

Thailand's Land Titling Programme: **Securing land for the poor?**

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The World Bank's Land Titling Programme in Thailand was one of the largest land titling programmes implemented throughout the world. The Bank has praised itself for what it sees as the success of the programme in several of its own reports¹, and this has served as model for Bank programmes in other countries in the region (e.g. Indonesia, Lao PDR, and the Philippines) and around the world. We will examine the scope of this success, with emphasis on the impact of this programme for the alleviation of poverty in the North of Thailand.

After describing the context of land and the rural poverty in the North of Thailand, the paper will provide an outline of the Bank's land policy objectives and identify the main elements and achievements of the Land Titling Programme. In the second section, the paper explores the impact of the programme on the poor based on the real experiences of groups of farmers in Lamphun province, and challenges the broadly positive conclusions reported in the final evaluation of the 3rd phase of the LTP. As an example of the impact of the programme on local communities, the case of the District of Baan Hong will be presented, comparing expected benefits of land market stimulation, increasing land prices and access to institutional credit with the reality experienced by farmers in the area. There are many questions to be followed up which could provide some interesting areas for additional research.

Access to land for the poorest rural communities

Access to land is fundamental to the livelihoods of poor communities in rural areas. Land continues to serve as a means of providing subsistence needs as well as of income generation. Holding land enables family labour to be put to productive use, and provides a safety net for family members who work in temporary or insecure employment elsewhere. This was particularly evident in Thailand during the economic collapse in 1997 when the sudden threefold rise in urban unemployment was mitigated by the absorption of labour in the rural areas.

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Agriculture is still an important sector of the Thai economy employing around 54 per cent of the workforce (out of a total workforce of 33.4 million people)ⁱⁱ. The poorest sectors of Thai society are those households in rural areas without land or with very meagre land assets (that is with limited areas and poor quality soils). Thailand's Office of Agricultural Economics estimated in 1995 that the income of the population working in agriculture is about 15 times lower than the income of the population outside the agricultural sector. It was also found that the national average household income in 1999 was 12,729 Baht (or US\$318) per month whereas the average income for farming households was no higher than 1,000 Baht (or US\$24) per month (Office of Agricultural Economics, 1999). Land also continues to provide important social functions such as identification with family roots, cultural and community identity.

DISTRIBUTION OF LANDHOLDING IN THAILAND					
Region	Farming Households				Total
	Without land	Less than 0.8 ha	0.8-1.6 hectares	Over 1.6 hectares	
North	181,125	290,695	275,248	866,602	1,613,670
Northeast	107,556	116,910	202,089	1,821,566	2,255,124
Central	168,992	74,694	79,295	780,537	1,073,518
South	27,146	83,497	91,428	439,436	641,507
Total	454,819	565,799	658,060	3,908,141	5,586,819

Source: Agricultural Land Reform Office, 1999, from "Final report of the project to study land holdings and utilisation. Economic mechanisms and laws for optimally efficient land use", Land Institute Foundation, 2000.

The Land Institute Foundation, an independent Thai research organisation, has estimated that over 30 per cent of the 5.5 million households in the agricultural sector have insufficient land to derive a livelihood (in the Northern Region, this is considered to be less than 10 *rai*ⁱⁱⁱ or about 1.6 hectares). (See Table: Distribution of land holding in Thailand.).

The numbers of people without land has increased through recent decades not only because of population increase, but also due to a range of other factors. These include the somewhat artificial classification of 50 per cent of the country as national state forest in the 1960s, including areas that were already used for agriculture prior to classification. Large areas of agricultural land have also been taken or kept out of production. This was particularly evident during the high economic growth years of the late 80s and early 90s, when investors began to acquire land on a massive scale speculating on rising land prices. The Land Institute Foundation have estimated that the annual economic cost of underutilised land (including urban areas) to the country is approximately 127.4 million Baht (or around US\$3 billion) (LIF, 2000).¹

Much of this land was used as collateral to borrow huge sums that were never repaid. Figures from the Bank of Thailand reveal that the total value of non-performing loans (NPLs) could be as high as 2.92 trillion Baht (approx 68 billion US\$) over the period 1997-2000. The majority of these loans were in the real estate sector (LIF, 2000: 6-31). As a reaction to the unfolding economic crisis in 1997, the Thai government was compelled to bail out the creditors holding bad debt (especially that owed in foreign currency) under the conditions of emergency IMF loans. Thus the costs of imprudent private lending were transferred onto taxpayers throughout the country.

The World Bank's land markets

The World Bank's discussions of land policy invariably begin with the importance of access to land as a primary means of alleviating poverty. The Bank's analysis of how to promote the access of the poor to land is more controversial. Following its economic approach in other sectors, the Bank's interest in land titling stems from its objective of empowering individuals to trade land within a free market. A freely operating market is predicted to facilitate the optimum allocation of land by encouraging land transfers to those who can use it most productively.

At least in some cases, theoretically, a market should promote the retention or transfer of land to small-scale farmers, as research has shown that they are able to make more productive use of the land than large scale farming operations. Larger farm holdings operated with wage labour are recognised to incur substantial "efficiency losses" (that includes costs of wages and welfare for labour, management / supervision costs, as well the greater likelihood of lack of motivation of hired labour) compared with family-run small farm operations (Quan, 2000).

A second justification put forward by the Bank for the establishment of land markets is that this should stimulate the supply of cheap formal credit to both rural and urban sectors. The latter is considered essential for agricultural and economy-wide growth, which is expected ultimately to lead to sustained poverty reduction. In theory, land that is easily saleable should be attractive as collateral, as the assessed value should be higher than land held under restrictions or conditions, and also lenders should be able recover funds more cheaply in the event of non-payment. Following this logic, the Bank seeks to promote policy which allows land to be sold as easily as possible, as this would encourage the most efficient lending rates. Full individual ownership of land, as evidenced by a title deed, is the best way to ensure that land is easily saleable.

Although the Bank says that the importance of such markets "has long been realised by researchers and policy makers alike" (World Bank, no date: 62) there is a growing opposition to the Bank's land commodification policies from local community organisations and civil society

representatives as well as other critics of the World Bank who do not share the Bank's confidence and are questioning the arguments for promoting land markets (Rosset, 2001:5).

Local communities face a number of risks where free markets in land are promoted through national policy interventions. These will only be briefly outlined here as several studies have already presented this kind of analysis, in order to concentrate on presenting the experience in Northern Thailand in more detail thereafter. It should be clear that local markets in land arise often spontaneously, whether or not encouraged by, or even registered in law. Transactions of land need not be harmful to local interests or prejudicial to poorer sections of society, however it is important to realise where the risks lie, particularly during the initial stages of opening markets, in order to seek to reduce them.

Firstly, the playing field is far from level. Established actors in the market have greater access to information about financial opportunities, some are more liquid (have more cash available for investment), and more powerful than others. This is particularly so where there is high economic inequality on a regional or sectoral basis. For example, the purchasing power of investors in the capital cities far exceeds that of smallholder farmers in the rural areas. This imbalance can provide a lucrative opportunity for metropolitan traders which incidentally pushes the price of land high out of reach for the landless, the poor and for future generations of smallholder farmers. The interests of investors and farmers in holding land tend to differ substantially, and their acquisition of land purely as an investment for future use can severely disrupt local development patterns as we will see was the case in North Thailand.

Many countries, including Thailand, pose restrictions on foreign ownership of land, precisely in order to prevent local resources from being controlled by buyers from more affluent countries who can out-bid local entrepreneurs. A parallel could be drawn to argue for appropriate restrictions to be placed on the acquisition of land on a local basis within the country.

Secondly, contrary to Smith's basic precept, the collective outcome of market transactions is not necessarily socially desirable and government controls in the public interest can be justified. Joseph Stiglitz, former Chief Economist and Senior Vice President of the World Bank, who left the institution in 2000, illustrates the dangers of relinquishing government control over capital markets. "The IMF contended that the kinds of restraints that Thailand had imposed to prevent a crisis interfered with the efficient market allocation of resources. If the market says, build office buildings, commercial construction *must* be the highest return activity. If the market says, as it effectively did after liberalisation, build empty office buildings, then so be it; again according to IMF logic, the market *must* know best. While Thailand was desperate for more public investment

to strengthen its infrastructure and relatively weak secondary and university education systems, billions were squandered on commercial real estate. These buildings remain empty today, testimony to the risks posed by excessive market exuberance and the pervasive market failures that can arise in the presence of inadequate government regulation of financial institutions” (Stiglitz, 2000: 101).

In the case of rural land, the highest return activity is not necessarily either the most productive, nor the most environmentally sustainable. Legal measures, such as progressive land taxation and land zoning, to discourage the hoarding of land, to promote smallholder retention of land and other ways of adjusting market incentives towards overall economic and social policy goals have been argued for years by peasant organisations in Thailand. Existing taxes on agricultural land are extremely low in Thailand, amounting to less than a quarter of one percent of land value. These have a negligible effect on land values (Feder et al, 1988). Proposals for reform put forward by academics and People’s Organisations are currently being considered by the Thai government.

Thirdly, the commoditisation of land into easily transferable capital within a national market in itself has an impact not only on the local economy but on the cultural and social relations surrounding land. As pointed out above, in many rural societies, local values of land include not only use values (such as the subsistence value and income-generating potential of land), but a range of other values, according to different contexts. These may emphasise the heritage value of land (as a link with family ascendants or descendants), the importance of maintaining land within a community group, local ecological knowledge, and in some areas, may include obligations within an ongoing relationship with spirits associated with the place. These values cannot easily be associated with an equivalent economic value despite genuine efforts by environmental economists, and therefore risk being lost under a centralised market. If this kind of cultural transformation is what is intended, it would seem inappropriate for it to be undertaken without engaging in a widespread consultation or public debate, let alone for the process to be hurried along, following an international agenda of a donor agency.

The World Bank’s Land Titling Programme in Thailand

The Land Titling Programme originated in the early 1980s in discussions between the government and the agricultural sector of the World Bank on a structural adjustment loan. The programme was divided into four phases. The original aims of the programme were “to accelerate the issuance of title deeds to eligible land holders”, “to improve the effectiveness of land administration, both in Bangkok and in the provinces”, “to produce base maps and cadastral maps

in both urban and rural areas on one homogeneous mapping system, and showing all land parcels”, and “to improve the efficiency of the Central Valuation Authority”.

In phase three, authorised by the government on 22 September 1994, the objectives were adjusted to “provide secure land tenure to eligible land owners”, “develop long term sustainability of the Department of Land’s (DoL) institutional capacity”, “improve land administration service delivery”, and “develop an effective national property valuation function”. Phase four of the programme is yet to begin implementation. (See Box 1: Areas covered by the Land Titling Project.)

BOX 1: Areas covered by the Land Titling Project

Phase 1 – Northeastern region (southern 33 per cent of the area) + Upper Northern region (western 50 per cent)

Phase 2 – Lower Northern + Central region (16 provinces, high value rural land) + Northeastern region (6 provinces) + Eastern Seaboard region

Phase 3 – Northeastern region (remaining 10 provinces), Northern region (remaining 7 provinces), Central region (2 provinces)

Phase 4 – Southern region. Yet to begin implementation. The World Bank has suspended loans for Phase 4 as the government will use own revenue for future implementation of the programme.

Overall, US\$183.1 million was loaned by the World Bank to cover the three initial phases of the project. To date, 8.7 million land titles have been issued. This is a substantial number, despite being less than the number of titles targeted by the programme. However, as we will see later, this figure can be misleading and should not be taken as evidence that 8.7 million farmers have benefited. Notably, the programme did not set targets for the number of beneficiaries. Each region has been covered largely according to schedule. Delays were reported to have occurred as a result of the difficulties of tracing absentee landlords, as well as the imprecision of boundaries of national forest reserve areas.

Essentially, the programme was aimed at the acceleration of the land titling process. Thailand’s Land Code of 1954 used to require individuals to present at the very least an occupancy certificate (*Bai Yeub Yam*) in order to acquire a land title deed. The land titling programme amended the Land Code to remove this requirement and quicken the official process to approve land title deeds. “The DoL was hard pressed to meet the demand for land records in the form of land use certificates, title deeds and property maps. ...[At] the rate in which title deeds had been produced since DoL was established in 1901, and with current resources, the DoL would take 200 years to complete the registration of rights in land throughout Thailand. Even with a proposal to expedite

the surveying and mapping in support of land registration, the time estimate was still 85 years.” (Rattanabirabongse, et al, 1996).

As the titling process was not simply a matter of clarification of land rights, but a platform for the establishment of a land market, it was regarded as important that a uniform register providing complete coverage be established. “The purpose of a land registry is to provide an authoritative record of the status of land ownership. It is therefore essential that this institution be complete and defines unambiguously the status of individual parcels. The ensuing desire to establish a unified framework that covers both rural and urban areas has been a main reason for most of the Bank’s land administration projects to adopt programmatic approaches that would accomplish the overall objective in phases.” (World Bank, no date: 11)

Given the perceived urgency to achieve complete coverage, changes were made to the national code in order to make the titling process easier. Thus, the Land Code was modified to allow the NS3K (*Nor Sor Saam Kor*) utilisation certificates to be upgraded to full title deed NS4 (*Nor Sor Si*) on request, without a field survey (s 58 tri). The Land Code also allows full land title to be issued when there were no documents of occupancy or land claim reservation certificates (ss 58 bis, 27 tri and 59 bis). While those applying should have had possession of the land since before the Code came into force, minimal proof needs to be offered to the local Department of Lands official to support such a claim. Most official project documents highlight the safeguards designed into the survey and titling process, such as 30-day prior and subsequent notice at the house of the village head, as well as at various relevant Land Offices. Another change to the law involved the replacement of the Provincial Governor as the authorising officer on title deeds with the Provincial land officer or his branch office head.

According to an internal review of the programme, this change in the law was a “bold step perhaps, but necessary to complete the project in 20 years” (Rattanabirabongse, no date: 1). However, by allowing for faster processing of land titling applications, the authorities provided an ideal opportunity for investors and state officials to abuse the system, particularly during the high economic growth period.

Important omissions

The Land Titling Programme, while aimed at increasing land tenure security for existing landholders, did not attempt to address two critical issues of importance to low income farming groups in Thailand. The first was the issue of forest tenure. The Thai land titling programme dealt exclusively with “non-forest lands”. This is because all lands denominated as forest are considered as state property whether or not communities have been living and farming in those

areas for several generations. The state was ostensibly reluctant to offer secure rights for fear of legalising forest destruction. Consequently, some of the poorest farming groups in the country, including Thai farmers and ethnic minority groups who occupy forests, especially in the highland areas, have been left in a precarious legal position^{iv}. They continue to be threatened with eviction or forced restriction of their agricultural practices, harassed by officials. This prolongs the opportunity for politicians to cast ethnic minorities as scapegoats for all manner of national problems. The land titling programme did not seize the chance to 'regularise' the land rights of this large group of people, many of whom have occupied their village lands for hundreds of years.

A second important omission was that no provision was made in the planning or preparation of the project for the recognition or registration of rights to village commons or common property resources. The Land Titling Programme was aimed at the registration of existing land rights in order to give them validity under the national legal framework. However, the only option open was the registration of individual rights.

While, in theory, local tenure systems that recognise common rights to community resources could continue to exist extra-legally as before. The legalisation of individual rights alone creates a danger that common rights lose their legitimacy, leading to the break-up of community-based resource management systems. It was foreseeable that some, if not all common lands would be appropriated under individual claims. Without protection from misappropriation, this was possible by both powerful insiders and outsiders to the community. As the case studies from Lamphun province in the following section illustrate, many false claims of individual ownership over commonly held land were made with minimal notice to local communities and with little bureaucratic difficulty.

Impacts of the programme

The evaluations of the World Bank programme summarise the positive impact of the programme as follows. There has been a substantial increase (127%) in the price of land, vastly increased access (132%) to institutional credit, increased use of bought farm inputs (117%), increased yields in newly titled areas, and an increase in the areas used for farming, when compared with areas that had not yet been titled under the programme. The high fiscal benefits for the Department of Lands was also considered significant.

The experiences of farmers in Baan Hong district, Lamphun province in Northern Thailand provide a different perspective. In this district, seven villages and adjoining farmland were established at the boundaries of an area of 15,000 *râi* (2,400 hectares) of common land.

Access to these community lands had been governed under local tenure arrangements until the introduction in the 1960s of a Land Allocation Programme. This attempted to distribute certificates to parcels of land on the basis of a grid map, irrespective of any existing use of this area, the suitability of each parcel for agriculture, or the proximity of the parcels to the beneficiary's other lands. The plots were only identified by numbers on a map, so few families were absolutely sure where they were allowed to farm. Sometimes, villagers were allocated a piece of land that was not suitable for farming, so they moved elsewhere. In practice, available land was put to use by the farmers, but often not in accordance with the papers that were issued to them.

As a result of the confusion caused, the creation of competing official claims to land, and the impracticality of access, few farmers could actually use the land officially allocated to them though they retained the *bai jong* (certificate). In the 1970s, the Department of Lands, in an attempt to resolve the disputes, fixed another map that confused the matter even further. Recognising the procedural mistakes made earlier, therefore, the government revoked all certificates issued during the allocation programme, in one administrative stroke in the mid-1980s, with the intention of re-registering the land rights at a later stage.

As a result, in the 1980s, few formal claims were recognised over this land, and there was a need for clarification of land rights in this area. Unfortunately, however, the Land Titling Programme did not present the local farmers with the opportunity to secure title to these lands, as they were not involved when the project officers came round to issue title.

Misappropriation of land in Baan Hong district

As the economy grew in the late 1980s and early 1990s, financiers began looking for secure long-term investments for their accumulating capital and found that buying up rural land areas was an ideal investment. Such land could be acquired cheaply, issued with title, with every likelihood in the economic climate of the times that it would swiftly rise in value. In Lamphun province, titles for extensive areas of land were issued during the height of the economic growth period in 1990-1993 without the knowledge of local communities who became aware of the alienation of their community lands only when fences started appearing in the fields.

The entire 15,000 *râi* in Baan Hong District described above, that was previously held in common by local communities and that was supposed to be allocated to local people, is now titled under the names of non-resident companies and wealthy individuals from outside the community. Local farmers have vigorously challenged the legality of the title deeds. Villagers state there was no

notice of intention to survey the area and issue title either posted in the village or announced over the village loudspeaker. Research into the title deeds shows that many were issued on the basis of incomplete survey information, sometimes under false names, and from non-existent or long dead sellers (in at least one case, the space for the name and address of the seller was simply left blank).

Thus, villagers in Baan Hong were prohibited from using their community land, around which fences were constructed in or around 1990. Seeing such fences and boundary markers appearing in the lands they had traditionally claimed for village use, people from Sritia village rose up in protest at the illegal transfer of this land to outsiders. A youth leader involved in the protests was shot and killed by unknown gunmen.

Continued protest by farmers eventually led to the establishment of a joint government and community representative investigation committee in 1997, to look into the acquisition of land in state land areas around the country^v. Despite findings that such transfers were illegal, official action has yet to be taken to revoke the deeds.

The majority of plots in the Baan Hong area were left abandoned, possibly kept fallow to allow for quick sales when the time and price was right, or perhaps simply because it lay low on the titleholders priorities. By 1997, the entire area had been mortgaged, and, during the financial meltdown, duly became non-performing loans. Local communities themselves facing hardship during the economic depression, continued to be excluded from the land.

Land reform by community organisations

Understandably perhaps, villagers have not been very impressed by the various processes which were intended to secure their land rights over the past decades. It has taken a substantial amount of research on the part of non-governmental groups and lawyers to identify the current official owners of specific plots of land. Many deeds have passed through several hands in the early 1990s, increasing in value upon every transfer. In some cases, it seems that the transfers have been deliberately obscured, with properties returning to their original owners after seven or eight transactions (though now registered in the name of a company rather than an individual).

In frustration at the lack of action by local officials to recover the land, local people began to organise themselves and take the matter into their own hands. In 1997, villagers in WiangNongLong and Baan Hong Districts took the decision to occupy lands that had been left abandoned for several years. Neighbouring communities, similarly desperate for land for

subsistence, followed suit and cases of land occupation increased throughout the province and elsewhere. Today, a total of 3,798 families have joined the land occupation movement putting over 14,305 *râi* (about 2,150 hectares) of abandoned land to agricultural use in 23 areas of Lamphun, Chiang Mai and Chiang Rai provinces. (See Table: Participation in land occupation, Lamphun Province.)

PARTICIPATION IN LAND OCCUPATION, LAMPHUN PROVINCE				
No	Year	Village, District	Area (<i>râi</i>)	Families
1	1975	Wiang-Laopongseu, Wiangnonglong	800	136
2	1997	Paetai, Wiangnonglong	600	99
3	1997	Taluk, Wiangnonglong	700	160
4	1997	Tachang-nonglong, Wiangnonglong	100	50
5	1997	Nongkhiad, Banhong	1,700	81
6	1998	Sritia, Banhong	3,000	560
7	2000	Takoamuang, Banhong	1,000	111
8	2000	Nongsoon, Banhong	1,300	215
9	2000	Laikeaw, Banhong	120	58
10	2000	Raidong, Banhong	426	282
11	2002	Dongkilek, Pasang	1,000	160
12	2002	Sanpahak, Pasang	55	64
13	2002	Pongroo, Pasang	303	150
14	2002	Nakornchedi, Pasang	204	143
15	2002	Sanhangseu, Pasang	330	275
16	2002	Raikoaka, Pasang	170	98
17	2002	Prabat, Pasang	300	247
Total			12,108	2,889

Source: Northern Farmers Alliance, Secretariat Group, "Factsheet on Land", 2002.

Community based land reform

Case Study 1: Repossession of public land, Sritia village, Baan Hong district

In Sritia village, in 1998, villagers decided to mobilise together as a community to recover 3,000 *râi* (480 hectares) of neighbouring land that had been transferred to companies but had been abandoned for years. The vast majority, 560 of the 580 families, in the village took part in this activity. A committee was formed to manage the process. Areas were delineated to be reallocated as community forest (800 *râi* or 128 hectares in total) and as farmland for individual families (giving 2.5 *râi* to each).

All of these individual plots have been planted with longan and other fruit trees – reasonably long term investments in spite of the lack of official tenure security. Transfers or sales of these territories to relatives in the village or other community members have already taken place.

The involvement of the community in the land allocation, through a representative committee, seeks to emphasise transparency and fairness in the allocation of land. Villagers must support the community's action to establish their rights. All members of the community hold their land on condition that they put their land to use. They are prohibited from selling to outsiders.

Case study 2: Sustaining land tenure, Raidong, Baan Hong

Villagers in 3 villages of Baan Hong District including Raidong took action to occupy 426 *râi* of illegally-transferred land in their district in November 2000. Around 200 families joined the occupation within the first month and together worked to clear the land for planting. Each family was allocated 1.25 *râi* (0.2 ha) of land (though an extra 0.04 ha was allowed for committee members in recognition of their work on behalf of the group).

The villagers have agreed upon regulations for the management of this land and these have been amended and developed over the past three years. Exchange of land was not allowed at first, but following some informal swapping of plots, the group decided that there had to be some kind of allowance for those who wanted to sell, or resign from the movement, eg if they fell ill etc.. Thus, the rules were changed to allow villagers to return the plot to the committee in exchange for a nominal sum of money. Over the last 2-3 years, around 10 plots have been returned. Currently, purchases of this land must be paid for at a standard price, which has been set deliberately low by the committee in order not to exclude the poor from the local community. Criteria for identifying who is entitled to purchase have also been established.

As there is no provision under the Thai Land Code for common property, the villagers decided to create their own community tenure regime. Contributions were made by each family to pay for a survey map identifying the boundaries of the entire area and the dimensions of each individual plot. The villagers have published their own certificates, which indicates the location of the individual landholdings, the neighbouring plot holders, the rights of the titleholder, with 4 signatories. Villagers explain that the main motivation behind their 'community title' is to ensure long term access. As community title is not officially recognised, it cannot be used as collateral. The community therefore decided to set up their own 'land bank' or savings fund to facilitate small loans.

An important motivation to join the movement was severe indebtedness (Unofficial sources state that the village of Raidong alone owes the government's Bank for Agriculture and Cooperatives a total of 40million Baht (or approximately 1m US\$)). This has been exacerbated by vulnerability to the declining prices and increasing costs of their main product: longan fruits. As a result, many of the participants in the movement have sought to use their new fields applying low input sustainable agriculture systems and many use the fields for subsistence. In just 0.2 ha, one farmer has planted 24 longan trees, 2 lemon trees, 1 mango tree, 1 sapodilla tree, 2 custard apple trees, 9 cha-om bushes, 2 bamboos, chillis and beans for sale, rice, peanuts, aubergines, pumpkins, cucumbers as well as corn.

Until this year, local authorities had, by and large, tolerated the land occupations in areas throughout Lamphun province, taking no action against the farmers who had by now established fruit orchards, prepared and cultivated the fields, and set up huts and shelters and access tracks amongst the fields. However, in January 2002, police authorities began issuing arrest warrants for farmers on charges of encroachment onto titled land.

On 23 April 2002, a resolution by the Council of Ministers effectively gave the police the green light to begin arresting farmers' leaders – often deploying hundreds of officers to arrest one or two people in a village. Many of the arrested farmers were initially denied bail and underwent prolonged imprisonment prior to being brought to court. Due to the way in which the police had filed the charges, sums for bail at first exceeded several million Baht for each farmer. After appeal to the courts, bail was set at more reasonable sums, which were secured by the personal guarantees of sympathetic Senators and others. An agreement was finally reached between the farmer's groups and the state to desist from imprisoning any more farmers. Seventy-four farmers and 1 NGO worker are presently awaiting trial.

Land concentration under the LTP

The cases highlighted above point to the resistance of community groups in the North of Thailand to the transfer of lands outside their community, and the keenly felt imperative of putting abandoned land to use where there is widespread indebtedness and poverty in the neighbouring areas. In both cases, the land was transferred illegally. The revocation of the titles which were illegally issued in Lamphun province and elsewhere around the country would allow the restoration of lands to their rightful owners, relieve the tensions between farmers and the government, and would go a long way towards remedying significant problems brought about during the implementation of the World Bank's Land Titling Programme.

However, corruption is not the only way in which villagers may lose their land. The Land Titling Programme was to set in place a framework for a "free market in land" to begin functioning optimally. In this frame, land is purposely decoupled from local histories, social norms, responsibilities and other non-economic factors in order that individuals throughout the country may acquire land at an open market price. Thus, if incomers are unconcerned with the local community, so be it. From the point of view of policy, this cost is balanced by the 'benefit' that price competition should ensure that there is an incentive to make the most profitable use of the land.

As was seen in the cases in Lamphun province, the most *profitable* use is not necessarily the most productive. In the right conditions, high profits can be made by simply biding time, speculating on rising prices, without a single crop being produced, building built, or business managed on the premises. In practice, greater access to information and extra bargaining power of wealthier and politically more influential people favours the accumulation and concentration of land by large landholders.

While the Land Code appears to favour 'small' holdings by placing a basic limit of land holding at 50 *râi* (eight hectares) per title deed (exceptions are allowed at the Provincial Governor's discretion), there is no legal restriction on the number of title deeds any landowner can hold. Initial studies into the accumulation of land in Lamphun province show that in NongPlaSawai subdistrict, described above, just seven companies or individuals have acquired a total of 4,786 *râi* (765 hectares).

Investigating the existing data on land concentration is a very time-consuming task in Thailand, which is made even more difficult when officials prohibit access to information by the public, as discovered by the community land reform movement in Lamphun province. A detailed study by the Land Institute Foundation in one District in a northeastern province of the country, managed

to obtain data on the 69 largest landholders in the District, who together owned 31,290 *râi* (about 5,000 hectares) in total. (See Table: Concentration of land in Dankuntot district)

It can be seen from the table that most landowners in the top twenty did in fact hold less than the nominal limit of 50 *râi* per deed, but were in possession of dozens or hundreds of deeds allowing their overall landholding to exceed the ‘limit’ substantially. The authors point out that the full extent of largeholdings has not yet been revealed due to incomplete access to the record. The Department of Lands does not keep data on land concentration, despite the importance of such information as an indicator of how many households ultimately benefit from its titling programme.

The World Bank recognises that land markets often exist autonomously, without a national land register and without the need for formal title. This is evidenced in Sritia, Raidong and other villages taking part in Thailand’s community land reform movement where land has traded even without formal land deeds, relying on community authorisation, trust and social network responsibilities. Transactions involving tenure certification other than title may be considered economically less efficient than transfers based on formal title and open market values. However, such non-title transfers traditionally have been more successful in maintaining land in the hands of a large group of smallholders within the local community than a free market mechanism.

Table 3. Concentration of land in Dankunbot district, Nakhon Ratchasima province, North Eastern Thailand

Ranking of landowner	<i>Râi</i>	No of deeds held by single owner	Average size of landholding per deed
1	2,786.78	83	33.57
2	2,055.16	159	12.93
3	1,931.08	45	42.91
4	1,884.73	86	21.92
5	1,116.80	63	17.73
6	1,107.26	60	18.45
7	877.55	42	20.89
8	823.03	105	7.84
9	767.51	257	2.99
10	697.71	45	15.50

Ranking of landowner	<i>Râi</i>	No of deeds held by single owner	Average size of landholding per deed
11	644.95	35	18.43
12	530.90	52	10.21
13	520.86	1	520.86
14	499.64	22	22.71
15	481.23	67	7.18
16	401.82	4	100.46
17	400.00	8	50.00
18	394.95	35	11.28
19	381.67	17	22.45
20	374.74	20	18.73

Source: Land Institute Foundation, 2000

Price escalation

One important benefit claimed by the government from the Land Titling Programme is the rise in land prices conferred by issuing formal land titles. Providing title confers “a considerable implicit wealth transfer” which should benefit existing landholders, including poor farmers, once a land market is set up and properly functioning (World Bank, no date: 3). In the evaluation of the third phase of the land titling programme, it was found that “legal title is the main factor in explaining differences in land prices...titled land was between 75 per cent and 197 per cent more valuable than land without any documents” (Rattanabirabongse, no date: 11).

However, it is difficult to see in practice how increased land prices have benefited the poor and the landless. For one thing, high prices increase the barriers to access land for the landless, including new generations of farmers. The acquisition of land itself becomes a major long-term debt for new landowners, which diverts a substantial proportion of future income into mortgage repayments. Where prices rise sharply out of line with local incomes, the exclusion of poor purchasers is inevitable.

A more fundamental problem relates to the commodification of land, the process of transforming it into a freely tradable asset. This process encourages the purchase of land by wealthier groups. As stated above, the very existence of title can vastly increase the value of land. This in itself creates a significant incentive for rich entrepreneurs to buy up untitled land, pay their registration dues, and make a very quick profit. In Thailand, only 12 per cent of agricultural land was held under title deeds prior to 1982 (Brits et al, 2002). To go from minimal coverage to total coverage in a relatively short period opens up a lucrative opportunity for those with the resources and information to exploit the titling system.

The process of titling generates interest in the purchase and sale of land. It is rarely the poor who benefit from such property speculation and rising land prices. The experience in North Thailand shows that land is taken away from local people and becomes concentrated in the hands of a limited number of wealthy landowners. Stiglitz states that Thailand provides a case in point that speculative real estate lending is a major source of economic instability. “Before liberalization, Thailand had severe limitations on the extent to which banks could lend for speculative real estate. It had imposed these limits because it was a poor country that wanted to grow, and it believed that investing the country’s scarce capital in manufacturing would both create jobs and enhance growth. ... The pattern is familiar: ...as real estate prices rise, banks feel they can lend more on the basis of the collateral; as investors see prices going up, they want to get in on the game before its too late – and the bankers give them the money to do it. Real estate developers

see quick profits by putting up new buildings, until excess capacity results. The developers can't rent their space, they default on their loans, and the bubble bursts." (Stiglitz, 2002: 101).

Certainly, assuming they actually acquire title, poor land users may benefit from the "implicit transfer of wealth" of titling by being legally entitled to sell their land and dispose of the proceeds. Assigning a market value to land gives people an objective means of assessing the value of their assets overall. The World Bank's theory predicts that free market valuations should allow people to make rational decisions about the best way to trade their assets and maximise their earning potential. But poor people are unlikely to sell their primary means of livelihood unless under pressure to do so. Of all income groups, they are perhaps most likely to be limited in alternative choices of lifestyle or workplace. Farmers may have no interest in selling, for example, where land is important to social identity, or is a major part of the family heritage, as well as their main source of food and regular income.

Wealthy landowners, on the other hand, are in a position to take advantage of the vulnerability of poorer farmers to environmental hazards, product price fluctuations or family hardship by buying up their land while local demand and market values are depressed.¹⁴ In a situation where land prices are rising fast or consistently, wealthy land users have an incentive to buy up land even to leave it empty or undeveloped as was the case of the land buying frenzy in Lamphun province in the early 1990s. At height of the boom, people were buying and selling within a day, making 100% profits. In the context of rising prices, once poor people sell their land, it is difficult for them to buy it back (Deininger and Feder, 1999). Thus in times of hardship, which can affect many members of the community at one time, the poor are divested of their rights to land to pay off their debts and have little choice but to rent land or find whatever wage labour they can elsewhere.

Institutional credit, institutionalised debt

One of the main rationales for introduction of title is to stimulate credit. The importance of securing farmers rights to land through title for the stimulation of credit was particularly supported by the extensive studies carried out by Feder et al (1989) in the mid 1980s. A mid-term evaluation of the Land Titling Programme found that access to institutional credit increased by 27 per cent and that interest rates were cheaper with the more formal lending sources (Rattanabirabongse et al, no date: 11).

Agricultural credit is promoted as an instrument to stimulate the adoption of new technology to increase yields and therefore raise farmers' income from the sale of higher quality and greater quantities of produce. Higher land valuation will enable greater access to credit. However, the

equation between the provision of credit and high incomes is complex. While it is true that access to credit can provide the leverage for productive investment that might be impossible to achieve on an operating budget of family resources alone, without the appropriate support or caution, however, credit can often result in serious indebtedness of poorer farmers. (See Box: “Being in debt is a natural thing...”).

Box 3: “Being in debt is a natural thing, you can get out of it when you die.”*

A farmer in Sritia village in Lamphun province described how he took out a loan of 5,000 Baht (about US\$200) 10 years ago to start raising pigs. Due to high family expenses, however, he was unable to pay back the original loan from his own resources. A combination of taking out short term loans from various local dealers at high interest rates and the fluctuating income from longan fruit farming, led to the rapid escalation of his debt over 10 years.

Four to five years ago, this farmer thought of selling his land (valued at 170,000 Baht or US\$4,250) in order to pay back the debt. However, the officers from Thailand’s Bank for Agriculture and Cooperatives (BAAC) advised him not to sell and encouraged him to take out further loans to develop the land instead. The BAAC officers promoted hormones to stimulate the growth of the longan fruits, potassium chlorate for fertiliser, vaccines for his livestock, and the purchasing of an electric water pump. The BAAC also offered further unsolicited loans a couple of years later. However, these farm inputs were very expensive while the market price for his primary crop kept declining. The farmer’s debt has now reached 150,000 Baht (about US\$3,750) and there is little likelihood of his ever earning enough profit from his investments to repay this amount. He says he is now hoping for a win in the lottery.

* Response from a local official with Thailand’s Bank for Agriculture and Cooperatives (BAAC) when asked whether he thought there was a chance that farmers could get out of debt (see Bamford 2000).

Long term indebtedness is a major problem for smallholder farmers throughout the country and, rather than promoting productivity, accumulated debt can pose a serious constraint. Macro-economic statistics show a decline in the average net income from agriculture in Thailand from even before the economic crisis of 1997.¹⁷ The average net income from agriculture per household decreased by six per cent between 1992 to 1997.

However, over the period 1991 to 1999, the average debt increased at a rate of 40 to 60 per cent a year. The Office of Agricultural Economics expressed a warning that if this trend continues, the agricultural sector will face insolvency like businesses in other sectors (Bamford, 2000). According to research carried out by the Northern Peasants’ Federation (NPF), a farmer’s organisation in North Thailand, in 50 villages in five provinces of the upper north of Thailand, including Lamphun, on average, each farming household owed as much as 70,000 Baht (US\$1,600) to various banks and village money lenders. Approximately 90 per cent of the households in the surveyed villages were in debt (NPF, 2001).

Sums are often borrowed for investments that do not generate the expected return for a variety of reasons. Where income is diverted into loan repayments, less disposable income is available in the following season, and, particularly amongst low-income groups, an increase in borrowing is then required to make ends meet in the subsequent farming season. Commonly in this situation, subsequent loans are not entirely used for productive investments, but to pay for household goods, fulfil family obligations or other important long-term expenses such as their children's education.

The operational policies of the government's Bank for Agriculture and Cooperatives (BAAC) do not appear to support the villagers to maximise their chances of repaying loans. The case of one villager in Raidong who was seriously in debt to the BAAC appears typical. He became unable to repay his loan in the first couple of years, due to the collapse in longan prices. He was told that he should borrow money from informal money lenders to make the repayments to the bank. At first, he borrowed from a friend to pay off his bank loan, but had to borrow more to pay off his friend, then the crops failed so no one in the village had any spare money to lend any more. Borrowing from high interest money lenders became the only option. As all BAAC debtors must pay into a "District Welfare Association" (or "funeral fund"), the Bank is guaranteed to recover its loans in the case of death, which reduces its incentives of officers to make sure the loans are issued for productive investments.

While these problems are not directly attributable to the Land Titling Programme, the programme is based on the premise that titling is an important priority to facilitate the increased access to financial resources, which will ultimately benefit the poor. This premise appears flawed on the existing evidence, as it is based on the assumption that credit is not facilitated without title documentation, and that there is a direct relationship between increased access to credit and increased agricultural profit margins of the poor.

There is no shortage of credit supply in poor communities. In Thailand, borrowing from agricultural cooperatives and the Bank for Agriculture and Cooperatives is possible on the strength of a certificate of use (*NS3K*), pre-emptive claims certificates (*NS1*), other land use licences, or with personal or group guarantees. Informal lending is also widely available. Credit is now being offered in rural areas through a variety of government schemes, including a programme to loan one million Baht to every village in the country.

Part of the problem of increasing the supply of official credit is that while initial loans may be obtained from official lending institutions, if they cannot be paid back on time, loans are then obtained from informal money-lenders with higher interest rates. Following the economic crisis, the proportion of informal sector debt rose to 17 per cent of the total debt.²⁰ In a context of

increasing input costs, declining product prices, adverse climate conditions, the cycle of borrowing has become virtually impossible for many farmers to escape.

Macroeconomic data from Thailand point to increasing indebtedness, rather than a net increase in disposable income amongst lower income groups. A research report by the Thailand's Bank for Agriculture and Cooperatives (2000) states that the total debt of the agricultural sector (comprising 5.6 million families or 28 million people) was about 411 billion Baht (US\$9 billion). Rather than focussing on mechanisms to 'unlock' further supplies of credit, farmers often need support in reducing their existing debt.

In other words, it is simply not possible for promoters of the Land Titling Programme to claim that the programme makes a contribution to the alleviation of poverty, on the mere basis of increasing access to credit.²¹ In fact, very little evidence has been put forward by the Department of Lands or in World Bank documents to support the existence of this beneficial relationship for the poorest groups.

Conclusions

Land is not simply an economic commodity with physical dimensions that can be plotted on a grid, registered on a computer, and traded in exchange for other economic assets whenever that would make most economic sense. Little attempt was made in the planning stages of the Land Titling Programme to understand, adapt to or incorporate rural land tenure systems particularly in areas with strong local contexts and customs. To consider land in its social context, requires an understanding of local community livelihoods, which adapts to a wide range of land uses that include individual farmlands, village commons and community forests.

There is nothing inherently wrong with clarifying land rights or issuing legal documents to existing land users^{vi}. However, the implementation of the Land Titling Programme in Thailand has gone beyond clarification and formalisation. As a result of the programme, land has been transferred from smallholders in local communities to largeholders from the cities, and rights have been transformed from commonly held informal rights to individually held formal rights, and in some cases from complex layers of rights over one piece of agricultural land to a simple layer of ownership rights. Researchers into local land tenure systems around the world have documented the effectiveness of numerous other tenure regimes within local contexts (eg Toulmin and Quan, 2000). While individually held title deeds may be appropriate for landholders who place most importance on the transferability of their assets, it is not necessarily the best option for farming

and rural community groups whose place relatively high importance on the maintaining their landholdings for future generations.

Ensuring the security of access to land particularly for the poor was the starting point of the Bank's intervention in land policy in Thailand. However, an internal evaluation of the programme from the Bank's own Evaluation Department (1999) confirms that tenure security in Thailand was "relatively high to begin with"^{vii}. Those who held the most precarious land rights, including the very poorest groups in the state forest areas, were left out of consideration of the project. No assessment was made of existing rural tenure regimes outside state forests. In order to promote an efficient market, only a title deed could suffice.

Most of the emphasis of the programme, has been placed on improving the administrative mechanisms for bestowing formal rights and enabling their efficient transfer. The experience in Lamphun suggests that success of this aspect of the programme has benefited urban-based affluent groups. While investors can gain benefits from the rapid sales of land, farmers rarely seek to trade land for capital gains. While sophisticated new mapping techniques and computerisation may enhance efficiency in future transfers, they are not a first priority for farming communities which aim to land for a medium to long term^{viii}. Little attention was paid to farmers interests in formalising land rights, such as sustaining these rights in the hands of local farmers, and thus the programme was insensitive to the risks they faced of alienation of these rights against their will.

In fact, the impact of the programme on "poverty alleviation" has not been a direct avenue of inquiry of the various evaluation teams. The Bank itself seems to be in some doubt about how in fact the effectiveness of such a programme could be measured. A Bank concept paper acknowledges that "despite the significant resources being invested by the donor community for modernizing land administration infrastructure, there is little systematic discussion of the key elements of such a system, and of what constitutes effectiveness within particular socio-economic, cultural and temporal contexts" (Brits et al, 2002:1). No data has been kept at the Department of Lands that would enable an evaluation team to monitor the number of beneficiaries of the titling process.

"Alleviating poverty" needs to begin with an analysis of the problems facing the poor. In rural areas of Thailand, this includes the lack of extension and research into low-input sustainable farming practices, the continuous decline in product prices to levels below the cost of production, and the increasing trend towards the alienation of land from the poor. Even if the clarification of land rights is a priority in areas where uncertainty exists, the mechanisms adopted by the

programme were insufficiently safeguarded leading to loss of security for local landholders, as in the case of the farmers in Lamphun province.

The Land Titling Programme has had a significant impact on Thailand's economy as a whole. The transfer of wealth through the provision of title was a significant factor in fuelling the speculation on land, as well as increasing land concentration in the economic growth years until 1997. The programme made it possible for generally urban-based and already wealthy financiers to acquire land as a tradable commodity. The rapid increases in the value of land, held up by the Bank as evidence of the benefits conferred by the land titling programme, have benefited a new band of entrepreneurs who sought to make quick profits rather than maintain productive use of the land. This had a serious impact on the national economy as the inflated values of land were used to borrow money for unproductive investments eventually causing massive defaults on private debts contributing to the economic crisis in 1997.

Monitoring and evaluating the impacts on the poor are an essential part in the process of poverty alleviation. In the case study presented above the very people who were supposed to benefit from World Bank programme have become worse off. Yet the Programme is often presented as an example of best practice, as well as evidence of the virtues of establishing land markets rapidly. If the World Bank still dreams of "a world free of poverty", it might do well to wake up to participatory approaches that offer support for the poorest sections of society to gain and maintain access to land. In this approach, land would be understood not simply as a tradable commodity with an economic value but as an important part of the livelihood assets of the rural poor with social, cultural and environmental value.

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Endnotes:

ⁱ The programme was awarded a World Bank Award for Excellence in 1997.

ⁱⁱ <http://www.cia.gov/cia/publications/factbook/geos/th.html>

ⁱⁱⁱ 6.25 *râi* = 1 hectare (ha)

^{iv} An estimated 10 million people are living and farming in the national forest reserve areas as well as in many protected forest areas. A Draft Community Forestry Bill giving legal recognition to the role of these forest-dependent communities and their sustainable management of forests has been a issue of debate in Parliament since the early 1990s.

^v The Rally for Rights (by the Assembly of the Poor, a broad coalition of farmers and village groups from all over Thailand) in front of Government House in Bangkok in 1997 highlighted 121 cases of state officials issuing illegal titles all over the country. A Committee of the Assembly of the Poor, a coalition of local communities’ groups all over Thailand, has investigated these cases and submitted the evidence to the government.

^{vi} Women do not appear to have been prejudiced by the process of formalisation of land rights in Thailand. The Civil and Commercial Code protects women by requiring each spouse to consent in the sale of property. The Department of Lands registration processes have respected this position requiring spousal consent to a transfer of rights regardless of who is registered on the title. However, no formal studies have been undertaken to investigate the impact of the programme on women.

^{vii} The full quote reads: “The findings of a 1980 sector strategy review might suggest that land administration was not a priority area for Bank intervention. First, land tenure in Thailand was relatively secure, based on a homesteading tradition that allows any citizen to claim up to four hectares to provide for his family. Second, landholdings were relatively equal, with many small and few large landholders, and no apparent trend toward increasing property concentration. Third, as a result of these factors, the country did not have a large landless population. And fourth, farmers’ access to credit was relatively good and getting better. Thus, based on the sector review, there was little scope or justification for the Bank to give priority to land administration.”

^{viii} The property boom has resulted in a major rise in government revenue from registration (in 2001 the Department of Lands received average revenue of approx 90 US\$ per transaction). Burns, a consultant to the LTP programme, stated that a key indicator of the programme’s success was that better land records systems and new technology such as the internet has contributed to increased land market activity. He cites an article in the Far Eastern Economic Review (2001) which observed that ‘Buyers are demanding better quality, and can do their research more thoroughly, thanks to on-line registration records and home-buying guides on the web. Buyers who used to spend 6 months driving around to make inquiries can now find the information on-line within hours. And they bargain hard, their purchasing power enhanced by low interest rates and cut-throat competition among banks to give them housing loans’. If such indicators are indeed key, it seems the programme’s focus on empowering the poor was lost somewhere since the initial planning stages.