.

Another communications product that was well received during the RL project was a series of 12 short films, co-produced with GIZ. These short films focus on a variety of topics, from agricultural land management, to false land titles, to village development planning. The short films can be viewed on Rights-LINK's YouTube channel: <https://www.youtube.com/user/rightslink>.

RL-II, in collaboration with LIWG and GIZ, also produced a short animation video on Free, Prior and Informed Consent (FPIC). In collaboration with an agro-forestry company, Stora Enso Laos, RL-II also developed a short animation video titled "Good Faith Negotiations". The video will be integrated into the company's land acquisition processes, in order to inform potential 'host villages' about their rights when starting to work with a company.

Finally, the RL project produced curricula on the following topics, and these materials are used to help develop the VMC curriculum and during training of paralegals (approach 1 and 2):

1. Land rights, the importance of documentation and registration of land rights,
2. Participatory agricultural land management (PALM);
3. Access to justice (A2J); and
4. Roles of village paralegal volunteers and VMUs / VMCs.

Following the participatory production of curricula on these four topics, RL and government partners jointly developed an action plan for village dissemination, with the following steps:

- » Prepare action plan
- » Coordinate with the target villages
- » Prepare tools and equipment
- » Conduct action plan (one day per village) and divided into two phases: 1) implement Action Plan in first set of villages, followed by a workshop to evaluate lessons learned at provincial level with the team who implemented the same action plan in other districts; and 2) implement the Action Plan in the second set of villages.
- » During dissemination, the team was encouraged to document lessons learned, challenges and reflections on the process.
- » Finally, the lessons learned were discussed and shared at a workshop, which was held twice for each team.

There are several key outcomes from legal information dissemination and education, for target groups including local and central government, communities, private sector and civil society. These are listed below:

- » Through a participatory curriculum development, 43 trainers were trained at district (DAFO, DoJ) and provincial (PAFO, PoJ) level (11 females).
- » The 43 district staff (11 females) were supported by the RL team to disseminate information in 60 project target villages, two times per province.

- » 6,640 Villagers (2,707 females) in 60 target villages received information from the project. 90% of the target villages were ethnic communities.
- » The process and steps in curriculum development are now documented and can be applied to other projects, for instance ToTs to support Village Mediation Committees.
- » Villagers and other parties have better access to information related to land and natural resources at village level.
- » The capacity of local authorities is improved and they are able to determine better methods to disseminate information in the future.
- » As the post evaluation of the information dissemination showed, more than 70 percent of the target villagers are aware of their land use rights, including steps of land titling and registration, gender roles in the process of land titling and access to justice.
- » Trainers learned the skills of curriculum development (teaching materials), facilitation skills and techniques of teaching.
- » Participants are able to share information and practical experiences together and identify methods used in information dissemination at village level.

The RL team identified several factors in the curriculum development process that make the process successful. These include: jointly planning activities with government partners, and making sure that all team members understand the content and process. Skilled facilitators are also essential in developing and delivering the curriculum. Finally, the trainer team should organize a workshop prior to implementation, and the team must summarize the work done after each training.

## CASE STUDY WRITING

Case study writing is crucial for informing evidence-based decision-making around land, and to document different methods of resolving grievances or accessing justice. Case studies provide a reference or a guide for improving future approaches to ensure that communities can access justice and are supported by the relevant authorities. The RL project gathered data and provided capacity building for students, and provincial and district authorities to write-up a series of case studies. These case studies were produced using a three-step process:

1. Basic Training on how to write a case study, how to choose a theme, and the methodology for collecting information;
2. Collecting information from the field;
3. Write-shop on how to write up case studies.

Fourteen (14) written case studies were produced, and knowledge and capacity was created for local officials, employees of civil society organisations, and university researchers, totaling 53 people, of which 13 were women.

Some sample case study topics are displayed in the table below:

No.	Name of the theme
1	Using chemicals causes effects to rice fields, Hadloun Village, Nalae District, Luang Namtha Province
2	Effects of changing forest areas to plant rubber trees, Chalernsouk Village, Luang Namtha District, Luang Namtha Province
3	Paying no attention to boundary posts leads to border conflicts, Nakham Village, Sing District, Luang Namtham Province

4	Effects of changing rice fields to banana plantation, Phoudonethan Village, Sing District, Luang Namtha Province
5	Effects of giving rice fields to investors to plant watermelon
6	Forest conservation and forest cardamom management with citizen involvement, Phoupad Village, Nalae District, Luang Namtha Province
7	Effects of plant pesticides used in banana plantation to fishing and biodiversity, Silimoun Village, Sing District, Luang Namtha Province
8	Conflicts on land use between villages and the significance of land use allocation
9	Effects of issuing land titles for the protection of citizen's rights on land use
10	Effects of land concessions without an environmental effects study for the land use of citizens

Some key challenges were encountered, including the fact most people still lack experience in writing and analyzing information, which led to delays and difficulties in writing. Furthermore, information collection and data entry is of a low standard, and there is a lack of experience in collecting information. But the process is important and the project recommends further training across all sectors for documenting case studies, in order to bring voices from villagers up to higher levels, including the policy-making level.

In addition to case studies, the project produced evidence-based reports on Conflict Transformation, Food Security and Land Tenure Security, case studies on land governance and participation of communities in decision-making around land, and Experiences of Agribusiness in Laos. These reports were used to feed into evidence-based policy recommendations, and were shared with RL's network of partners (see Theme 2 and 3).

## CONCLUSION

Access to Justice (A2J) remains one of the key pillars of VFI's RL project moving forward. However, there are challenges that remain, particularly the lack of capacity for duty bearers to disseminate legal information to communities in a way that is easy to understand, and capacity at all levels to resolve disputes in a timely and transparent manner. In addition, duty bearers have limited understanding about their own responsibilities and of legal information.

RL's VMC and paralegal tools aim to help officials carry out their duties. Still, there is more work to be done to ensure that communities know how to access justice through the varying mechanisms, and that they are aware of their land rights under domestic laws and regulations. Further support is needed to create new tools for legal information dissemination at village level, and to strengthen village-level mechanisms for conflict resolution.



## II. IMPROVING LAND GOVERNANCE AND FARMER LIVELIHOODS

### INTRODUCTION

The management, protection, and use of land in Laos is governed by a series of laws, regulations, and policies, with responsibility for aspects of land governance shared amongst several key agencies, including Ministry of Agriculture and Forestry (MAF), Ministry of Planning and Investment (MPI), Ministry of Natural Resources and Environment (MoNRE), Ministry of Energy and Mining (MEM), Ministry of Justice (MoJ), and others. Customary land tenure systems are commonly used by rural communities in Laos, based upon mainly village-level agreement of land and resource use. Formal land titles and temporary land use certificates (TLUCs) provide a degree of land tenure security for farmers, but titling has so far been limited mainly to individuals / households in urban areas.

Despite vast amounts of rural land being communally used and managed, only two small pilot areas of communal land have been titled in Sangthong and Nakai districts as part of development projects. This means that a large proportion of land, both communal and individual, is not yet formally registered. In the absence of land titles, land tax certificates can be used as valid documentation, which does offer a way to formalise 'customary land', as these certificates are recognised in adjudication processes. However, records of land registries remain fragmented and incomplete, and the absence of an integrated system creates some overlaps in responsibilities.

 A new Land Law and National Land Policy will be issued in the near future; both policies are currently under review by MoNRE in conjunction with MoJ. While this new legislation will certainly have an impact on land governance, the precise implications of the new laws are not yet clear.

While a legal framework for planning, managing, registering and titling land been partially constructed, implementation and enforcement of the laws remains a challenge. Government line agencies lack human, technical and financial resources at district and provincial levels, leading to uneven enforcement of regulations. These differences between policies and practices are commonly referred to as Policy-Implementation Gaps (PIGs), and many of these gaps were captured in the RL-II Gap Analysis. To address these shortcomings, RL has developed several tools and approaches to improve land governance and thereby improve farming families' livelihoods.

#### APPROACH 4: GAP ANALYSIS

A Gap Analysis process was conducted in 2015 by RL-II, in collaboration with government partners, primarily the district agriculture and forestry office (DAFO), the district office of natural resources and environment (DONRE), the district office of justice (DOJ), the district office of planning and investment (DPI), and the district office of the Lao Women's Union (LWU), line agencies at provincial level (PAFO, PONRE, POJ, PPI), and Ministries at central level, as well as with participation from target villages.

A Gap Analysis is a useful process for designing interventions based on evidence collected and validated with a variety of stakeholders. The Gap Analysis was used to identify the gaps between the way the land governance systems should be working, and how it was actually working.

Through the Gap Analysis process, the following major issues related to land were identified by farming communities:

- » Land tenure insecurity, and a lack of knowledge among farming communities of the rights and responsibilities of agricultural land use and land tenure (i.e. how farmers can prevent and resolve their own issues);
- » Impacts of foreign direct investment projects, especially land concessions for agricultural plantations;
- » Unresolved conflicts, especially regarding land boundaries, and deficiencies in the systems for submitting issues to the relevant government authority through petitions, grievances, conflicts, etc. (i.e. how farmers can ask for help from the relevant government authority);
- » Low capacity among village and district authorities to respond to the communities' issues, and confusion amongst which government agencies should resolve which issues, and how;
- » Environmental impacts especially the overuse of agrochemicals;
- » Unproductive cultivation;
- » Disadvantages in contract farming.

Gap Analysis Target Villages					
Luang Namtha		Bolikhambxai		Xekong	
Sing	Na Lae	Bolikhamb	Pakxan	Thateng	Lamam
Phoudonthan	Sakaen	Xiengxien	Khambon	Kapeu	Kasangkang
Tinthad	Phoupad	Namtek	Khamphai	Chounla	Taneum
Thongmai	Longkaen	Phadai	Somsavad	Tonnoi	Phon
Nakhamb	Vaen	Phameuang	Thongnyai	Palai	Lavi Noi
Nalek	Ohm	Thatxiengtomb	Buavaengkham	Huayxai	Mai Nava

Source: Village Focus International, 2015.

## APPROACH 5: IMPROVING AGRICULTURAL LAND PLANNING AND MANAGEMENT

Land use planning (LUP) has gone through years of evolution in Laos starting in the mid-1990s with the village land use-planning program, and in 1993 with the Land and Forest Allocation (LFA) process. MAF has developed a manual and process for carrying out LUP, but this process has not been accepted by all actors and different projects carry out activities in different ways. Similarly, sometimes land use plans are made but not followed once larger interests such as concessions, agribusiness or other opportunities emerge.

To address these challenges, the Ministry of Agriculture and Forestry (MAF) provided the suggestion to undertake the review and evaluation of land use planning in 2010, focusing on:

- » ensuring sufficient agricultural land for villagers rather than reducing shifting cultivation,
- » ensuring rights to land use and management through the issuance of land titling and tenure to local people as to increase community participation,
- » establishment of village agriculture network, data analysis and data recording,
- » developing clear roles and responsibilities between MAF and Ministry of Natural Resources and Environment.

This review resulted in the Participatory Land Use Planning (PLUP) guidelines.

RL supported government efforts to better plan and manage agricultural land through a tool called Participatory Agriculture Land Management (PALM). PALM was developed by MAF in collaboration with GIZ. RL built capacity of district and provincial officials to conduct PALM in two villages in each of the three provinces (total six villages). The initial survey identified several types of land classification :

1. agricultural land
2. village collective land reserved for animal raising/husbandry
3. upland-rice fields
4. village production forest
5. village conservation forest
6. watershed protection forest
7. land for industrial tree plantation
8. village spirit forest or graveyard forest
9. land for construction
10. rivers and/or streams
11. roads and other kinds of lands.

In addition, villagers also participated in the PALM process while agricultural land areas of households were also registered in Agriculture Land Registration Books. After being registered in the Agriculture Land Registration Books, the farming families are able to use the information in this book to show as evidence of land use, which helps to facilitate the land titling process in the future.

The technical team, comprised of MAF local line agencies (DAFO, PAFO) and RL staff, first interviewed all villagers, and entered this data into the Agricultural Land Registration Books for each farming household. The table below shows the number of farming households that completed their recording of agricultural land areas into the books:

No. of Farm Families	Village	District	Province
118	Phoupat	Nalae	Luang Namtha
166	Nakham	Sing	Luang Namtha
374	Sisavat	Bolikhan	Bolikhamxay
416	Sivilay	Paksan	Bolikhamxay
237	Kapeu	Thataeng	Sekong
137	Kasang Kang	Lamam	Sekong

Together with the technical team, villagers also participated in developing the ‘Village Rules and Regulations on Agricultural Land Use and Management’. Finally, the team and villagers established a Village Land Committee in each of the six target villages, who have responsibility for ensuring the new village rules and regulations are followed. The PALM Manual can be used to assist with future agricultural land use planning and management, and to promote participation and cooperation between farming families and local government authorities.

Another land governance tool that will be developed in collaboration with MAF and RL staff are the Communal Agricultural Land Management (CALM) model and guidelines. In Laos, communally used land primarily consists of spaces used for village-level agriculture. These communal spaces provide for a significant proportion of the food security and livelihoods for rural populations. In the past, tenure for these communal agricultural lands is determined through customary land use systems rather than by formal titling processes. At present the majority of individual land titles in Laos is for residential property and are largely limited to urban and peri-urban areas. For the most part, agricultural lands in rural areas do not have systematic land titling: in general, rural agricultural land titles are issued on a case-by-case basis for individual tracts of land according to requests of the land owner or land user; those individual titles are only issued to individuals / households or entities who can afford to pay the high price required for titling a single plot. This stands in contrast to the on-the-ground land use patterns described above: most rural farmers manage land communally, according to community needs.

That said, there is a growing awareness of the necessity of a communal land titling mechanism on the part of the Government of Laos. The 2006 Prime Minister’s Decree No. 88 on the Implementation of Land Law, indicates that “collective land” can include land that has been granted to be collectively managed by village communities. Other legal documents, such as the 2007 Ministerial Instruction No. 564 on Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling, issued by the former National Land Management Authority (NLMA), further clarify the meaning of “collective land” and allows for titling and management of collective land, although no regulations or policies give straightforward guidance on the mechanisms and structures for registration and management of collective or communal land.

With support from the Mekong Region Land Governance (MRLG) project, the CALM model is in its early stages, and will be piloted and a set of guidelines and procedures for harmonizing the planning, management, registration, and titling of village communal lands. In addition, CALM will promote participation of local people in planning and managing their agricultural land.

The approaches of PALM and CALM contribute to villagers’ land tenure security and food security by providing a model for planning, managing, and registering land. These approaches help to facilitate a more harmonized, integrated system of land planning, registration and management which helps lead to stronger tenure security for land users. When land is carefully planned and a robust system of management is in place, communities and local authorities are more equipped to deal with outside forces that may adversely affect tenure security. In addition, using land more effectively, particularly for agricultural production, helps to contribute to food security.

## APPROACH 6: CONTRACT FARMING

The government has begun promoting contract farming as an alternative to large-scale land concessions. In this model, communities / landowners enter into contracts directly with companies or investors. These arrangements are commonly referred to as ‘2 plus 3’, with communities providing land and labour, and companies providing capital, technique/ technology and market access, or ‘1 plus 4’, with communities providing land only. While the Lao government has promoted the ‘2 plus 3’ model of contract farming, there have been reports of cases where the profits actually received by communities have fallen far below the proportion agreed with investors.

Research suggests that there is a trend towards companies preferring the ‘1 plus 4’ model, in which production can be controlled more tightly, the labour force can be selected by the company, and wages can be held at relatively low levels, leading in some cases to larger profits (Shi, 2008). This model, however, significantly changes not only the environmental but also the social landscape since people are no longer using their land themselves, for example for food production.

According to RL-II’s Gap Analysis, there are several cases that highlight the concerns facing communities regarding contract farming and investment:

- » In Northern Laos, Chinese investors leased the areas with farmers to plant bananas, but the Chinese investors did not pay complete amount of money as both sides agreed. Another problem is that rice cannot be planted after the lease ends, since there is insufficient water for rice planting due to large quantities of water being used for banana farming, heavy use of chemicals, the soil quality is reduced, and environment is degraded.
- » In Central and Southern Laos, companies encouraged villagers to plant cassava, but they later did not buy the cassava from the villagers. A similar situation was reported for a eucalyptus plantation.
- » Another company obtained a concession for a rubber tree plantation, yet even after the company agreed to compensate to villagers, the villagers reported that their compensation was not received.

Within this context, it is critically important for villagers to be equipped with the skills, tools and knowledge to be able to know their rights and to negotiate fair terms for contract farming. RL, in collaboration with the LIFE consortium hosted by Village Focus International (VFI), has begun developing a training curriculum on contract farming to disseminate through partners to villagers who may enter into contract farming arrangements. The project aims to build capacities for local technical officials to improve their skills on applying materials for contract farming in order to increase equity, effectiveness, sustainability, able to be used as a references, providing opportunity for communities have sufficient knowledge on legal contract farming, be able to access justice, be aware of the importance of making fair contracts with investors and increase the participation from various sectors.

Eight officers from each target province, from the Provincial Agriculture and Forestry Offices (PAFO), and District Agriculture and Forestry Extension Offices (DAFO), were selected to receive training and materials. The training modules are structured as follows:

- 1) Theoretical Training and Skills-Building:
  - » Understanding the key issues facing farming communities
  - » Facilitation skills for engaging with villagers
  - » Defining contract conditions
  - » Rights of farmers, contract components and procedures, conditions about contract farming
  - » Negotiation skills and theory
  - » Basic training on conflict resolution

- 2) Village-Level Dissemination Practice Session
  - » District and provincial technical officers play a role in a simulation negotiation situation
  - » Visiting a village that has available conditions for district and provincial technical officers to practice information dissemination on contract farming
  - » Exchanging lesson learned, and feedback from trainers.
  - » The officials are also provided with a manual for future reference, to help them distribute Contract Farming information to villagers. Posters and other village communications tools will also be developed in future, to help villagers fully understand the complex concepts regarding Contract Farming agreements.

## CONCLUSION

There are challenges to implementing approaches for improving land governance, particularly carrying out land surveys due to geographical conditions, plus a lack of understanding at local levels about land use planning.

However, there are some good results from the testing of these tools and approaches. After completion of PALM in the project target villages, the district technical team and local authority should become a strong team and be capable to carry out agricultural land use planning and management in an effective manner. Agricultural land use planning and management will be compliance with development strategy of each district, and participation of villagers in in project target villages was improved.

In addition, these tools and approaches to agricultural land use planning must be developed for the village zones as to ensure the stability of agricultural land for the villagers and ensure agricultural productivity and tenure security in the future.

Similarly, more and more villagers are forging agreements directly with private investors, except they do not know the procedures. In the past, villagers did not receive the information on making contracts from any party; therefore, new tools should be disseminated to villagers as much as possible. At the same time, the tools should be improved to consist more examples and posters so that villagers who cannot read will be more interested and know the importance of contracts. People who will deliver these tools will be district technical officers who are well trained. Technical officers should also be able to speak local languages to facilitate better communication. Also, related district officers and a third-party (such as RL) should be involved during contracting between villagers and a company in order to build confidence for villagers and increase the equity and transparent benefits to both sides.

For ensuring success of contract farming training and capacity building, advertising the tools on contract farming is important. For district and provincial technical officers who were trained in contract farming, they should bring the lessons learnt to disseminate to communities. A further recommendation is that a member of the team should come from the justice office as the context of contract farming is related to legal justice.



### III. ALLIANCE BUILDING AND POLICY DIALOGUE

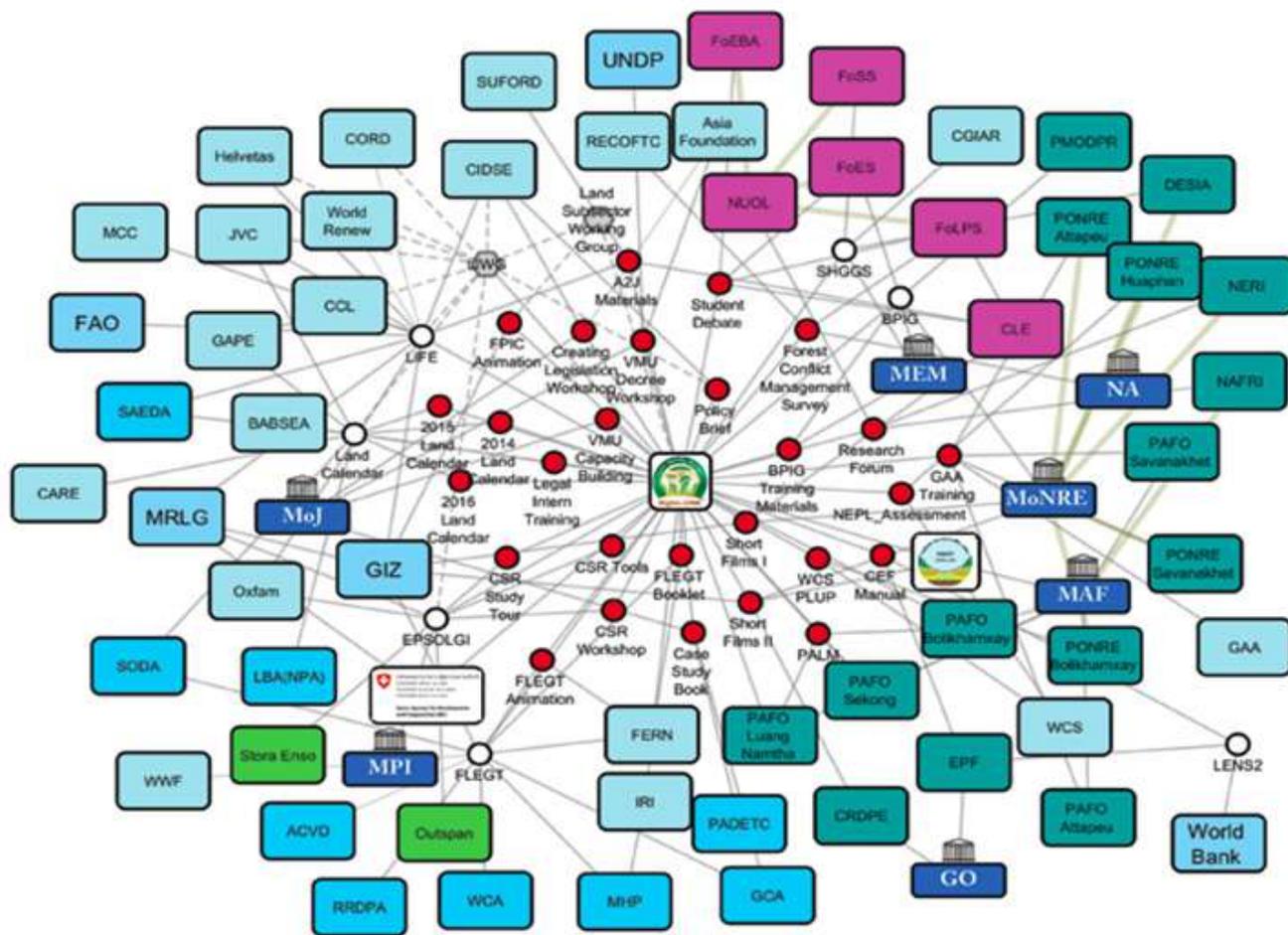
#### INTRODUCTION

RL has built a vast network with a variety of stakeholders, building partnerships and alliances with over 100 government agencies, civil society organizations, development partners and private sector actors. In particular, the RL team has formed a strong partnership with the Department of Agricultural Land Management (DALaM) within the Ministry of Agriculture and Forestry (MAF), as signified by RL and DALaM's signed Memorandum of Understanding (MOU).

The RL project has been a key player in 'opening up' and 'mainstreaming' land issues into broader discussions, and continues to be a key actor in policy dialogue and recommendations. The Land Information Working Group (LIWG) is one of the most active working groups, with 34 core members, including VFI, and 134 supporter members. VFI is also represented on the LIWG Steering Committee. RL continues to work closely with LIWG network members to build alliances and collectively advocate for improved land policies and land governance.

In addition, RL established an innovative space, the LINK Resource Centre (LINK is an acronym for Land Information, Networking, Knowledge), for stakeholders working on land issues. The LINK Resource Centre, as described below, offers a productive working space for multiple actors to come together to share experiences and lessons learned about land and natural resource issues, as well as providing a physical and online library for stakeholders to access a variety of information and documents related to land and natural resources.

This section provides a summary of the key tools and approaches used by RL to build alliances with a wide variety of stakeholders to influence policies and advocate for greater land tenure security of smallholder farmers.



- Development Partner
- Educational Institution
- Ministry-level Government Agency
- NGO
- Local NPA
- Joint output
- Private Business
- Government Agency
- Joint project
- Network

*Above: RL Network Diagram showing the many partners of RL.*

### APPROACH 7: THE LINK RESOURCE CENTRE

Many sectors are interested in information related to land and natural resources, yet providing space for dissemination and discussion of this information remains a challenge. Although some information has been produced by government and private sectors, civil society and individuals working in the field of land and natural resources, they still lack proper methods for collection and dissemination, including space for exchanging lessons, knowledge and experiences about the management and use of land and natural resources. Further, there is limited space for land actors to come together for policy dialogue and advocacy, and for distilling information into evidence-based policy briefs. This is where RL's LINK (Land Information, Networking, Knowledge) Resource Centre, also known simply as the LINK Centre, fills a gap.

The LINK Centre was established to promote knowledge, access to information, consultation and collaboration on land and natural resource management related issues. The LINK Centre is also intended to bring a wide range of materials and information together in one place, allow different stakeholders to share stories, and share perspectives between local communities and policy makers. The LINK Centre creates an innovative space to boost wider dissemination of information to contribute to the improvement of decision-making processes in land management and land use in a sustainable and fair manner.

The LINK Centre is built in a contemporary style that focuses on creativeness and convenience. The Centre covers three main zones as follows:

1. **Outdoor Café** for coffee breaks, meetings and events. This café zone was designed in combination with the coffee shop which is an open space that can host up to 50 persons. This area is also used for organizing regular exhibitions of the Centre such as conferences, study sessions, workshops and other meetings;
2. **The Library and Data Zone** is the main area of the Centre that comprises the Information Desk, physical library full of books in Lao and English language, and displays RL materials and communications tools. A number of computers are provided at the Centre for users to access RL's online e-library.
3. **Meeting Room** where visitors of the Centre can organize formal and informal meetings. The meeting room is also suitable for those who seek private space for discussion and exchange of lessons related to land and natural resources.

There are currently five iterations of the LINK Resource Centre:

- » The **LINK Resource Centre** located at VFI's Main Office in Vientiane capital. The Centre was formerly called '**Land and Natural Resources Centre**', and it was officially opened on 13 March 2010.
- » The Agricultural Land Information Centre, located at DALaM, was officially opened on 22 February 2016. This Centre has a similar management structure as the LINK Resource Centre's but under the management and administration of DALaM.
- » The **Provincial Land Centre** which was established in Bolikhamsay Province on 2 June 2016 to be the space for exchanging information on land and natural resources in central Laos.
- » The **Provincial Land Centre** which was established in Sekong Province on 17 May 2016 to be the space for exchanging information on land and natural resources in southern Laos.
- » The **Provincial Land Centre** was established in Luangnamtha Province on 13 July 2016 to be the space for exchanging information on land and natural resources in northern Laos.

## MANAGEMENT OF THE LINK CENTRE

The same data maintenance and management system is employed for all five Centres, which begins with the center receiving documents from various sources, and then these resources are divided into three systems for management and maintenance as follows:

- » For books, only three copies will be kept. Responsible persons then record the information of the books into the database using Excel spreadsheets and store them in Google Drive that can be shared and followed up by everyone. After that the documents will be entered in the library system called Free Bio with the coding system from 000-699. This system is developed by NAFRI, and the information can be found everywhere with the internet connection.
- » Electronic documents that are publicly available from other sources are downloaded and saved in the e-library which users can access through the RL website or DALaM. Stakeholders can input data and can search for and download documents as well.
- » Use of the library, including borrowing and returning of books and other documents, inputting number of visitors, members and participants of various Centre events. These items are recorded in Excel spreadsheets and stored on Google Drive which links the LINK Centre and Provincial Land Centers in three provinces.

## ACTIVITIES OF THE LINK CENTRE

After the gathering and management of data, dissemination is one of the main activities of the Centre in order to disseminate the information widely through the following ways:

- » Through dissemination of information about the RL project's activities such as: paralegal program,

access to justice initiatives, participatory agricultural land use planning, policy dialogue, case studies, private sector engagement, and others

- » Organize exhibition and display of information on special days
- » Broadcast through community radio program, radio broadcast and television in provinces
- » Direct visitors to the Centre, including the LINK Centre located at VFI, the Centre located at DALaM or Provincial Land Centers
- » Through the RL website to access other sources of information through these links:  
[http://rightslinklao.org/?page\\_id=301](http://rightslinklao.org/?page_id=301)  
<http://dalam.maf.gov.la/andhttp://www.youtube.com/user/rightslink>

The information provided at the Centre primarily covers the following topics:

- » Management and use of agricultural land
- » Land and natural resources
- » Laws, policies and regulations related to land and natural resources
- » Climate change adaptation and mitigation (including REDD+)
- » Forestry (including FLEGT)
- » Agricultural investments
- » Child rights, women's rights and anti-human trafficking.

The information mentioned above is contained in more than 1,000 different formats, including books, brochures, documents, reports, articles, short films, documentary films, and others.

Every month, the Centre organized interactive events, including:

- » Sharing workshops to present and exchange lessons, new research findings, launch the short films, and others
- » Presentation and awareness raising of the information and services of the LINK Centre for relevant faculty of the National University of Laos
- » Setting up an informational booth at national level events, conferences, seminars, etc.
- » Capacity building workshops

In addition to e-library (repository) that is provided through the RL website and social media platforms such as Facebook and YouTube, the LINK Centre also links to the websites of other sectors, including state, private and social sectors, namely the website of the National Assembly, the Lao Statistics Bureau, Ministry of Natural Resources and Environment, Ministry of Justice, Department of Agricultural Land Management, Lao 44, Laofab, CDE, LIWG, INGO network and other databases. See more details at [www.rightslinklao.org](http://www.rightslinklao.org). The Rights-LINK website was also selected for a World Summit Award in 2015 as the best website in the category of 'education innovation'.

More than 150 exhibitions were organized both inside and outside the Centre. 3,175 persons have come to use the Centre for conducting study, research and for borrowing documents. An additional 13,700 people have visited the project's website, and 521 viewers have viewed RL's short films on YouTube. See <https://www.youtube.com/user/rightslink>.

Since 2013 up to the present, the Centre has distributed thousands copies, including booklets, analysis, DVDs, reports and other communication materials that provide knowledge about land, agriculture and natural resources to stakeholders.

## APPROACH 8: POLICY DIALOGUE

RL contributed to the process of land-related policy development, and the RL team has collaborated with LIWG and development partners to prepare recommendations on the drafts of National Land Policy and Land Law. These important recommendations focused on the transfer and acknowledgement of official and unofficial rights to land use; protection of official and unofficial rights to land use; formulation of effective mechanisms for land-related conflict resolution; and land-based investment that is transparent and conducive to sustainable development.

Equitable and sustainable land activity is the key driving focus of RL. Real experiences, including the results of the agricultural land management Gap Analysis conducted by the project, suggest that the Laos still faces a number of land issues. The project realizes that addressing land issues is strongly associated with the development of suitable and clear policies.

RL has set targets for implementation of activities that promote participation in the systematic and scientific development of land policies that are in line with current environmental understanding, and are able to reduce and address problems experienced in rural areas; and that promote and support development of policies that meet the demands of all sectors: government, private industry, and local people. Specifically, the objectives of RL are to ensure that the government is able to manage land effectively; that investors are confident about the investment environment; that the economy grows; and that people are guaranteed rights that respect their interests so that they can build a better life.

The overall objective of policy dialogue is to influence policies through the transfer technical know-how and experience that RL has obtained from its work and from listening to the voices of local people and authorities, and to report them to central government, decision-makers and policy-makers. The specific objectives are to: 1) study in detail the draft land legal instrument; 2) prepare recommendations on the draft land legal instrument; 3) work with other sectors to conduct research and collect data to support the recommendations and ensure that the recommendations are suitable to the current environment; and 4) cooperate with other sectors of the LIWG to introduce the recommendations to policy-makers.

The target audience for the recommendations related to the draft land legal instrument are policymakers: the Department of Land Management under the Ministry of Natural Resources and Environment, the Land Law Drafting Committee, the National Assembly and the legal research institute under the National Assembly.

### POLICY DIALOGUE PROCESS

RL's participation in the development and amendment process of the draft National Land Policy and Land Law began with the meeting of the Land Sub-Sector Working Group (LSSWG) where its participants agreed to establish Focus Groups to continue discussion of particular topics:

- » communal land,
- » land use planning,
- » land tenure security and policy implementation,
- » compensation, and
- » land conflict resolution and leases/concessions.

Village Focus International, in cooperation with the Department of Land Management, Ministry of Natural Resources and Environment, was assigned to co-conduct the meeting to discuss two specific topics: land tenure security and policy implementation; and compensation.

Next, RL established an internal committee of policy coordinators and law experts to study and analyze the draft land law and the draft national land policy. The committee focused on analyzing strengths and loopholes,

suitability and potential impacts of implementing the two legal instruments based on the experience the project team has gained from working with communities and local and central authorities, and problems the project has experienced in past activities.

The RL team then presented its analysis of the draft land legal instrument and exchanged views at the LIWG, the topic oriented consultation meeting on guarantees of rights to land use and policy implementation and compensation, and the meeting of the land subsector working group. After the compiled recommendations were presented at the meeting of the LSSWG, participants of the meeting agreed to establish a compilation committee, made up of representatives from VFI, Mekong Region Land Governance project (MRLG), LIWG secretariat, and German Development and Cooperation (GIZ), to compile and summarize the points of views of organizations and land experts who are members of the LIWG. Then a compilation of recommendations on the draft National Land Policy and draft Land Law was prepared.

The compilation committee served as a representative of LIWG and met with policymakers. The Chair of the Draft Land Legal Instrument Assessment Committee attended a meeting to introduce the draft land legal instrument to the government, and met with the Law Research Institute of the National Assembly. During the meetings, the compilation team, on behalf of LIWG, presented their findings and exchanged points of view on land priority policy in expectation of policy changes in the future.

To ensure the recommendations on the draft land legal instrument are defensible and backed with reliable evidence, LIWG proposed conducting research focusing on existing land literature, other land legal instruments and recorded statistics, especially those relating to land-related conflicts. The research was conducted by researchers from the National University of Laos.

## POLICY RECOMMENDATIONS

In collaboration with the committee described above, RL proposed the following recommendations:

1. **Establish and recognize formal and non-formal rights to land use** – registering and titling land will provide tenure security. However, the registration and titling processes are time-consuming and costly, therefore, there is a need to recognize customary rights to land use. Moreover, before the completion of nationwide titling, communal land titles will provide tenure security for collectively used land in the communities. The land policy should promote the following activities:
  - a. Promote nation-wide land titling
  - b. Promote communal land titling
  - c. Acknowledge customary rights to land use
  - d. Promote community's participation in land decision-making processes and land governance
2. **Protect and guarantee formal and non-formal rights to land use** – This refers to the establishment of mechanisms for individuals and communities to protect their land tenure from expropriation without consent or without full and fair compensation prior to the commencement of the projects:
  - a. Prohibit expropriation of rights to land use for investment purposes without consent of the rights holders.
  - b. Full and fair compensation is made prior to the commencement of project activities.
  - c. Protect land users against land acquisition or lease without their consent.
  - d. Protect land users from arbitrary loss of land use rights.
3. **Establish mechanisms for land conflict resolution:** including conflicts mediation mechanism, establishment of an independent committee, which may involve the National Assembly or Provincial People's Assembly, to resolve conflicts in which government organizations are a party.

**4. Turning Land into Capital:** “turning land into capital” will promote domestic and foreign investments in small, medium and large businesses which will generate national income, boost socio-economic growth, and improve people’s living conditions. The promotion of land-based investment should focus on creating favorable conditions for investment, have a clear mechanism to mitigate environmental and social impacts, and be based on the principles of Free, Prior, and Informed Consent (FPIC). Full and just compensation for the loss of land or other damage from land conversion must be made before the project begins.

In addition, RL II co-chaired, with the Department of Land Administration (DoLA), consultation workshops of on two topics: 1) land tenure security and land policy implementation, and 2) compensation. The consultation workshops were organized under the Land Subsector Working Group (LSSWG) framework. RL II together with MRLG, GIZ and the LIWG secretariat also formed a ‘consolidation team’ with the primary aim to consolidate comments and recommendations from other stakeholders on the draft land law and national land policy and create a consolidated recommendations on both legal documents. RL also worked with researchers to conduct researches to collect evidence that supports the its recommendations and represented LIWG at meetings with policymakers.

As a result of RL’s policy influencing efforts, the following key points were achieved:

- » The government is cooperative and more eager to listen to points of view from civil society and other sectors, and has made active contributions to discussions on land issues and development and amendment of land legal instruments.
- » Meetings have been held on a regular basis to discuss land issues. These include the meeting of LSSWG which was co-chaired by the government’s Department of Land Management, GIZ on behalf of development partners, and representatives of LIWG. The meeting was attended by participants from government agencies, civil organizations, private groups, and international bodies.
- » Participants in the meeting made meaningful contributions to the discussion in expectation of developing land legal instruments that are effective and realistic.
- » However, land legal instrument development is a continuous and time-consuming process and depends on a number of external factors, such as decisions by the government and policymakers. Therefore it is difficult to determine a framework for implementing the activities of the project and identifying change indicators for promoting participation in the land legal instrument development process.

## CONCLUSION

The project team worked with other networks and organizations to build alliances for involving in the policy development process, especially the preparation and compilation of recommendations on the draft National Land Policy and draft Land Law. Since the groups have different points of view, it may be difficult to find a conclusion acceptable to all parties. Finally, it is difficult to convince policy-makers to accept the recommendations, as the recommendations lack enough evidences or analytic findings to support them.

A key lesson is therefore to conduct further research to inform evidence-based policy recommendations. RL also learned that policy advocacy must be conducted through network-oriented cooperation involving several organizations, including government, private sector, civil society, academics, and affected communities, as these parties concerned play different roles, have different specialties, experience, and expertise, and different perceptions on land issues. Discussion forums must be promoted for all parties concerned so that they can fully voice their views. Finally, to facilitate cooperation, a main committee or team should be established to serve as a key coordinator, make decisions on urgent issues, and create favorable condition for all sectors to reach consensus on inputs into the National Land Policy and Land Law.



## IV. PRIVATE SECTOR ENGAGEMENT

### INTRODUCTION

In an effort to ensure that investments bring benefits for all and are sustainable, a number of soft-law international instruments have been developed to provide global guidance on responsible agricultural investment. A prominent example is the Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (PRAI), released in 2010 by the FAO, UNCTAD, IFAD and the World Bank. As interest about responsible investment grows in Laos, all sectors are increasingly relying on international guidance and adapting it to the local context to promote, adopt and enforce responsible agricultural investment (RAI) practices.

At the same time, the agroforestry sector is gradually developing industry standards of its own, taking its cue from international guidance such as the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs) (2012), as well as the Interlaken Group's accompanying Guidance Tools, the PRAI, the Committee on World Food Security's Principles for Responsible Investment in Agriculture and Food Systems (2014), and OECD-FAO Guidance on Responsible Agricultural Supply Chains (2016).

Due to the evolving nature of responsible investment discourse in Laos, there are a number of different terminologies used to describe 'responsible business'. Responsible business conduct (RBC) is a term recently introduced by the Organization for Economic Co-operation and Development (OECD) during the Investment Policy Review in 2016, but discursive norms in Laos tend towards Corporate Social Responsibility (CSR), "quality investment" and "green growth". These terms are widely used to describe principles and standards

for businesses to avoid and address negative impacts of their operations, while also integrating social and environmental concerns in their business operations and interactions with their stakeholders. While CSR is generally an initiative taken by private sector, RAI is seen as a mix of private sector initiative (codes of conduct, VGGTs, etc.), business-enabling state activity (legal reforms, land administration, clear jurisdictions and processes, etc.) and civil society engagement (for example, via independent oversight, mediation, etc.) The underlying message of RAI is that solutions can be found to create mutual benefit, and to reach that ‘triple bottom line’: people, planet and profit.

To help achieve these three aspects, the RL project led a multi-stakeholder platform to facilitate dialogue amongst civil society, private sector, researchers and government, and to produce tools that would help to implement RAI practices. The RL team also formed a joint project with an agroforestry company, Stora Enso Laos, to co-produce tools that help the company improve community engagement and land acquisition processes.

## MULTI-STAKEHOLDER PLATFORM FOR RESPONSIBLE AGRICULTURAL INVESTMENT

The RAI Working Group was established in 2015 under the RL project with co-funding support from the Mekong Region Land Governance (MRLG) project. The group’s aim was to foster greater engagement and collaboration across sectors to strengthen and promote standards of socially and environmentally-responsible investment, and facilitate positive engagement amongst government, agribusiness investors, civil society and communities. The group sought to identify companies that were implementing RAI and / or CSR. By collecting and disseminating examples of responsible investment practices in Laos, the group aimed to encourage a broader range of investors to integrate social and environmental concerns into their business operations within the Lao context.

The RAI Working Group was established as a voluntary forum and collaboration amongst private sector, civil society and government in Laos. The group comprised more than 30 members across three sectors: (1) key government agencies responsible for national planning and investment promotion, land use planning, forestry, agricultural production, and land administration and management, (2) private sector representatives from international financial institutions, agribusinesses, and agroforestry consultancy firms, and (3) civil society organisations, both national and international, working on community development and land issues.

The RAI Working Group collectively agreed on three thematic areas for prioritising activities. These were:

1. **Data Collection, Analysis and Dissemination:** the group sought to supplement limited RAI information in Laos by gathering case studies of existing agribusiness investment practices, including constraints and opportunities, and potential benefits to all relevant sectors. By identifying examples of investors who are working towards responsible agricultural investment, the group aimed to document replicable practices that could serve as models for other companies, as well as identifying opportunities for improvement.
2. **Cross-Sector Dialogue, Collaboration and Knowledge Exchange:** the group aimed to develop a shared understanding of CSR and RAI, and to facilitate cross-sector dialogue through regular workshops, sharing forums, field visits and co-development of information tools. The group sought to forge cross-sector links to address shared challenges involved in implementing responsible business practices.
3. **Build Partnerships for Promoting RAI:** the multi-stakeholder process and co-production of knowledge is intended to foster ongoing partnerships amongst all stakeholders for strengthening application of RAI practices in Laos.

The RAI Working Group undertook a Study Tour to gather information and data about experiences of agribusiness investment in southern Laos. The Group met with communities, companies and local authorities, and compiled their findings into a series of case studies. Below is a summary of the key findings:

- » If the company obtains a ‘social license to operate’ from the beginning of the project, social conflicts can be avoided, business risks can be mitigated, efficiency can be increased, and delays can be prevented;
- » Responsibly implemented investment projects have potential to contribute to sustainable national development by helping to alleviate poverty, promoting sustainable use of natural resources, providing employment opportunities and job training, infrastructure and economic opportunities for communities;
- » Clear and transparent processes for land allocation and governance are a common aim for government and companies, to create a fair and consistent operating environment that benefits all parties;
- » Responsible business practices can provide access to new markets for companies;
- » Community consultation and engagement following FPIC principles can help maintain social harmony and build better relationships amongst all actors involved; and
- » Responsible investment can bring economic benefits for companies (expanded market share and profits), government (economic growth), and communities (increased household income).

Picture: Case Studies produced by the RAI Working Group “Experience of Agribusiness Investment in Lao PDR”. 2016.



## EXPERIENCE OF AGRIBUSINESS INVESTMENT IN LAO PDR

Mekong Regional Land Governance Programme

September 2016

This document presents the experiences of two investors, Sora Enso Lao Co. Ltd (SEL) and Outspan Botswana Limited (OBL), who have invested in agribusiness plantations (eucalyptus and coffee respectively) in the south of Lao PDR. It discusses the lessons learned on four key topics related to responsible investment: (1) land acquisition, (2) compensation and benefit sharing, (3) community engagement, and (4) grievance mechanisms. They are the result of a week-long multi-stakeholder engagement and dialogue involving the companies themselves, government, civil society organisations and the communities concerned.

### Context and Approach

From 7th to the 10th December 2015, the Ministry of Planning and Investment (MPI) co- led the ‘Responsible Investment Study Tour’ on a visit of two companies in Champasak and Salavan Provinces in southern Laos. The intention of the Study Tour was to (a) gain a deeper understanding of good investment practices, and (b) examine the challenges and opportunities related to implementing responsible agricultural investment, particularly as they relate to protecting and promoting land tenure for rural communities.

The two companies – SEL and OBL – were approached to participate in the Study Tour to allow participants to see first-hand the realities of implementing responsible investment practices in Laos. The companies were identified as two examples of land-based investors who are working towards Corporate Social Responsibility (CSR) practices which are replicable for other agro-forestry investors, to improve the quality of investment in Laos.

This Study Tour was part of a multi-stakeholder working group on Responsible Investment in Lao PDR. The group has the goal of improving awareness and understanding of CSR, providing space for cross-sectoral open dialogue, and promoting more responsible agricultural investment in Laos. The group was formed under the Learning and Alliance building (LAB) grant facility provided by the Mekong Regional Land Governance project (MRLG), funded by the Swiss Agency for Development and Cooperation (SDC), and by German Cooperation.

The Study Tour group comprised representatives from central and local government, private sector, development partners, members of the Land Issues Working Group (LIWG), and a local media representative. Participating organisations are identified in full at the conclusion of this report.

Discussions at district and provincial levels with local authorities, community and company representatives were facilitated by SEL and OBL. To collect the data and information contained in these case studies, the Study Tour group conducted semi-structured interviews with provincial and district authorities – including those from local planning and investment offices, natural resource and environment offices and agriculture and forestry offices – held focus group discussions with four communities and conducted in-depth interviews with company representatives, as well as receiving a completed background questionnaire from both companies.

### LESSONS LEARNED

The case studies provide useful lessons for potential and existing land-based investors in Laos, NGOs and government alike. Key ‘take home messages’ from these case studies are:

Investors need to go beyond compliance with national laws to achieve business objectives. Due to differences between national standards and international guidelines, and the complexity and legal pluralism of the Lao legal system, mere compliance with the law will not yield the certainty required by private sector investment over the long term.

Engaging with communities prior to investment reduces long-term risks to investment projects. Companies should begin community consultations well in advance of the project beginning – and continue engaging throughout the project cycle to resolve any issues as they arise.

Government plays a key role in promoting and setting standards for responsible investment practices. To attract quality investors, investors require an enabling environment with clearly defined administrative and governance processes.

Implementing responsible investment requires a multi-stakeholder effort and increased cooperation between private sector and civil society. Private sector and NGOs do not have to be adversaries; they can be allies – these case studies highlight the benefits of working together, and show that problems are best overcome through multi-stakeholder cooperation.

RAI stakeholders involved require a deeper understanding of how to implement responsible investment practices. Central and local government, investors, NGOs and communities have gaps in their knowledge regarding key topics such as land rights, applying CSR standards, what constitutes free, prior and informed consent (FPIC), stakeholders’ roles and responsibilities during land allocation and acquisition processes, and grievance resolution processes.

## CHALLENGES FOR PRIVATE SECTOR ENGAGEMENT

As a first step, the RAI Working Group sought to understand the barriers and opportunities for expanding and deepening cross-sector collaboration, particularly between local CSOs and agribusiness investors in Laos. Based on discussions and group exercises, below is a summary of factors hindering engagement between civil society and private sector in Laos:

- » Private sector does not see the benefits of partnering with civil society, so are unwilling to allocate resources for working together;
- » Small-Medium Enterprises (SMEs) operate in a rapidly changing business environment, and often do not have the resources, willingness or interest to work long-term with CSOs;
- » Unspecified timing, and different concepts of timeliness and scheduling between CSOs and companies;
- » Lack of precedents for CSO-private sector cooperation;
- » Language barrier (many investors are Chinese or Vietnamese speaking);
- » Lack of investor accountability to domestic laws;
- » Lack of RAI or CSR guidance adapted for Lao context;
- » Lack of knowledge on both sides of international good practices and standards;
- » Difficult to access investors/project owners;
- » Lack of reliable data on investment projects, and non-transparency;
- » Lack of knowledge of each other's work and goals, leading to mutual distrust that does not induce cooperation.

A series of risks were inherent in the RAI Working Group – some were expected and could thus be mitigated by confidentiality agreements and clear guidelines, however some became apparent during the process. Risks to CSOs included being viewed as a lackey or marketing tool for companies, or accused of helping agribusinesses with their “greenwashing”. Similarly, when co-producing the agribusiness case studies, CSOs faced the risk of jeopardising future collaboration with the companies if they did not agree with the final product, or faced criticism from other stakeholders if the final product was deemed not critical enough.

A key challenge for CSOs working with companies is to keep affected communities' interests and wellbeing central to all collaborations. There are risks to the companies engaging with civil society too – some concerns of the private sector are that CSOs may have a hidden agenda to expose companies' practices. Some agribusiness investors cited a lack of clear objectives from CSOs wanting to “engage” with the private sector, without clearly defining the purpose or what the “engagement” would entail. Both sides need to share an understanding of the objectives of the partnership, keep channels of communication open, negotiate clear terms of engagement from the beginning and forge a mutual agreement for working together.

## CONCLUSION / RESULTS

As a result of the RAI Working Group process, a local CSO and agroforestry investor (Stora Enso Laos) began a joint collaboration aimed at improving the company's land acquisition processes and community engagement. The joint project aligns with the partners' mutual interests in strengthening company-community consultations and engagement, and bringing the investor's land acquisition processes in line with international FPIC standards. The project, supported by MRLG, produced a series of community consultation and communications tools, and provided training and capacity building for the company's Land Team to improve community engagement. Responsible investment is still in its infancy in Laos, but there is clearly a growing interest from across all sectors. Government rhetoric and legislative reforms indicate that Laos is entering a new era in terms of investment, making efforts to close the floodgates that were opened during “turning land into capital” and instead attracting quality investors to “LAOS, the Land of Ample Opportunities & Success” (MPI, 2016).

Picture: example of communications tool “Village and Company Partnership Agreement” co-produced by Stora Enso Laos and Village Focus International. 2017.



However, the working group process revealed that there remain large gaps in knowledge regarding RAI amongst all actors involved – including understanding of domestic laws and regulations, international standards and soft-law instruments. Creating a shared understanding of these terms is fundamental to implementing and enforcing them.

The working group process further revealed that although there is increasingly willingness for cross-sector collaboration between civil society and private sector, there are few actors on either side equipped with the tools or experience to implement joint initiatives. Trust first needs to be built amongst all sectors to facilitate more meaningful cross-sector collaboration. Groups such as the RAI Working Group could be expanded to create new avenues for dialogue and seek ways of strengthening cooperation between government, investors, civil society, and communities.

Below: The “common ground” identified by Group Members. VFI, 2016.

