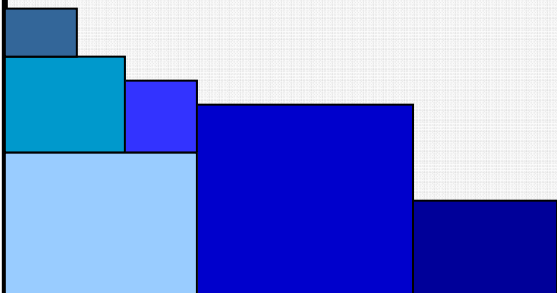


Study on
Land Conflicts and Conflict Resolution
in Lao PDR

Land Policy Study No. 9 under LLTP II

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The following studies have already been published in this series:

- No. 1: Study on Land Allocation to Individual Households in Rural Areas of Lao PDR; December 2004**
Authors: Bouakham Soulivanh, Anothai Chanthalasy, Phounsavath Souphida, Florian Lintzmeyer, Florian Rock
- No. 2: Study on Land Markets in Urban and Rural Areas of Lao PDR; March 2005**
Authors: Bouakham Soulivanh, Anothai Chantalasy, Phounsavath Souphida, Florian Lintzmeyer, Florian Rock
- No. 3: Study on Land Tax and Fees Policy in Lao PDR; February 2006**
Authors: Simon Keith, Pheuiphanh Ngaosrivathana, Bouakham Soulivanh, Onsy Phimsomphou, Chanh Denuthai
- No. 4: Study on State Land Lease and Concessions in Lao PDR; June 2006**
Authors: Gunda Schumann, Pheuiphanh Ngaosrivathana, Bouakham Soulivanh, Somboun Kenpraseuth, Khamdeng Onmanivong, Khamtanh Vongphansipraseuth, Chithasone Bounkhong
- No. 5: Study on Urban Land Markets in Lao PDR; September 2006**
Authors: Babette Wehrmann, Bouakham Soulivanh, Khamdeng Onmanivong
- No. 6: Study on Communal Land Registration in Lao PDR; February 2007**
Authors: Katrin Seidel, Khamla Phanvilay, Bounlath Vorachit, Lau Mua, Somthong Boupphachan, Robert B. Oberndorf
- No. 7: Study on Land Consolidation in Lao PDR; March 2007**
Authors: Pheuiphanh Ngaosrivathana, Khamfanh Keomanivong
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Glossary of Terms and Acronyms

DAFEO	District Agriculture and Forestry Extension Office
DLMA	District Land Management Authority
DLO	District Lands Office
DPLUI	Department of Policy and Land Use Inspection
DSA	Daily Subsistence Allowance
GIS	Geographic Information System
GoL	Government of Laos
GTZ	German Technical Cooperation
Lao PDR	People's Democratic Republic of Laos
LC	Land Conflicts
LFAC	Land and Forest Allocation Committee
LPDP	Land Policy Development Project
LT	Land Title
LTP I	Land Titling Project Phase I
LTP II	Land Titling Project Phase II
LUP	Land Use Planning
LUP/LA	Land Use Planning and Land Allocation
NA	National Assembly
NLMA	National Land Management Authority
PAFO	Provincial Agriculture and Forestry Office
PLO	Provincial Lands Office
PLMA	Provincial Land Management Authority
SAT	Systematic Adjudication Team
TLUC	Temporary Land Use Certificate
VCC	Vientiane Capital City

1 Summary

Land conflicts occur in Lao PDR in both the urban and rural environment. Recent research work points to an increase of land conflicts in a range of areas however it has been difficult to monitor how conflict resolution activities are actually working because detailed information on the types and nature of land conflicts, their occurrence rates and resolution mechanisms applied was not available. The Lao-German Land Policy Development Project, which is making contributions to land policy development, considered it relevant and timely to analyse the present land conflict situation and conflict resolution in the Lao PDR.

A study on land conflicts and conflict resolution was therefore initiated with the primary objective of investigating the nature and frequency of land disputes and conflicts as well as the conflict resolutions in place at village, district, provincial and central levels. Visits were made to four provinces, 13 districts and 16 villages during the study during which discussions and interviews were conducted with personnel representing 40 offices, including Party offices, legislative organs, land administration organizations, land titling offices, land titling field teams, the judiciary, provincial and district authorities, village authorities and villagers.

An overview of the land conflict situation in Lao PDR indicated that the incidence and complexity of land conflicts has increased from the era before the establishment of the new regime until the present time, due to government induced programs such as resettlement and village re-location, policies to increase industrial and agricultural investment in urban and rural areas, a rapid increase in land values, issues concerning ownership of state land, and increased activity in commercial development.

A review of the legal framework identified 19 legal instruments that have direct relevance to land conflicts and land conflict resolution. These include the Constitution, Laws, Implementation Decrees, a Politburo order, Ministerial Directions, and Decisions, the important Articles of which have been described in some detail in Appendix 4. In addition, the key provisions of these legal instruments have been summarized in the report.

The present land conflict *resolution system* was reviewed and is described in the report. It has six streams or channels, including mediation, the judiciary, regulated administrative authorities, regulated legislative authorities, regulated party mechanisms and unregulated mechanisms, which were identified at the village, district, provincial and central levels. The roles and responsibilities of these entities or bodies in conflict resolution are summarized in the report. In addition the systematic adjudication conflict procedure as utilized by the Land Titling Projects I and II are described. With regard to conflict *resolution mechanisms*, a review and description of mechanisms that have been used to date and mechanisms that are emerging more recently since the establishment of the National Land Management Authority are described.

The study identified seven main conflict areas, those concerning titled land, state managed land, state project land, concession land, private lands, village lands and inheritance issues. Within these broad conflict areas a number of sub-categories exist, for example, under private lands there are two sub-sets, one concerning land sales, loans and mortgages, and the other concerning land ownership and parcel boundaries. The relative importance and the complexity of these conflict areas was

determined by analyzing information from numerous interviews conducted at the various levels.

The causes and occurrence of land conflicts as viewed by the various stakeholders in the conflict resolution system were identified and their relative importance determined, also by analysing information from numerous interviews conducted at the various levels. This analysis indicated that there are 12 broad land conflict causal issues, including land titling related issues, accelerated development, state land issues, implementation of laws and regulations, court related issues, land concessions, conflict mechanisms, inheritance issues, loans and mortgages, malpractice by officials, village resettlement, and budget constraints.

With respect to the occurrence of different types of conflicts, the study team requested information and statistics from relevant offices at central, provincial and district levels, which has been tabulated together with observations and comments on the data in the tables. Some more interesting facts are that at the various levels land conflicts account for almost 10% of all cases brought before the court system. In Vientiane Capital City pending cases brought before administrative authorities since land titling commenced total 6,988 cases, of which ownership conflicts are more numerous (49%), followed by absentee land parcel owner disputes (40%), and boundary conflicts (11%). In Luang Prabang Province the most important issues related to unresolved land title cases are absentee owners not appearing for adjudication formalities and ownership disputes.

Village level land conflicts have been summarized from interviews in 10 rural villages, 4 peri-urban villages and 2 urban villages. In rural villages the main land conflict areas relate to compensation for village relocation, agricultural concessions occupying village land, unresolved issues regarding resumed land, and encroachment of land parcel boundaries, while in urban villages the main conflict areas relate to land inheritance and damage to adjoining properties from construction and road works. In peri-urban villages the main issues encountered related to the resumption of village land for recreational concessions, impacts on livelihoods and inadequate compensation for land resumed.

With regard to the effectiveness of conflict resolution mechanisms, 10 mechanisms were assessed by seeking opinions from the concerned stakeholders at the central, provincial and district levels. This indicated that village level mediation was an essential and very effective means to avert and resolve conflicts, while the court system was less effective as it was subject to manipulation by those with influence. It was also seen as cumbersome and slow. With respect to the administrative authorities, two views expressed were that more co-operation was required with the courts and that the Land Management Authority had yet to mature as an effective agency involved in conflict resolution. It was also indicated that there was too much interference from offices which do not have conflict resolution jurisdiction.

Enquiries were made regarding means and initiatives to avert land conflicts, which indicated that land registration and land titling was regarded as the most important, along with improving public knowledge of the relevant laws and regulations, and improving conflict resolution organisations and mechanisms. Other areas mentioned included improving land use planning activity, addressing land concession issues, improving mediation procedures and the court system, improving inter-agency co-operation, resolving state land issues, and solving inheritance problems.

The study prepared four case studies on different issues including one on the problems with land of those who departed the country in the seventies, and others on improper allocation of land for an agricultural concession, exploitation of villagers by a concession company, and the impacts of resuming village land for a recreational concession.

The report provides a set of conclusions regarding the land conflict situation in Lao PDR, recommendations on suggested amendments to laws and regulations, and also measures to improve land policy and land administration.

2 Introduction

The introduction provides information on the justification for conducting a land conflict study, and the relevance the study results will have in future conflict resolution activities. The study objectives and tasks are outlined, and the composition of the study team and details of the study areas are provided.

2.1 Background

Land titling activities by Land Titling Project Phase II (LTP II -Worldbank, AusAID, GTZ) in Lao PDR aim among other things at reducing land conflicts and increasing the resolution of land disputes (see LTP II Project Design Summary p. 37 of the Appraisal Document). It is presently very difficult to monitor this key performance indicator as detailed information on the types and nature of land conflicts, their occurrence rates and resolution mechanisms applied is not available.

As in any other country it is apparent that land conflicts occur in Lao PDR in both the urban and rural environment. Anecdotal evidence and recent research work points to an increase of land conflicts in resettlement areas as well as areas impacted by major concession schemes, such as hydropower projects and plantations. Issues of compensation for land appropriated by the state or other organisations are also of concern.

The types of land conflicts change over time and as a result of land registration activities traditional approaches to conflict resolution often get replaced by modern, state-administered systems. As part of the on-going activities in land policy development in Lao PDR, it was considered relevant and timely to analyse the present land conflict situation and conflict resolution in the Lao PDR.

2.2 Study Objectives and Tasks

The overall objective of the study was: *“to assess the current situation of land conflicts and conflict resolution in Lao PDR by collecting qualitative as well as quantitative information on which to base suggestions on required changes or adaptations in land policy and the legal (regulatory) framework and conflict resolution mechanisms”*.

The study team was required to investigate the nature and frequency of land disputes and conflicts as well as the existing conflict resolution mechanisms by undertaking the following tasks:

- Making a comprehensive assessment of the overall land conflicts situation in the country to determine if specific types of land conflicts are increasing, stable or decreasing.
- Investigating and assessing current land conflict resolution mechanisms at village, district, provincial and central level including official or judicial mediation or adjudication as well as traditional or informal negotiation and arbitration at the various levels.
- Drawing conclusions from enquiries made
- Making recommendations on any required changes to current conflict resolution practices
- Providing some land policy recommendations or, at least, options for policy adaptations as well as any suggested amendments of legal texts and regulations.
- Preparing a number of case studies on different land conflict situations

The specific tasks of the study team included:

- Review all available literature, reports and other documents on land conflicts in Lao PDR
- Assess the legal framework including provision in the Land Law, relevant decrees and ministerial directions
- Collect data on legal cases concerning land and land issues from the Land Management Authority, State Inspection Office, National Assembly, the Ministry of Justice, the Courts at central level (including the Supreme Court), the Prosecutor's Office, the Justice Office and branches of these offices at provincial and district level.
- Interview villagers on land disputes and conflict resolution mechanisms
- Interview district and provincial staff and authorities on land disputes and conflict resolution mechanisms; in particular the Systematic Adjudication Teams (SATs) working for LTP II
- Establish a systematic analysis of cases of land conflicts (types of conflicts, parties involved, conflict issues, resolution mechanisms applied, jurisdiction etc.)
- Assess whether specific types of land conflicts increase, remain stable or decrease over recent years and under specific circumstances
- Closely investigate and present a few case studies
- Identify how lawyers and courts are presently prepared (trained) and able to deal or cope with cases of land conflicts and conflict resolution
- Draw conclusions from the information collected and make recommendations for land policy and legal changes
- Investigate and make recommendations on the need to install independent land conflict resolution committees in Lao PDR

The detailed TOR for the study are presented in Appendix 1.

2.3 Study Team Composition and Study Areas

The study team comprised the following persons:

Name	Position - Responsibility
Mr Noupphanh Mahaphonh	Director General of the Land Policy and Land Use Inspection Department, National Land Management Authority
Dr Pheuiphanh Ngaosrivathana	National Land Policy Adviser, Land Policy Development Project (GTZ)
Mrs Meena Phimpachanh	Technical Officer, Land Policy and Land Use Inspection Department, National Land Management Authority
Mr Sysaweui Chittasupha	Technical Officer, Centre for Land Information and Natural Resources, National Land Management Authority
Mr Serntai Pasay	Technical Officer, Land Policy and Land Use Inspection Department, National Land Management Authority
Mr Peter Jones	Land Management Adviser

The study areas included four provinces, 13 districts and 16 villages within the four provinces which are summarized below:

Provinces	Districts	Villages
Vientiane Capital City	Sisattanak, Saysettha, Sikhottabong	None
Vientiane Province	Phon Hong, Viengkham, Hin Herp, Vang Vieng	Sisavang, Ban Khan Mak, Ban Lak 52, Ban Na Vay, Ban Vieng Kham (Total 5)
Bolikhamxay Province	Paksane, Borikhan, Pak Kading	Ban Phonsay, Ban Nam Dua, Ban Phamuang (Total 3)
Luang Prabang Province	Luang Prabang, Nam Bak, Phonesay	Ban Mai, Houay Maha, Poug Pao, Phong Vang, Houay Pai, Ban Xiengkeo, Ban Phonesay, Ban Khamyong (Total 8)

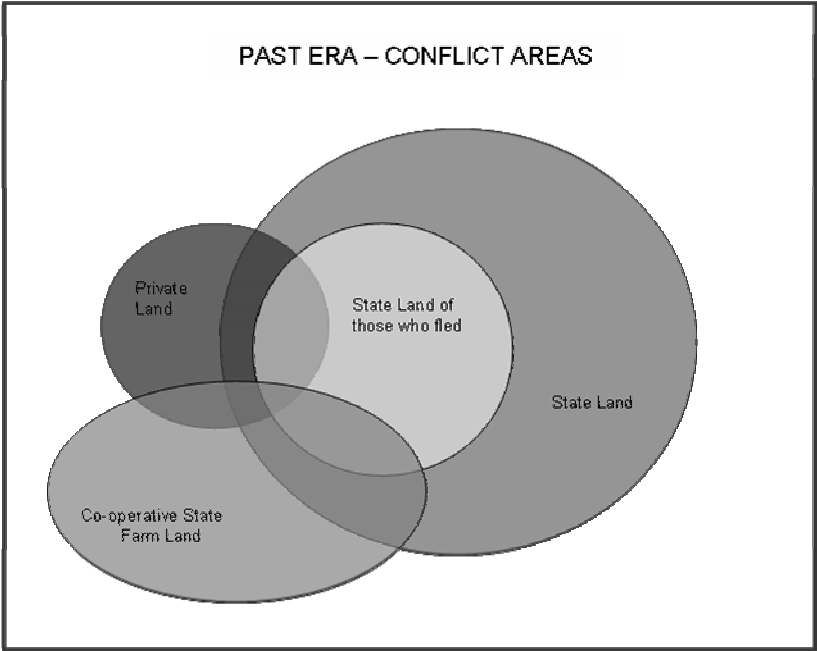
3 Overview of Land Conflict Situation In Lao PDR

In the era after the establishment of the new government regime, land conflicts occurred mainly between owners of private land and the State. State land generally comprised property of all government organizations in the urban, peri-urban and rural areas, co-operatives, and state farm land in rural areas. Employees of the State were given privileges such as land for private housing. At that time private individuals also owned land for which they had documentary evidence.

In 1978 and again in 1983, all land owners were required to declare ownership of their land parcels, the records of which were retained by all Village Authority Heads. At that time these land owners were entitled to request the issue of Land Survey Certificates to prove their right to the land. Persons owning private land were in conflict with landless persons wishing to acquire land, while the persons who fled the country in the mid seventies forfeited their property to the State. Others who were employed in co-operatives, on state farms, or were previous land owners, wished to

repossess their land, or in other cases to acquire former cooperative land, and therefore were in conflict either with the state or among themselves. These conflict areas are depicted in the following diagram.

Diagram 1: Past Era-Conflict Areas



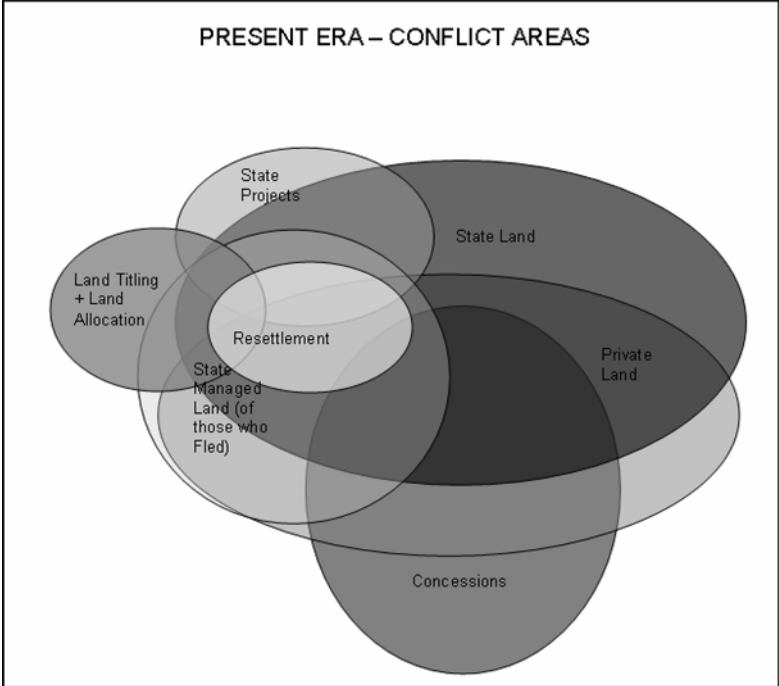
In rural areas before the new economic mechanisms were established, village land, particularly lowland rice paddy, was passed from parents to siblings using long established traditional inheritance practices. These practices generally worked well because the land was used for basic livelihood needs, such as food production, and not a great deal of importance was placed on the value of land as a commercial asset. This respected inheritance system ensured that land conflicts were minimized. As the economic development era progressed these inheritance systems were placed under pressure as rural land became more valuable and attitudes towards land as a commercial asset increased. The verbal agreements of the past have given rise to family squabbles over both urban and rural land particularly when siblings are engaged in absentee livelihood activities in distant provinces and are not present when land titling takes place.

After the new economic mechanisms were introduced, the GoL embarked on programs to rationalize land for private and public uses. After a pilot period in the urban areas for two years, the Land Titling Project I was established in July 1997 and has been followed by LTP II to the present day. In the rural areas a program of land and forest allocation was started in 1994 during which time the allocation of forest lands to communities and agricultural land to families and individuals was undertaken nation-wide up until 2006. These programs have had quite profound impacts on the management and use of land in both the urban and rural areas because the informal tenure systems and “word of mouth” agreements are being superseded by formal and regulated land management systems. In addition, an increasing number of state projects have been established, state land became more scarce and prized, people who left the country at the time of the new regime returned to claim land, and the programs of re-location and merging villages were accelerated. Small businesses started to flourish as the economy improved and more recently, there has been a surge of interest by local and foreign investors for quite large areas of land for

industrial, service, forestry and agriculture development which has placed pressure on land previously used by villagers for livelihood purposes.

This combination of activities has resulted in the emergence of a new range of land conflict areas which are depicted in the diagram below.

Diagram 2 : Present Era-Conflict Areas



4 The Legal Framework

In the Lao PDR there are a variety of legal instruments concerned with land conflicts and conflict resolution ranging from the Constitution itself, a number of Laws, Implementation Decrees, an Order from the Politburo, some Ministerial Directions, and a number of Decisions. The study team undertook a review of these legal instruments, and the relevant Articles in each of them were identified and described and reproduced in a summary which is attached as Appendix 4. The titles of the relevant legal instruments are provided in the following section.

4.1 Relevant Legal Instruments

The 19 legal instruments that have direct relevance to land conflicts and land conflict resolution are indicated below.

Constitution

1. The Constitution of the Lao PDR (amended, 2003).

Laws

2. Law on Civil Procedures No 02, National Assembly, 15th May, 2004.
3. State Property Law No 72 National Assembly, 12th October, 2004.
4. Law on Local Administration No 47 National Assembly, 21st October, 2003.
5. Land Law No 04/NA, 21st October 2003.
6. Law on the National Assembly's Oversight No. 09/NA, 22nd October, 2004.

7. Law on Settlement of Complaints No 07/NA, 9th November, 2005.

Implementation Decrees

8. Implementation Decree of the Land Law, No 101/PM, 20th April, 2005.

9. Prime Minister's Decree on the Organization and Role of the State Inspection Office No.195/PM, 21st March, 2006.

Politburo Order

10. Order of the Politburo to State Organs at Local Levels on Reinforcing the Leading Role of the Party and the Order on the Organization and Administration of Laws and Regulations No. 12/P.CCP, 5th November, 1999.

Ministerial Directions

11. Ministerial Direction on Systematic Adjudication of Land Use Rights, No 997/MoF, 24th June, 1998.

12. Directive of the Minister of Justice on the Spirit, Standards and Steps to Create Conflict-Free Villages No.01/MoJ, 19th March, 2007.

Decisions

13. Decision on the Organization and Role of the Provincial Land Management Authority No. 62/NLMA, 5th January, 2007.

14. Decision of the General Secretary of the People's Revolutionary Party on the Organization and the Role of the Central Inspection Committee, No. 98/P.CC, 15th August, 2006.

15. Decision on the Organization and Role of the Department of Policy and Land Use Inspection No. 20/NLMA, 18th January, 2007.

16. Decision on the Organization and Role of the District Land Management Authority No. 63/NLMA, 5th January, 2007.

17. Decision of the Minister of Justice on the Organization and the Role of the Village Mediation Unit No. 02/MoJ, 19th March, 2007

18. Ministerial Instruction on Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling No.564/NLMA, 6th August, 2007.

19. Draft Prime Minister Decree on State Land Leases and Concessions, (to be signed at the end of September 2007).

4.2 Key Provisions from Relevant Articles in the Legal Instruments

Further interpretation of some key provisions in the legal instruments is provided below.

The Constitution: This empowers the people and protects the interests of the population, including the protection of property and inheritance rights of organizations and individuals. Land is a national heritage and the state ensures the various rights relating to land. The constitution provides the right for people to lodge complaints which must be examined and resolved by the laws. It also outlines the rights and duties of the government administration and ensures the independence of the courts, requires strict adherence by judges to the laws, and stipulates that the decisions of the courts are to be respected.

Civil Procedure Law: In relation to disputes this law declares that minor disputes should be settled by mediation by the village mediation unit and then the district

justice office, and failing that, disputes will be brought to court. If disputes involve a high value the case can be brought directly to court.

State Property Law: This legislation states that conflicts with administrative characteristics will be dealt with by administrative authorities, and those with criminal and civil characteristics will be dealt with by the courts according to law.

Local Administration Law: This gives the village head the responsibility to resolve local conflicts within the scope of his authority.

Land Law: This provides that land management authorities have the duty to resolve land disputes with administrative characteristics, eg, not paying land taxes as required, and civil cases, eg, inheritance of developed land, shall be brought before the courts. With civil land cases, the village administration where the dispute originated, will first attempt to mediate the dispute before it is brought to court.

Implementation Decree of the Land Law: This explains which Articles in the Land Law will be applied for the settlement of land disputes, and reinforces the requirement that court decisions will be rigorously implemented. It also outlines the responsibility of the Land Management Authority in conflict resolution.

Ministerial Direction on Systematic Adjudication of Land Use Rights: This legislation deals with the responsibilities and the procedures for the Committee for Resolving Problems in Issuing Land Titles. This committee can no longer refer requests to consider unresolved problems to the Land and Forest Allocation Committee (LFAC) because that committee no longer operates.

Order of the Politburo on Reinforcing the Leading Role of the Party and the State ...etc: This refers to is a Co-ordinating Committee for the Protection of Laws and Regulations at provincial and district levels, which is an internal decision-making body which would not generally accept appeals.

Decision of the General Secretary of the Party on the Organization and Role of the Central Inspection Committee: This decision gives the Inspection Committee the role of reviewing all complaints regarding violation of rules and regulations of the Party. It has a monitoring role and power to summon party officials regarding wrong-doings.

Decision on the Organisation and Role of the Department of Policy and Land Use Inspection: This gives the department the role of considering problems related to land administration; it also outlines the seven functions of the Department including the study of land dispute resolutions as proposed by line sectors and proposing resolution methods for administrative type conflicts.

Decision on the Organisation and Role of the Provincial Land Management Authority: This is very similar to the roles of the DPLUI above.

Decision on the Organization and Role of Village Mediation Units: This gives the unit the role of mediating civil conflicts. The unit is responsible for assisting the administrative authority in setting-up conflict free villages. It outlines the composition of the Unit which is basically the same as the village authorities and the village mass organizations.

Directive on Guidelines, Standards and Steps to Create Conflict Free Villages: This directive provides guidance for the establishment of conflict free villages as a base for establishing village development groups.

Law on National Assembly's Oversight: This law explains the forms of oversight including general monitoring, the monitoring of the issuance of regulations, settlement of proposals and complaints from the population. The Standing Committee of the NA monitors the Government, the Supreme Court, the Prosecutor General's Office and the Cabinet of the National Assembly regarding the settlement of complaints from the people.

Law on Settlement of Complaints: This law outlines three types of complaints, i.e., proposals to administrative organizations of the State, litigation to investigate organs of the State, the Prosecutor and courts, and requests for justice from the NA.

Ministerial Direction on Adjudication Pertaining to Land Use and Occupation for Land

Registration and Titling: In respect to land conflicts this direction outlines the process of conflict mediation at the village level, by the SAT, the Committee for Solving Land Titling Issues, and the Provincial Land Management Authority.

Draft Prime Minister Decree on State Land Leases and Concessions: Settlement of land disputes regarding State land lease and concession contracts is carried out by the Land Management Authority. If this negotiation is not successful the parties have recourse to the Economic Arbitration Committee or to the People's Court.

5 The Present Land Conflict Resolution System

There are six conflict resolution channels within the conflict resolution system, the mediation channel, the judicial channel, the regulated administrative channel, the regulated legislative channel, the regulated party mechanisms, and the unregulated or informal channel. The offices and/or organisations within each of these channels or streams are summarized below.

5.1 Channels in the Present Land Conflict Resolution System

1. Mediation Channel or Mechanism

This comprises the Village Mediation Committee (Kana Khai Kia Kan Ban), and the District Justice Offices. The District Court also mediates before proceeding with court proceedings.

2. The Judicial Channel

The judicial stream comprises the District People's Courts, the District Prosecutor's Offices, the Provincial People's Courts, the Provincial Prosecutor's Offices, the Prosecutor General's Office, and the Supreme Court.

3. The Regulated Administrative Channel

The administrative stream comprises the National Land Management Authority and its offices at central, provincial and district levels, the SATs of the Land Titling Program, the Committees for Resolving Problems on Issuing Land Titles (virtually defunct), ad hoc Inter-agency Committees, and ad hoc Inter-ministerial Committee/s (with Provincial Authority representation if requested).

4. The Regulated Legislative Authority Channel

This comprises the Complaints Division of the National Assembly and Branch Offices of the National Assembly Offices in Vientiane City and in each Province.

5. The Regulated Party Mechanisms

This comprises the Village Inspection Committee (Kana Kuat Kar Kan Ban), the Village Party Committee (Kana Pak Khong Ban), the District Inspection Committee, the Provincial Inspection Committee and the State Inspection Committee. The Village Development Clusters or “Kum Ban Pattana” are represented by the Grass Roots Development Committee (Kana Ko Saang Harktarn).

6. The Unregulated Channel

There is an unregulated conflict resolution system operating which involves the Nai Ban at village level, the District Governor’s Office, the Provincial Governor’s Office, and the line ministries. These offices are involved, or intervene, because it is often more convenient for plaintiffs to seek a decision outside the administrative and judicial systems, and because it is an established practice that these offices adjudicate various issues and conflicts.

These various conflict resolution channels or mechanisms are presented in a hierarchical pattern in the diagram below.

Diagram 3: Channels in the Present Conflict Resolution System

Channels	Village Level	District Level	Provincial Level	Central level
Mediation	Mediation Committee	Justice Office ↓		
Judiciary		People’s Court	People’s Court	Supreme Court
		Prosecutor’s Office	Prosecutor’s Office	Prosecutor General
Regulated Administrative Authority		District Land Management Authority (newly established or being established)	Provincial Land Management Authority	National Land Management Authority (including the Department of Land Policy and Inspection)
	Systematic Adjudication Teams (SAT)		Committee for Resolving Problems in Issuing Land Titles	
			Head of PLMA (To court) ↓	
		Ad hoc Committee for Settlement of Land Conflicts	Ad hoc Committee for Settlement of Land Conflicts	
Regulated Legislative Authority			Local Branch/s of the National Assembly	Complaints Division of National Assembly
Regulated Party Mechanisms	Village Inspection Committee (Kana Kuat Kar Kan Ban)	District Inspection Committee	Provincial Inspection Committee	Inspection Committee

Channels	Village Level	District Level	Provincial Level	Central level
	The Village Party Committee (Kana Pak Kan Ban)	District Party Committee	Provincial Party Committee	Central Party Committee
		District Committee for the Protection of the Law (Kana Pok Pong Kot May)	Provincial Committee for the Protection of the Law (Kana Pok Pong Kot May)	
	The Grass Roots Party Building Committee (Kana Ko Saang Harkarn) (Cluster village level)			
Unregulated Mechanisms	Nai Ban and Village Administrative Committee	District Governor	Provincial Governor	Line Ministries
			NA Branch	Cabinet of NA
		Prosecutor's Office	Prosecutor's Office	Prosecutor's Office

5.2 Roles and Responsibilities of Conflict Resolution Bodies

In brief the roles of each of the bodies in the conflict resolution system/process are as follows:

1. Village Level

Village Mediation Committee: To address and solve land conflicts by a process of discussion and negotiation with the parties in dispute. The aim is to resolve conflicts at the village level without undue cost and to avoid having to seek administrative or judicial means, which are relatively expensive and time consuming.

Village Inspection Committee: To receive complaints and monitor illegal acts or activities of the population and of the administration and report these to the district administration.

Village Party Committee: A permanent standing committee in the village to carry out the laws and regulations of the State and the decisions of the Party, and maintain stability and social order in the village.

2. Village Cluster Level

The Grass Roots Party Building Committee: To build and strengthen the party mechanism at the village cluster level. To mediate disputes in order to minimize the occurrence of land conflicts.

3. District Level

District Justice Office: To receive land conflict cases that could not be resolved by the village mediation committees, and to facilitate amicable dispute negotiations between parties in dispute.

District People's Court: To first attempt a negotiated agreement between the parties in dispute, and if still unsuccessful, follow court procedures in accord with the law and the information available leading to a court decision on the conflict.

District Prosecutor's Office: To act on complaints lodged by the population and to investigate the implementation of laws and regulations.

District Land Management Authority: To assist in the land conflict resolution process between villages and within villages by facilitating discussions between the parties in conflict.

Systematic Adjudication Teams (SAT): To provide a facility for the issue of land titles, to broaden the interest in land registration for people who have not yet registered their land, to promote the development of a highly effective land economy and to establish clear land use rights.

District Inspection Committee: To receive complaints and monitor illegal acts or activities of the population and of officials received from the Village Inspection Committee and report these to the Provincial State Inspection Office.

District Governor: The District Governors and the District Administrative Authorities are part of the unregulated conflict resolution system. They receive conflict cases and make rulings based on information provided by the plaintiffs or they may decide to refer the conflict to the district court or higher authority. In some urgent cases they form an ad hoc committee to settle land conflicts.

4. Provincial Level:

People's Court: To receive unresolved court cases from the district courts, and/or conflict cases at the provincial level, acquire more information from the parties in dispute and undertake court proceedings in accordance with the law and the information available leading to a court decision on the conflict.

Provincial Prosecutor's Office: To act on complaints lodged by the population and to monitor the implementation of laws and regulations.

Provincial Land Management Authority: To analyse for settlement, or to propose to the upper level to settle, land disputes that have administrative characteristics according to proposals from the sectors, district administrative organs, the land users, or the concerned persons, with the aim of ensuring that land management and administration is peaceful and fair.

Provincial Committee for Resolving Problems in Issuing Land Titles: To solve problems that SAT found to be beyond its jurisdiction or too complicated. Although these did not function very well in the past because of the difficulty of bringing together the members on a regular basis, they are being revived.

Provincial Inter-agency Committee: A land related multi-agency ad hoc committee which has the aim of promoting co-operation in addressing land related issues, making decisions on land conflict situations and aiming to ensure the appropriate use of various categories of land.

Local National Assembly Branch: To receive and settle complaints lodged by the population.

Provincial Inspection Committee: To receive complaints from the District Inspection Committee and monitor illegal acts or activities of the population and the

provincial administration authorities and report these to the State Inspection Office at Central level.

Provincial Governor: The Provincial Governors and the Provincial Administrative Authorities are part of the unregulated conflict resolution system. They receive conflict cases and make rulings based on information provided by the plaintiffs.

5. Central Level:

Supreme Court: To act as the highest court of appeal for the settlement of land disputes.

National Land Management Authority: To analyse for settlement, or to propose to the Minister to settle, land disputes that have administrative characteristics according to proposals from the sectors, provincial administrative organs, land users, or other concerned persons, with the aim of ensuring that land management and administration is peaceful and fair.

Prosecutor General's Office: To monitor the implementation of laws and regulations and report to the National Assembly.

Inter-ministerial Committee (and local authorities on request): A land related multi-ministerial committee with the aim of promoting co-operation in addressing land related issues, making decisions on land conflict situations and aiming to ensure the appropriate use of various categories of land.

Complaints Department of National Assembly: The department resolves complaints that have passed the judicial court process. Parties that have lost cases approach the Complaints Department to seek final rulings before the implementation of court decisions. The Department examines if the decisions are consistent with the Law, and if not, conducts further investigations on the case.

State Inspection Committee: To study complaints and associated documents, prepare conflict situation documents, conduct inspections of the conflict locations and submit proposals to the relevant authority. Opinions are provided on how to proceed with each particular case and it follows up on the results, with the aim of ascertaining if land related problems are resolved. The Central Inspection Office has no authority to make decisions on conflict case/s.

Ministry of Justice, (Department of Court System Management): To accept complaints from plaintiff's that are not satisfied with final decisions of Vientiane City or the provincial courts, to assess if decisions are just, to coordinate with interested bodies, and provide legal points of view.

5.3 Systematic Adjudication Conflict Procedure

Within the general conflict resolution framework there is a sub-system particular to the areas in which the LTP II operates, referred to as systematic adjudication, which takes place at village level. This is an internal process of adjudicating individual claims for land parcels prior to issuing land titles. During systematic adjudication land disputes are identified by the SAT, however the SAT does not take responsibility for mediation of conflicts between land holders. Ministerial Decree 997/MoF of 1998 emphasizes the importance of neighbouring land holders coming to an agreement among themselves. In cases where conflicts can not be resolved in this way it is recommended that people consult the village administration office and the relevant government office. The village administration authority performs the function of a

“Village Mediation Unit” for all types of conflicts in the village including land conflicts. Disputes are brought before the Village Mediation Unit and if not resolved at that level the cases are brought to the Zone Committee (kana khet) if it exists, for consideration.

In the past unresolved cases were brought to the District Lands Office (DLO), and if need be to the Provincial Lands Office (PLO). If disputes could not be resolved at this level they could be referred to the Committee for Resolving Problems in Issuing Land Titles, for which the Head of the Provincial Finance Office was responsible, and then the Land Management and Land and Forest Allocation Committee, and finally the courts.

A large backlog of unresolved cases resulted from this system however, there being more than 6,000 cases shelved at the VCC Lands Office, and the situation is similar in all the nine provinces where the LTP I and II have operated. The cause of this backlog was that it was too difficult for all the members of the committee to meet.

Currently the committee system no longer operates and the jurisdiction of the Provincial Finance Head and has been superseded by the Provincial Land Management Authority (PLMA) and the District Land Management Authority (DLMA). The Land Management and Land and Forest Allocation Committee has also become defunct. The regulations suggest that the PLMA and the DLMA have decision making powers, however in reality their role is to consider cases and refer them with recommendations to the Minister for National Land Management Authority (NLMA) for decision.

If land disputes emerge *after the systematic adjudication phase* then the external channel is applied through the DLMA, the PLMA, the NLMA and eventually to the Minister of NLMA.

5.4 Assessment of the Present Conflict Resolution Mechanisms

According to the Law on Civil Procedures, small disputes such as ease-ways and parcel boundaries have to be mediated at the village level. The Village Mediation system which exists in almost all 10, 527 villages through the country has to be used prior to taking a case to court. The study team was informed by many stakeholders that village mediation is quite effective in averting conflicts reaching the courts.

Mediation is also the preferred mechanism of the Party and the State as indicated by the current emphasis on strengthening the Party at the grass roots level by means of establishing village development clusters (kum ban pattana) which aims to “nip off” disputes that can create unsettled situations in villages, the ultimate aim being to create “conflict-free villages” throughout the country as expressed in the Directive of the Minister of Justice No. 01/MoJ, 19 March 2007.

In areas where the Land Titling Project operates, systematic and sporadic adjudication are the mechanisms used. If disputes are not resolved by the SAT adjudication process and the Village Mediation Unit, cases are directed to the DLMA, and if necessary up to the PLMA. However, it is difficult to see the DLMA performing its role effectively if it remains under-staffed.

The backlog of unresolved cases mentioned in 5.3 above indicates that the administration needs to develop a new mechanism to deal with urgent and sensitive conflicts by establishing ad hoc committees for the settlement of land conflicts on a case by case basis. Such committees have been created by the provincial and district governors in most provinces and districts visited by the study team and this appeared to have a positive effect on the resolution of disputes. This however can be considered as only a partial solution.

The normal way to solve land conflicts is through the judicial system. The district courts are competent to address land conflicts, and decisions can be appealed at the Provincial Court and the Supreme Court. The Constitution guarantees the rule of law, the independence of the courts and enforcement by the executive authorities, and the Party. The population also has to respect the decisions of the people's courts. However, it appears that the courts are beset by problems of corruption by some judges which tends to degrade the integrity of the court system. Expertise is not an issue as judges are well skilled in their field. In practice, the courts tend to rely only on documents presented as evidence in the court and do not seek further field information with which to check documents offered to the court. Judges contend that they are under strong pressure from many parties particularly those having influence and power. Judges also are unhappy with the relentless involvement of the Prosecutor's Office, the function of which is to oversight the correct implementation of the laws.

The National Assembly provides a recourse for people losing their case before the courts, and it is petitioned by plaintiffs to postpone the enforcement of final court decisions. Sometimes some organs within the National Assembly intervene and reverse their own decisions a number of times, which indicates that this body can be indecisive or swayed in its decision making.

The Party has its own role, because in Article 3 of the Constitution it is described as the "nucleus of the political system". This role is reflected in the Party Committees that exist at all local administration levels as well as in all organizations. The Party Committees become involved in the resolution of land conflicts because the courts seek advice from the Party Committee before ruling on important or sensitive cases. The Central Inspection Office of the Party Committee is decisive and oversees the Party and State organs. It becomes involved if the population seeks recourse by challenging the decisions of the judiciary or the administration on land issues in particular.

At present the various actors in the conflict resolution system do not co-operate cohesively; in fact in many cases they are involved in challenging each other over decisions made on land conflicts.

The problematic court system, and the unregulated and imprudent involvement of actors that are not empowered by the laws and regulations, such as the local administration, and the legislative organs, prompted the Party to attempt to rationalize and standardize the system of land conflict resolution by establishing the Committee for the Protection of the Law at provincial and district levels. Apparently, this has had good results, as explained in a public meeting by the Head of Finance of VCC, who claimed that many cases have been solved by this committee. At the same time, the Party attempted to use social control in the form of Grass-roots

Building Committees at the village cluster level to “nip in the bud” disputes that may arise from the population. Apparently, it is publicly recognised that this way of doing things works satisfactorily. However, for those who are bold enough and have wealth and networks, the regular way is still to go to court hoping to win their cases by any means available. The enforcement of court decisions still faces intractable difficulties.

These difficulties within the current conflict resolution system are typified by the inconsistent implementation of the law and regulations concerning the land of those who fled the country in the mid-seventies. The following case study illustrates these inconsistencies.

Box 1: Case Study Regarding Those Who Fled

Case Study Regarding The Land Of Those Who Fled the Country at the Time of the Establishment of the New Regime
(a case of a lack of determination in exercising the provisions of the laws)

The issue of land abandoned by those who left the country at the time of the establishment of the new regime (“those who fled”) is a very contentious and divisive issue within Lao society, and will continue to be so if all State authorities do not abide by the law and regulations. The existing regulations state that those who left Lao PDR before 1975 with valid legal documents to live in foreign countries can not claim back their properties unless they returned to Lao PDR to live as a Lao citizen before 1994, while those who left after 1975 are required to return and take up Lao citizenship before 1992. The Land Law of 1997 and the amended version of 2003 do not recognise any land right for those who fled, while the Implementation Decree of the Land Law 101/PM of 20th April 2005, articulates the meaning of the term “those who fled”.

Contrary to the provisions of the Land Law and related documents, and also documents emanating from the Central Committee of the People Revolutionary Party, some State authorities are still considering and re-instating property to those who fled in a non-transparent way. Others, such as the People’s Court of Bolikhamxay Province, have refused to consider any cases since 1996, the date of the issuance of a document of the Central Committee of the Party categorically forbidding the consideration of any claims made by those who fled. Some individuals, however, still find ways to thwart the policy, as explained in the case below.

A former garment factory located near Setthathirat Bank in Vientiane, comprised three large shop-houses, and two small shop-houses. The details of the premises were recorded in the village book regarding property of those who fled, as was required by policy. It is understood the books are now stored at the Central Committee’s Inspection Office.

When systematic adjudication was done in the village, the premises were classified as “State Land”, and a land title for State Land was issued. The former owner, a Chinese passport bearer, on coming back to Laos, succeeded in acquiring a Lao ID and a Family Registration Book, while still retaining his foreign citizenship. His son who returned with him engaged the services of a broker, Mr. Somsanouk Pholsena. The broker lobbied successfully with the relevant authorities, and the owner was reinstated with the five shop houses as well as the land title. The broker received the two small shop-houses for his services, and the three big shop houses were advertised as rental properties. The owner has also succeeded in acquiring other properties using similar methods.

5.5 The Emerging Land Conflict Resolution System

The lack of co-operation between the various actors in the conflict resolution system as mentioned in 5.4 above, prompted the Party to create the Committee for the Coordination of the Protection of the Laws at provincial and district levels which aims to increase co-ordination between the various channels and improve the efficiency of

the administrative and judicial channels. In addition, it aims to circumvent interference by the so called “unregulated authorities” (see Diagram 3).

The Law on Settlement of Complaints No. 07/NA, 9th November, 2005 attempts to rationalize and standardize a procedure which the population may use to submit complaints, including land issues, and have them addressed in a systematic and fair manner. It also aims at reducing contradictory decisions made by various actors in the administrative and judicial channels of the conflict resolution system. This procedure does not include the actions of the Party that should be scrutinized by the central, provincial and district inspection bodies within the Party mechanism.

In this emerging system, the population can make an appeal against a decision of the legislative or administrative bodies, from the top level down to the village by presenting a “proposal” at the relevant level within 3 years of the decision being taken. The relevant body has to decide on the appeal within 20 days, and if the plaintiff is dissatisfied with the decision he/she can lodge an appeal to the next highest level, and at this level a decision has to be taken within 20 days. This is considered a final decision, and the plaintiff has the option of bringing the issue to the local branch of the National Assembly within 60 days.

If the plaintiff is dissatisfied with the decision (or non-decision) of the local branch of the National Assembly, he/she can bring the issue to the Standing Committee of the National Assembly which will either confirm the decision of the courts or order the relevant authority to re-consider the decision.

The Standing Committee of the National Assembly is at the top to oversight executive and judicial decisions. However, should a plaintiff wish to go to court, he/she has to follow the steps in the existing laws and regulations starting from the Village Mediation Committee, for “limited” issues such as the boundary of an easeway, and then to the District Justice Office should mediation not be successful. When the courts make a final decision the plaintiff has the option of making an appeal within 60 days to the local branch of the National Assembly.

However, in the case of land conflicts, the Land Law (Art. 81) states that for conflicts of an administrative nature, appeals can be made against the decision taken by the Land Management Authorities, while the Implementation Decree of Land Law (Art. 28) states that the court is competent to deal with the case only if the Land Management Authority cannot solve the conflict. This Implementation Decree provision appears to be more restrictive than the Land Law provision. In respect of land disputes of an administrative nature, the various Ministerial Decisions taken by the Minister and Head of NLMA do not mention the possibility of appealing to the court. In this particular case, it appears that a plaintiff can go to court to challenge the decision of the Land Management Authority, or as prescribed by the Law on Settlement of Complaints, No. 07/NA, 9 November 2005, the plaintiff can bring the issue to the local branch of the National Assembly. Nevertheless this system needs to be tested to see how it works in reality.

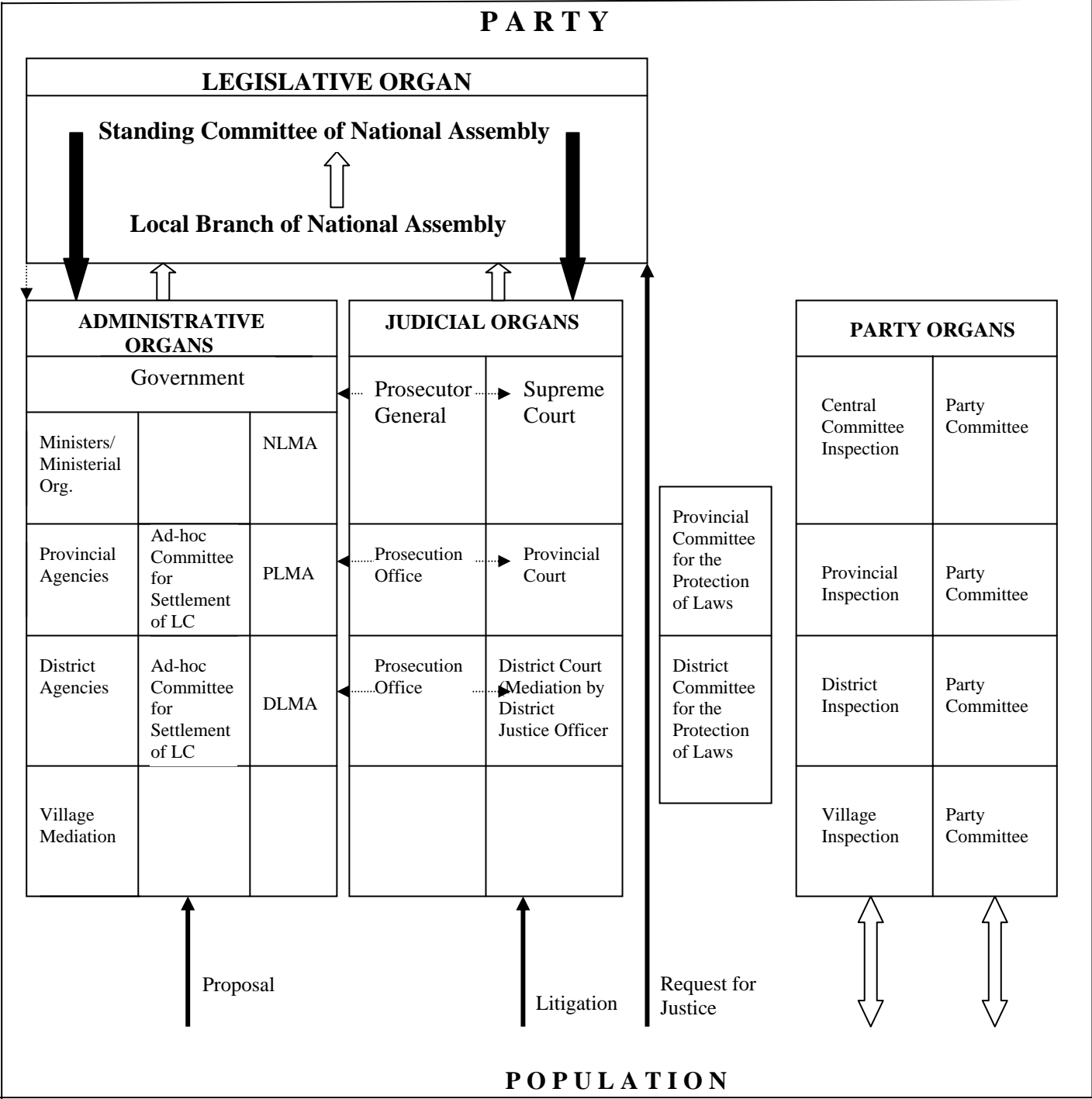
The positive point about the Law on Settlement of Complaints is that it attempts to remedy the past and present situation where a plaintiff who loses a case before the court and then lodges complaints with either the Prosecutor, the National Assembly,

the Administration, and the Party, in order to bring to a standstill the enforcement of the decision of the court.

A question remains regarding how the various organs created by Party resolution, i.e., the Committee for the Protection of the Law at provincial and district levels, the Provincial Inspection Committee, the Grass-roots Party Building Committee at village cluster level and the Village Inspection and Party Committees, will fit within this new and emerging system.

Diagram 4 below indicates the emerging conflict resolution system.

Diagram 4: Emerging Conflict Resolution System



- Action by citizens
- ⇨ Appeal by citizens
- ➡ Order
- ⋯→ Monitoring
- ↔ Communication Flow

6 Types and Causes of Land Disputes and Conflicts

When the new economic era commenced the land conflict situation was influenced by the establishment of state projects, the reversion of private lands of people who fled the country to state management, the increasing prevalence of privately owned land as a consequence of socio-economic change in the country, an acceleration of the acquisition of land for various types of concessions, the advent of land titling, and government policies such as village re-settlement and village re-location. A wide range of land conflicts resulted.

The broad “land dispute areas” are characterized in Section 3, Overview of the Land Conflict Situation in Lao PDR. The study team decided to determine and quantify land conflicts based on seven land categories in order to limit the complexity of the classification while also providing a reasonable degree of segregation and definition of different types of land use conflicts. In some cases sub-categories were used to provide more clarity within the classifications.

This section provides a more detailed picture of the types of conflicts that exist within the broad conflict areas. The information was compiled from comprehensive information gathered during 40 interviews with government bodies involved in conflict resolution at central, provincial, and district levels, and 14 villages who are in conflict situations.

6.1 Definitions and Relative Importance of Land Conflict Types

Definitions for each land conflict category were established in order to characterize the type of conflicts which respondents mentioned. An explanation of the conflict category and definition structure developed is presented below.

Table 1: Definition of Land Conflict Categories

No	Land Conflict Category	Definition
1	Titled Land	Conflicts associated with land titling activity in both urban and rural areas
2	State Managed Land	Two sub-categories: a) Land of those who fled the country: disputes arising from expatriate Lao returning to claim land managed by the state b) Misused state land: disputes arising from individuals and /or officials appropriating and using state land illegally or improperly
3	State Project Land	Conflicts arising from the construction of state projects, including roads, power lines, dams, airports, factories and public services; encroachment into protected forest lands
4	Concession Land	Conflicts arising from local and foreign investment in industry, agriculture and forestry
5	Private Lands	Conflicts concerning private lands used for housing, construction and businesses. Two sub categories: a) Sales, loans and mortgaging b) Ownership and land boundaries
6	Village Lands	Three sub-categories: a) Conflicts concerning village farming land b) Conflicts concerning village forest land c) Conflicts concerning village housing land
7	Inheritance	All types of inheritance conflicts

Thus 11 different types of land use conflicts were identified from the interviews conducted with 40 offices at central, provincial and district level, including: 1) ownership and boundaries of private lands, 2) sales, loans, and mortgages of private lands, 3) misuse of state managed land, 4) state managed land of those who fled, 5) titled land, 6) inheritance land, 7) land concessions, 8) state project land, 9) village forest land, 10) village farm land, and 11) village housing land.

Quantification of the relative importance of these 11 different types of conflicts was determined by recording and totalling the number of times each conflict category was mentioned during the 40 interviews.

The following table indicates the relative importance of the 11 land conflict areas that exist at central, provincial, and district levels.

Table 2: Relative Importance of Broad Land Conflict Areas

Land Conflict Area	Score	Ranking of Relative Importance
Private Lands: Ownership and Boundaries	48	1
Misuse of State Managed Land:	34	2
Inheritance	31	3
Land Concessions	27	4
Private Lands: Sales, Loans, and Mortgages	22	5
Titled Land	21	6
Village Farm Lands	14	7
State Managed Land: Those who Fled	12	8
State Project Land	11	9
Village Forest Lands	7	10
Village Housing Lands	1	11

With respect to agricultural land concessions, it was revealed by the study that villagers are often uninformed about decisions by provincial officials to approve concession areas. A case study regarding one such case is provided below.

Box 2: A Case Study on an Agricultural Land Concession

Case Study- Agricultural Land Concession for Coconut Plantation -Bolikhamxay (a case of improper allocation of land and inappropriate forest exploitation)

State land concessions for agricultural and industrial investments are viewed by the GoL as a very important initiative to help Lao PDR attain economic improvement and remove the country from the list of less-developed countries by 2020. Many concessions have been granted hastily without thorough technical feasibility appraisals. Cases of inappropriate use of concession land have arisen which prompted the GoL to issue a moratorium on 8th May 2007, on any further land clearance until a re-appraisal is undertaken on the performance of concessions already approved.

This study deals with a situation where village livelihood forest land was ceded to a foreign company in 2004 in Bolikhamxay Province, ostensibly for the development of a coconut plantation. It is understood that the company, named Lao World Group, was granted the land by high authority with little consultation with the Provincial Lands Office and without providing detailed development plans. Available information indicates that the company agreed to invest US\$ 2,900,000, but as of September 2006, only US\$ 691,198 had been invested. It is reported that in the first and second years very few coconut seedlings had been planted on 1,300 hectares of cleared forest land, and the survival rate was very low, indicating there was little interest in the development of a coconut plantation. Observations by the study team verified the very poor maintenance practices in the plantation.

The company moved a plywood factory from Vientiane and installed it near the village of Na Deua close to the concession area. The factory is a large installation with a capacity to process 100 cubic meters of wood per day, with an output of about 20 cubic meters of plywood per day. The product is exported to Thailand through the Paksane port. The company has logged 3,291 hectares of natural forest within the 5,000 hectare concession between May to October 2006 supplying the plywood factory with 2,000 tons of wood. The company has requested another 2,160 hectares of dense forest for expansion of the coconut plantation which would affect 277 hectares of private production land of 264 households. By the end of 2006, a moratorium was declared by Bolikhamxay Province after which the Government followed suit. It is understood that more than 20 new investors were requesting land concessions in Bolikhamxay Province at the time the moratorium was declared.

Ninety two (92) families who have been working on the 5,000 hectare concession area, have not been compensated for loss of livelihood resources since the logging took place, or for loss of agricultural land parcels acquired for the plantation. Initially, the company forbade villagers' access to the land, however, the company later relented and allowed the population access to the land because of concern that violence may ensue. The villagers have benefited from the electrification of their village, employment in the plywood factory, and the supply of free coconut seedlings, after the clearance of forest was stopped by the government.

6.2 Complexity in Land Use Conflicts

There is a great deal of complexity in the nature of conflicts between various state organizations, the judiciary, the administrative authorities, private projects, concession companies, government agencies, villages, and individuals with interests in land. The table below indicates the bodies and individuals involved in various land dispute areas.

Table 3: Complexity in Current Land Conflicts

Land Category	Land Conflict Actors and Characteristics
1. Titled Land	<ul style="list-style-type: none"> • Titled land owners vs. State (Courts, Prosecutors, Party, Ministries) • Titled Land owners vs. private land owners who stayed • Titled Land owners vs. private land owners who fled (2-3 LTs issued)
2. State Land including land allocated under PM Decree 194	<ul style="list-style-type: none"> • Government vs. Province, District, Village (grant land to officials and private and even one plot to 2 beneficiaries) • Officials vs. Officials

	<ul style="list-style-type: none"> • Village vs. Village • District vs. District • Province vs. Province • State vs. Private
3. State Managed Land	<ul style="list-style-type: none"> • Those who stayed vs. those who fled • State vs. those who stayed/those who fled • State vs. Officials occupying land and selling - private occupiers • State facilitating land acquisition for officials and cronies
4. State Projects	<ul style="list-style-type: none"> • Private owner vs. State • Occupier vs. State
5. Land Concessions	<ul style="list-style-type: none"> • Ministry vs. Ministry • State vs. villagers (forests, land, water, natural resources, extortion, informal concessions) • Concessions vs. Government
6. Private Land	<ul style="list-style-type: none"> • Inheritance • Mortgaging • Losing land title documents • Tenant vs. owner • Courts vs. National Assembly, Prosecutors, Party, ad hoc committees vs. land titling

6.3 Factors Contributing to Land Conflicts

There are a wide range of factors contributing to land conflicts. They may be divided into five categories: push factors, pull factors, institutional factors, personal factors and trigger factors.

Examples of these are provided in the following table.

Table 4: Factors Contributing to Land Conflicts

Factor	Description
Push factors	<ul style="list-style-type: none"> • Land and resources hungry population • Improved economic conditions and social change • State policies encouraging development projects, industrial plantations, and resettlement in more accessible areas • Rapid rise in land prices as demand increases • Increasing land pressure as a consequence of increased population pressures
Pull factors	<ul style="list-style-type: none"> • Persons among the population with unsatisfactory livelihoods • Low awareness in the population regarding land use rights and land laws and regulations • Non-enforcement of laws and regulations • Insufficient inter-agency co-operation and inter-agency rivalry • Lack of vertical and horizontal co-ordination of land conflict resolution mechanisms
Institutional factors	<ul style="list-style-type: none"> • The courts (bad rulings and slow resolution of cases reaching the courts) • Veto-organisations, e.g., governors, people in power • Parallel decision making • Obsolete institutions
Personal factors	<ul style="list-style-type: none"> • Nuclear family squabbles over land parcels • An increasing tendency towards greed as socio-economic conditions improve
Trigger factors	<ul style="list-style-type: none"> • Third parties, middlemen, networks • Ineffective/inefficient and greedy lawyers and illegal lawyers

6.4 Causes of Land Conflicts As Viewed By Stakeholders

The information provided in this section is drawn from the 40 interviews conducted during the study at central, provincial, and district levels. This included actors in the land administration offices, the judiciary, the justice offices, prosecutors, the party organizations, provincial and district governors, national assembly representatives, technical departments, and bar association lawyers (see Appendix 2).

In order to limit the complexity of the classification the study team decided to determine and quantify the causes of land conflicts based on twelve broad categories that emerged from the interviews. All the causes of land conflicts, a total of 188, as mentioned by the 40 respondents, were disaggregated under 12 broad categories. Quantification of the relative importance of different categories was determined by recording and totalling the number of causes recorded under each category.

It should be emphasized that some of these are not conflicts in themselves but issues or deficiencies that trigger conflicts or dissatisfaction. For example, a person having inadequate documents for land titling will be dissatisfied that others have been able to secure land titles while he/she has not.

The results of this analysis are presented in Table 5.

Table 5: Relative Importance of Land Conflict Causes

Land Conflict Category	Range of Conflict Causes	Score	Ranking
Land Title Related Issues	Too few documents, inadequate site inspections, fake LTs, duplicate LTs, inadequate field surveys, land title lost or claimed lost, Village Authorities give false information, SAT decide with inadequate evidence, insufficient follow-up by land officials on court decisions, inadequate land registration, squatters with no tax documents, ID and Family Registration inadequate, joint names on LTs, land transfer registration inadequate, PR insufficient, inadequate time for registration work	50	1
Accelerated Development	Greed, increased land values, increased land demand, renewed interest in land assets, expanding land market, profiteering	38	2
State Land Related Issues	Illegal occupation of State land, poor allocation of land, claims from previous owners of state farms, inadequate compensation, illegal sales of forest land, insufficient monitoring of land, lack of inter-ministerial co-operation on management, the State competes for land, State forest areas and boundaries, improper and inappropriate land conversion, poor land use zoning system, land appropriation, road construction, policy of providing State property to officials, acquiring State land for private use, mismanagement, town planning inadequate	27	3
Laws and Regulations	Ignorance, laws have loopholes, lack of respect for laws, use traditional ways instead of laws, lack of law/regulation dissemination, lack knowledge of laws	16	4
Court Related Issues	Lack of enforcement, poor/inadequate information, Prosecutor re-opens cases, State organs disregard court decisions, courts create antagonism, insufficient evidence and investigation	15	5
Concession	Village production land appropriated, promotion of	10	6

Related Issues	investments, lower levels not informed of concession agreements, no copies of agreements to lower levels, approval on village forest lands, infrastructure deals made for concession land, inaccurate LUP-LA maps, approvals by province without district involvement		
Conflict Mechanism Related Issues	Slow settlements, complicated conflict resolution system, complicity, multi-judicial and administrative organs, conflicts do not pass the mediation process, inter-agency conflict and competition, confusion over resolution roles	8	7
Inheritance Issues	Few Wills prepared, absentee ownership, dividing inheritance land	7	8
Loans and Mortgage Issues	Multiple land parcel sales, forgery, inadequate documents, using false land titles	6	9
Malpractice by Lands/Gov Staff	Lack of transparency among officials, LUP-LA staff acquire village land	5	10
Re-settlement Related	Resettlement policies, inadequate land allocation (ethnic groups), land acquisition by ethnic groups, consolidation of villages, large numbers of villagers being relocated	5	10
Budget issues	Lack budget for conflict resolution	1	12

7 Occurrence of Different Types of Conflicts

Several offices at central, provincial and district levels provided information on the occurrence of different types of conflicts. The aim of documenting this information is to indicate in which offices or organizations records of conflicts exist, the scale of the conflict problems in the different organizations, and to provide information that may be useful to persons with conflict resolution responsibilities. It is also designed to highlight bottle-necks that exist in the resolution system with a view that they may be the subject of follow-up studies.

The information was acquired with the generous assistance of personnel in several of the 40 offices visited and by members of the study team who gathered and collated information that was requested by the study team during interviews. The data is presented for four levels, whole country, central level, provincial level and district level.

In addition the results of enquiries at village level have been summarized from interviews and discussions with village authorities, village leaders and members of village communities in 14 of the 16 villages visited. This information was gathered using open discussion meetings during which the participants were encouraged to express their opinions about land conflict issues. The meetings were all attended by both men and women. The villages visited were chosen by the study team based on pre-existing knowledge that particular villages were experiencing land related conflicts.

7.1 Whole Country

The Department of Management and Inspection of Statistics in the Supreme Court provided statistics for the period October 2006 to April 2007. The tables below provide an indication of the number of all types of court cases brought before the courts and the number of land conflicts that are brought before the courts at district, province and central levels.

Table 6: Statistics on Court Cases in Lao PDR (10/2006 – 04/2007)

Type of Court Cases	No.	% of Total
Criminal cases	2,040	59%
Civil cases	1,072	22%
Others	688	19%
Total Cases	3,800	100%

This table simply provides a general breakdown of criminal and civil court cases brought before the courts. While a proportion of these cases are land related the data provided does not give an indication of the relative importance of land related cases. The next table provides information on land conflicts brought before the courts at different levels including the district courts, the provincial courts and the national level court.

Table 7: Statistics on Land Conflicts brought to Court at Various Levels (10/2006 – 04/2007)

Type of Court	No. of Land Conflict Cases	No. of Land Conflicts in Different Courts in %	Land Conflicts as % of all Court Cases
District Courts	203	55	5.34%
Appellate Courts (Provincial courts)	93	25	2.44%
Annulment Courts (Supreme Court)	74	20	1.94%
Total Land Conflict Cases	370	100%	Avg. 3,24%

Source: Department of Management and Inspection of Statistics, Supreme Court, Vientiane, 20 June 2007

A number of interesting observations are made from this data:

- The number of court cases brought before the district courts are very low when it is considered there are 139 districts in the country.
- The percentage of land conflicts among all court cases of less than 3,25% on average is also very low, which may indicate that those with the means and or influence mainly use the court system. The less privileged may find the judicial system too expensive, too cumbersome, slow, and or they may not possess enough confidence to use the court system.
- Enquiries confirmed that the majority of cases coming to the district courts are by those who are prepared to persevere with the case after mediation has not succeeded at the lower levels
- About half of the cases proceed beyond the district courts and a smaller proportion to the highest court, indicating that only those with the means and or influence proceed to these levels

7.2 Central Level

The following information relates to the number of pending land conflict cases that have been brought before the regulated administrative authorities in Vientiane Capital City, from the time when land titling started in 1997. Each of the districts included in the data set is covered by the Land Titling Projects I or II.

Table 8: Pending Cases in Seven Districts of Vientiane Capital City

District	Total Parcels	Types of Pending Cases			
		Absentee Land Parcel Owners	Boundary Conflict	Ownership Conflict	Cases Lodged with the Courts
Chanthabouli	477	205	15	257	17
Saysettha	746	321	4	421	11
Sikhottabong	1,598	422	652	524	37
Saythani	2,656	1,163	61	1,432	47
Nasaythong	365	257	28	71	9
Hadsayfong	697	299	13	385	0
Sisattanak	449	116	12	321	11
Total	6,988	2,783	785	3,411	132
% of total	100%	39.87%	11.25%	48.87%	1.89%

Source: Land Management Authority Office. Vientiane Capital City

Notes:

1. In Sikhottabong District most land conflict cases are related to land parcels granted to officials where the occupiers refuse to leave
2. In Saythani District land conflicts are prevalent in the village of Phone Hay Kham

These statistics are very interesting as they reveal that there are protracted difficulties in resolving land conflict cases in VCC, there being is a backlog of 6988 cases still pending, of which 132 cases have been brought to court. From this a number of conclusions can be drawn:

- In VCC the administrative channel of conflict resolution has not been that effective in resolving land disputes.
- In VCC the systematic adjudication processes of the LTP, while generally being very sound, are not effective in resolving a substantial number of conflicts or complaints because of inconsistencies and lack of due care during implementation and/or because applicants themselves do not provide adequate information for titling.
- The SAT teams may not be thorough enough in adjudicating the boundaries and ownership of land parcels.
- Absentee land parcel ownership is a significant issue and disputes within families regarding inheritance of land is quite prevalent
- The number of conflict cases brought to court is relatively few, i.e., about 2% of the total indicating that the population is not prepared to use the court system to resolve conflict cases. This poses a few questions, i.e., are the courts too expensive, do the public trust the court system, do court decisions take too long?

7.3 Provincial Level

The following information was provided on land conflict cases at the People's Court in Vientiane Province during the period June 2006 to June 2007. The court claimed that one of the key difficulties in dealing with land conflicts was that insufficient evidence and information regarding disputed land parcels is available to the courts.

Land conflicts	Solved	Pending	Average time to solve a conflict case
6 cases	2 cases	4 cases	85 days

Source: Vientiane Provincial People's Court, 13 June, 2007

The Provincial Lands Office in Luang Prabang Province provided information on various conflicts and problems which prevent land titles being issued. The pending cases summarized in Table 8 are from all districts in the province and were lodged with the PLO during the period November 2000 to April 2007.

Table 9: Unresolved Land Title Related Cases with PLO Luang Prabang Province (11/2000 – 04/ 2007)

No.	Type of Problem or Conflict	No. of Parcels	Ranking
1	Owner of land did not appear when parcel adjudication took place	576	1
2	Ownership dispute	383	2
3	Insufficient documents provided for adjudication	110	3
4	Parcel boundary dispute	35	4
5	Awaiting a court decision on land claim	27	5
6	Parcel history not clear	20	6
7	Expatriate Lao claims on parcel ownership	11	7
8	Inheritance dispute	6	8
9	Banks take over mortgaged	5	9
10	Foreign owners (those who fled)	4	10
	Total	1,177	

Source: Provincial Lands Office, Luang Prabang

During the period from January 2003 to January 2007 approximately 19,937 parcels were titled in Luang Prabang Province which suggests that about 5% of parcels have not had land titles issued because of the types of problems or conflicts indicated in Table 9.

This information is valuable because it highlights both the “conflicts” and the “problems or issues” that are being encountered. A distinction is made between conflicts and problems or issues because it would be misleading to conclude that all of the cases summarized above are actual conflicts. The following observations are therefore made:

- There were an average of about 196 cases per year
- The following categories are problems or issues rather than conflicts: “Owner of land did not appear when parcel adjudication took place”, “insufficient documents provided for adjudication”, and “parcel history not clear”
- Problems or issues account for 706 or 60% of the cases (see 1, 3 and 6 in Table 9)
- Disputes account for 471 cases or 40% of the cases (see 2, 4, 5, 7, 8, 9 10 in Table 9)
- The problems and issues that arise frequently do not reflect on the effectiveness of the land titling process itself. Rather they arise because persons request land titles without adequate documentation.

- Continuing public education and awareness raising is required to improve the understanding of the land titling procedures and the documentation and parcel history needed to avert blockages and delays, an issue that the LTP II is well aware of, and which it continues to address.

7.4 District Level

A list of land conflict cases was provided by the VCC Prosecutor's Office for the period 5th May, 2006 to 7th May 2007. These cases were submitted for review because appellants were dissatisfied with losing their cases before the district courts in VCC. The appellants wished to delay the enforcement of district court decisions by requesting that the Prosecutor, the National Assembly or the Party reconsider their cases.

The classification of the types of land conflicts is made based on the rather sketchy information provided and therefore some information may be misleading. Notwithstanding this, it is possible to determine the relative seriousness of some types of land conflicts from the data provided.

Table 10: Land Conflict Cases and Problems Submitted to the VCC Prosecutor's Office (05/2006 – 05/2007)

Type of Conflict or Problem	No. of Cases	Percentage of Total	Relative Seriousness
Land title [lost, cancelled]	67	43.50	1
Ownership	35	22.72	2
Expulsion from the premises	21	13.63	3
Inheritance	15	9.74	4
Refugees claim back their property	9	5.84	5
Contracts	4	2.59	6
Ease ways	3	1.94	7
Total	154	100%	

Source: VCC Prosecutor's Office

The following observations are made on the data in this table:

- There were a total of 188 cases submitted to the Prosecutor's Office during the above period, 154 or 82 % of which were land conflict cases.
- Of all the land conflict categories the loss or cancellation of the titles constitutes a more serious problem than the other categories although it is not really clear what "lost" and "cancelled" means. It is assumed that "lost" includes honest misplacement of the title, however the study team were informed that titles are deliberately "lost" so that Land Survey Certificates can be offered as evidence to try to acquire a second land title for the same parcel.
- "Expulsion from premises" normally means that a person has occupied land either by agreement with the owner or otherwise, and refuses to move off the premises in later years after having invested capital in buildings or other development. Some ask for compensation in exchange for vacating the premises.

- “Refugees” refers to those people who fled and have returned to Lao PDR to claim the properties they previously owned. This is a difficult issue because the legislation gives rights to such people if they departed before 1975 with valid legal documents and returned before 1994, or if they departed after 1975 and returned and acquired Lao citizenship before 1992. Otherwise they do not have rights.
- “Contracts” generally relates to disputes over property ownership and mortgage issues.

Information was also provided by the VCC Prosecutor’s Office on cases brought by plaintiffs against the decision of the Appellate Court in VCC from 12/01/2005 to 7/05/2007. This information is presented in the following table.

Table 11: Cases Brought Against the Decision of the Appellate Court In VCC

Type of Conflict	No. of Cases	Percentage of Total	Relative Seriousness
Ownership	14	31.11%	1
Expulsion from the premises	11	24.44%	2
Inheritance	9	20 %	3
Ease ways	5	11.11%	4
Land title [lost, cancelled]	3	6.66%	5
Refugees claim back their property	2	4.44%	6
Contracts	1	2.22%	7
Total	45	100%	

Source: VCC Prosecutor’s Office

There were a total of 147 cases submitted to the Prosecutor’s Office during the above period, 45 or 31 % of which were land conflict related cases. This compares to the 82% of land related cases that were brought before the Prosecutor’s Office after decisions by the District Courts.

Further observations are:

- Appeals were made in 45 cases of the 154 cases indicating that most plaintiffs were either satisfied with the prosecutors office rulings, they did not wish to pursue the case any further, or that appeals were made to the upper level of the Prosecutor General’s Office.
- Ownership and expulsion from premises accounted for almost half of the appeal cases probably because of the high value of the properties or premises concerned.
- The land title related issues were rarely appealed.

7.5 Village Level Land Disputes

A total of 16 villages were visited where a combination of general discussions and enquiries and semi-structured interviews were conducted with village officials and villagers including men and women. Attendances varied from 10 to 60 people at each meeting. Villages were located in both urban and rural areas which enabled an understanding to be gained of village conflicts in these different situations. The discussions and interviews identified many types of land conflicts at village level. The information from 14 of the villages is summarized in Table 12.

Table 12: Summary of Village Conflict Types in Urban and Rural Situations

Village Name and Location	Village name and Location
Km 52 – Vientiane Province (Rural) <ul style="list-style-type: none"> • People appropriate land for business • Absentee owners claim land • Parcel boundary disputes • Some family members get LT; others do not • Road alignments take house land –no compensation • Inter village boundary issues • Compensation land offered is too distant • No land documents issued by Government when village re-located – several years later not eligible for LT as no land documents available • LT base map does not cover the whole area for LTs • Pending LTs files were withheld by PLO causing villager confusion 	Phonesay Village - Paksane Town (Urban) <ul style="list-style-type: none"> • Inheritance land division among siblings • Inherited land sold and later claimed back • Acquiring LT secretly after occupying land of a friend • PLO issuing LT without sufficient investigation Military officer claiming adjacent land of a neighbour • Easeway land filling causes flooding of adjacent land • Land filling of adjacent land without consultation • Road construction causes flooding of family land • Village approves land allocation to land less people but Land Office will not title the land and will not provide a tax form to enable titling • Court and prosecutor’s decision to give land rights to villagers not acted on when villager land occupied by gas station –since 2003 • Villagers claim Laws are not enforced properly • Villagers claim Town Plan not followed
Ban Khan Mark - VangVieng (Rural) <ul style="list-style-type: none"> • Village lands located in cement factory concession area • 7 ha rice land lost to limestone excavation • Company pays low compensation for land lost • Insufficient land area allocated by company for relocated households (10 ha) • Dispute between village committee and villagers who build houses when moved from concession area • DOL unable to settle the dispute • No land tax paid since 1999 when moved so not entitled to a land title • Villagers must move out of private teak area but no land available (10 ha all used in existing village) • Company does not propose to further land exchange or compensation • No land fill after excavation • Air pollution from factory • Noise pollution from limestone blasting 	Xieng Keo Village LPB-Golf Course (Peri-Urban) <ul style="list-style-type: none"> • 133 families are affected by a proposed golf course concession • Compensation for golf course land inadequate • Villagers given ultimatum; take compensation offered or none at all, ie, paddy \$140 for 0.4 ha • People with land titles get low compensation, ie, \$ 180 for 0.30 ha • Inconsistency in compensation: some LT land received \$600-700 per ha, Tax declaration only \$150/ha Compensation for commercial trees under-valued Kip 10,000 per tree • Replacement house compensation offer is \$11,000; market value is Kip 25,000,000 per 116 square meters Some accept compensation; others do not • Orchard land will not be compensated, only the trees even with land titles • No other land available for livelihood purposes

Village Name and Location	Village name and Location
<ul style="list-style-type: none"> • District government claims villagers are occupying state land • 2003 delegation of courts, police, military and province unable to make a settlement • Company moves 16 families to another village and company employees occupy land and build houses 	
Ban Pha Muang-Focal Site Borikhan (Rural)	Ban Phonesay LPB -Golf Course (Peri-Urban)
<ul style="list-style-type: none"> • Excess population on a limited area • Original settlers have been allocated land • New settlers encroach delineated forest areas • Uncontrolled migration and settlement • Some settlers have no land • Some settlers occupy state land • No land officially allocated since 98-99 which has caused much confusion over ownership • Illegal Vietnamese settlers – (since repatriated) • No land tax is paid because families settle without authorization • Unapproved buying and selling of land • Unapproved land clearance by wealthy individuals for commercial tree planting (agar wood, teak etc) • Some unapproved cross-village land usage 	<ul style="list-style-type: none"> • No inter-family land conflicts exist • Conflict between the State and village regarding proposed golf course construction • Compensation of \$600 per ha for paddy inadequate • No compensation offered for unproductive fruit trees • In 2-3 years villagers will be landless and poor • Land to be taken by golf course has 25 LTs and many houses • Village cemetery has to be re-located • No consultation visits by Golf Club Planning Committee in LPB • Golf club concession boundary marked without consultation with villagers • Total of 31 ha of paddy, fruit trees and orchards to be resumed for golf course
Houay Maha – Phonesay (Rural)	Ban Pai LPB -Golf Course (Peri Urban)
<ul style="list-style-type: none"> • Ten re-located families do not have land in HMH • District has doubled land tax to K12,000 in 2007 because the District needs the funds to contribute to provincial budget • Areas on TLUCs not used for tax calculations • Agricultural parcel in village conservation forest – owner will not relinquish the plot • Villagers disagree with plan to reduce shifting cultivation by 50% by 2010 	<ul style="list-style-type: none"> • 80% of upland parcels issued with land titles • 83 families affected; must move to new site • School and 10 houses exempt • House compensation not yet discussed • All of the upland agricultural area of 89 ha is labelled for resumption • No other production land available • Village conservation and protection forest would be resumed for helicopter pad and an artificial waterfall • This village does not want to accept the proposal • Villagers confused over development arrangements • No advice from Provincial Committee on plan • Only one land conflict case in the past, unresolved and has gone to provincial court and NA
Na Mai – Nam Bak District (Rural)	Pong Vaang LPB -Golf Course (Peri Urban)

Village Name and Location	Village name and Location
<ul style="list-style-type: none"> • Rubber concession -300 ha land quota in Na Mai and another 6 villages • Contract for concession signed at provincial level with company; district has only to implement • Concerns that the province and company will regulate low rubber prices. • Four Khamu villages resettled in Na Mai • Khamu have agricultural land in Na Mai, others do not –use former lands (2 hours away) • Khamu villages resettled to provide a labour source for rubber concession because only have 0 or 1 plots • Only 3 of 5 parcels given LT because only husband has ID and tax not paid for 6 years out of last 9 years • Five plots and children absent; collective LT to all if absentees can provide the necessary documents • Some cases of one ID number for two parcels 	<ul style="list-style-type: none"> • Concession covers 39 ha of village land • Compensation insufficient (\$700 for irrigated paddy; \$600 for rain-fed paddy) • Concession boundary has been marked but without any direct consultations with villagers • Tensions caused by exempting poultry farm from concession area while other properties are not exempted • Not sure of assurances from the Provincial Governor about employment opportunities on GC • Province forbid rice planting in 2007 but people planted anyway because compensation not paid • No opportunities given for villagers to negotiate- decision taken top-down • Some cultivation encroachment by 3 families who do not pay land tax
<p>Poung Pao - Phonesay (Rural)</p>	<p>Sisavang Village, Vang Vieng Town (Urban)</p>
<ul style="list-style-type: none"> • Do not know clearly the boundaries of plots allocated • Some have old TLUCs and some have new TLUCs • Some people have plots they do not use • Encroach onto other people's plot e.g. , for mai ketsana planting • District disallows villagers to use the community village land for agriculture 	<ul style="list-style-type: none"> • Only 2 land parcels in village with disputes • Concern about tall buildings next to one level houses • Tourist Impacts and land disputes: <ul style="list-style-type: none"> - Individuals want to claim state riverside land - Riverside encroachment and bank erosion - River island land claimed by individuals - Town Plan disregarded; but now better with building inspections
<p>Ban Na Vay – Hin Heup District (Rural)</p>	<p>Ban Nam Dua – Bolikhamxay (Rural)</p>
<ul style="list-style-type: none"> • Land allocation done in 1998 • The rubber land concession of Thai Company now encroaching into village protection (about 125 ha) and regeneration (130 ha) forests • Villagers have not been paid Kip65,000,000 for land clearing by the Phetsakan Company in the protection forest area • The contract area for rubber of 500 ha may result in a further 200 ha of protection forest being cleared • No sharing arrangements for rubber benefits between company and villagers; only labour for plantation work • Village boundary dispute exists between Na Vay and Na None after land "sale" from Na None to NaVay • Na None concession bulldozer cleared land 40 meters into Na Vay territory; compensation paid by company after negotiation by Dist Lands Office 	<ul style="list-style-type: none"> • 52 families have land in the coconut concession area which is a village land use and NTFP collection area • The concession is using the cleared timber to supply a plywood factory • Village use forest areas appropriated for the coconut concession -5,000 ha • 2,000 ha of primary forest cleared before the clearing was stopped by GoL • Villagers dissatisfied with village use forest clearance • Villagers have no long term benefit sharing from the coconut plantation • Villagers receive K20,000 per day for slashing and hole digging and coconut nursery; young workers in plywood factory are paid K10,000 to K12,000 per day

7.6 Summary of Main Village Land Conflicts

The following is a summary of the types of land conflicts being experienced at village level as expressed by the villagers themselves.

Rural Villages

- Villagers claim that compensation for village relocation resulting from industrial and agricultural concession locations is inadequate, including housing land, housing, services such as electricity, rice paddy, orchards and other farming lands.
- Village forest lands previously delineated by land and forest allocation programs are allocated for agricultural concessions, including village use and village protection forests.
- Villagers are ill-informed about the conditions in concession contracts that are normally signed at provincial level.
- Inappropriate practices are sometimes employed by the wealthy to obtain land concessions and lands uses are inappropriate, i.e., felling dense forest for planting commercial crops.
- In some cases, the local, provincial and higher authorities are not able to find solutions for land conflict claims made by villagers in areas where industrial concessions are established.
- Villagers are concerned about air and environmental pollution arising from industrial concession areas.
- The resettlement of villages under the focal site development programs encounters several problems, including uncontrolled migration, insufficient land for settlers, inappropriate use of forest lands for industrial tree establishment, and inter-village boundary issues.
- Villagers are unable to have land titles issued because of inadequate land documents, tax receipts, inheritance conflicts, and sometimes because issues with pending cases are not being resolved by the administrative authorities.
- There is encroachment into allocated land parcels because parcel boundaries are not clearly defined.

The following case study describes a case where village forest land is being inappropriately used for company rubber plantation development.

Box 3: Case Study: Ban Na Vay Rubber Concession

Ban Na Vay Rubber Concession - Hin Heup District - Vientiane Province (A case of appropriation of protected forest and exploitation of villager labour)

Ban Na Vay, a Khamu village, is located along the road to Khet Na Sam and Muang Sangthong. It was settled in 1981 and today has a total of 147 households. The main occupations of the people in this village are paddy rice and large livestock production. There are also scattered plantings of teak and eucalyptus. The terrain is undulating and quite suitable for tree crops. To the south the village is bordered by the Phou Panang National Protected Area. Village boundary and forest category delineation was undertaken in 1998, the village land use map indicating the following land use areas: production forest, 13 hectares; conservation forest, 502 hectares (adjacent to Phou Panang NPA); agricultural land, 803 hectares; protection forest, 256 hectares, and regeneration forest, 130 hectares.

A Thai company, Phetsakan Co, was granted a 500 hectare concession for rubber planting in 2005-06 by the Vientiane Provincial Authorities with an initial investment of \$200,000. The villagers assisted with the initial survey of the area for which they were paid K5,200,000. They also undertook the clearing of 130 hectares of land for the initial planting in 2006-07 for which there was an agreement that they would be paid K65,000,000. To date this agreement has not been honored and the villagers await payment.

The initial planting of 130 hectares is located in the village protected forest zone. The villagers stated categorically that rubber would not be planted in the conservation forest that borders the Phou Panang NPA, however they are considering if they will allow the company to clear an additional 200 hectares of land and where it should be located, in the protected forest or in the adjoining agricultural zone, or a combination of the two areas. They indicated they wish to assess the performance of the first year rubber plantings before making any decision.

The remaining question is, will the provincial authorities insist on the villagers providing a total of 500 hectares as agreed in the contract between the province and the company, and in so doing extend the area of rubber cultivation in the remaining village protection forest?

Urban and Peri-urban Villages

- Land inheritance disputes appear to be increasing in urban villages because siblings are motivated to contest land ownership claims as land values increase.
- Villagers expressed some dissatisfaction with the conflict resolution system including long delays in decisions in the administrative agencies and the courts and favouritism towards those with wealth or power.
- Damage to adjoining properties from land fill, developing ease-ways, roads and construction sites is a cause of urban conflicts.
- Proposals for recreational concessions, e.g., golf course in Luang Prabang, cause major concerns in peri-urban villages, including inadequate compensation for lands being resumed, inadequate consultations with villagers, pressure tactics by provincial officials to have villagers comply with compensation offers, loss of titles to land, and loss of livelihood opportunities.
- Mediation and ad hoc conflict resolution committees have been used successfully in villages located in urban areas to resolve land use conflicts associated with construction and parcel boundaries.
- In tourist locations such as Vang Vieng there are concerns regarding individuals claiming state riverside land, riverside encroachment, and riverside erosion.
- Villagers also mentioned that in urban villages there was some disregard for appropriate land use in accord with town plans.

The following case study indicates the concerns villagers in one location have regarding a proposed golf course and resort complex.

Box 4: Golf Course Development Impacts

Case Study – Golf Course and Resort Development Luang Prabang

A proposal for the construction of a large golf course and resort complex in Luang Prabang District, a few kilometers from Luang Prabang city is having a significant impact on the lives of villagers in Pong Vaang, Xiengkeo, Phonesay and Houay Euad villages. There are a total of 626 families and an approximate population of 3,860 people. The land area in which the developers are interested is approximately 900 hectares. The collective production land area that will be affected in the four villages is approximately 163 hectares, mainly paddy and orchard lands, most of which has land titles. The land is very valuable because of its close proximity to Luang Prabang.

A Provincial Committee has been formed to deal with the approval and development of the golf course and resort complex by the Korean company. The villagers explain that there have been very few direct consultations between the committee and the villagers regarding acquisition of land and compensation for land. For example, the boundaries of the concession area were marked out by the authorities without village involvement and there has been little negotiation regarding compensation for categories of land to be resumed, villagers being offered between \$700 per hectare for irrigated land and \$600 for rain-fed paddy. Paddy rice fields that are on state land are returned to the state for a value of \$150 per hectare. Teak is priced at K10,000 per tree, coconut trees at K50,000, bamboo at K50,000 for a bundle of 20 poles and fish ponds at K18,000 per cubic meter. Pong Vang villagers stated that the market price for irrigated paddy is about \$15,000 per hectare.

The people of Pong Vaang and Houay Euad are adamant that they will not be coerced into selling land as there is little other land available in the area and their livelihood systems will be ruined. On the other hand some villagers in both Xiengkeo and Phonesay villages have accepted compensation already which has compromised the position of resistance taken by Pong Vaang and Houay Euad villages. For example Mr Bountong received \$140 for 0.40 hectares, Mr Bounthay who has a land title received \$ 180 for 0.30 hectares, Mr Saen received \$130 for 0.30 hectares and Mr Keodeuan received \$400 for 0.76 ha for which he has a land title.

Mr. Bounmy, a spokesman for Pong Vaang village, said he has developed a seven hectare tree nursery and a five hectare teak forest over the last 17 years and has a yearly gross income of K280 million. He does not know where he would go if he should have to move from this village.

Mr. Bouakhay Saypaseut, a former land allocation official of Nam Theun II project, said he is very dissatisfied with provincial officials who have not developed a master plan for the project, nor a proper re-settlement plan. He stated that he would not be compensated if displaced families were moved to his land.

8 Effectiveness of Conflict Resolution and Conflict Aversion Measures

Two sources of information were used to assess the effectiveness of conflict resolution, i.e., the assessment of the present conflict resolution system undertaken by the study team and a survey of the opinions of the various bodies involved in land conflict resolution at central, provincial and district levels.

8.1 Key Points from the Assessment of the Present Conflict Resolution System

Village Mediation: Village mediation appears to be quite effective in averting conflicts reaching the courts. This view was endorsed by many respondents at central, provincial and district levels during the land conflict study who advocated using this mechanism as much as possible to prevent conflict cases reaching the problematic court system. Village mediation is also supported by legislation, i.e., the Law on Civil Procedures, and Party Policy concerning the building of developed village clusters.

Systematic Adjudication: Under this system land disputes which have not been successfully mediated by the Village Mediation Unit go to the Party Committee of the Village Cluster (khana khet ban) after which the case is directed to the District Lands Office, and if necessary up to the Provincial Lands Office. It is reported that a large backlog of unresolved cases remain, there being more than 6,000 cases shelved at the VCC Lands Office, and the situation is reportedly similar in all the nine provinces where the LTP operates. It would appear the administration needs to develop a new mechanism to deal with urgent and sensitive conflicts, for example, ad hoc committees for the settlement of land conflicts on a case by case basis, as has been done by provincial and district governors in most provinces and districts visited by the study team.

The Court System: While the Constitution guarantees the independence of the courts it appears that the courts are beset by problems of corruption by some judges. Expertise is not an issue as judges are well skilled in their field. In practice the courts tend to rely only on documents presented as evidence in the court and do not go to the field to check documents offered to the court or to investigate the cases further. Judges contend that they are under strong pressure from many parties particularly those having influence and power. Judges also are unhappy with the relentless involvement of the Prosecutor' Office, the function of which is to oversight the correct implementation of the laws.

The National Assembly: The National Assembly is petitioned by people losing their cases before the court, and is used to postpone the enforcement of final court decisions. Sometimes some organs within the National Assembly intervene and reverse their own decisions a number of times.

The Party: The Party Committees intervene in the resolution of land conflicts because the court seeks advice from the committee before ruling on important or sensitive cases. The problematic court system, and the unregulated and imprudent involvement of the local administration, and the legislative organs, prompted the

Party to attempt to tidy up and standardize the system of land conflict resolution by establishing the Committee for the Protection of the Law at provincial and district levels. Apparently, this has had good results, as explained in a public meeting by the Head of Finance of VCC, who claimed that many cases have been solved. The regular way is still to go to court hoping to win the case by all means. The enforcement of court decisions still faces intractable difficulties.

8.2 Opinions of Provincial and District Staff on Effectiveness

The opinions regarding the effectiveness of the current conflict resolution mechanisms were sought from the various bodies involved in land conflict resolution at central, provincial and district levels. A total of 40 interviews were held from which the following information has been extracted and summarized.

Table 13: Opinions on Effectiveness of Conflict Resolution Mechanisms

Mechanism	Opinions	Suggestions to Improve
1. Mediation	<ul style="list-style-type: none"> • More use of mediation is needed • Mediation in VCC is not effective • Mediation very good for land disputes but not good for mortgage cases • Mediation more effective in rural areas • Mediation is the best way to resolve conflicts at village level • Courts and PLO and DLO do not co-operate adequately 	<ul style="list-style-type: none"> • NLMA should organize more mediation training for villages • Offer awards for model mediation villages • Strengthen the village mediation system • PLO should use mediation methods where-ever possible
2. Justice Offices	<ul style="list-style-type: none"> • Little justice for the people from agreements between State and investors (Don Chan Island and Palace Hotel) • The unregulated mechanisms duplicate the role of the Justice Office 	<ul style="list-style-type: none"> • NLMA should send a notification about using the Justice offices more for mediation • Justice Offices should participate in ad hoc conflict resolution committees at district level
3. The Courts	<ul style="list-style-type: none"> • Inconsistent-indecisive court rulings • Dissatisfaction with court decisions • Bad decisions arising from insufficient evidence/information • Insufficient court staff • Insufficient budget for courts • Protracted time for court decisions • There are ways to override the final court decisions • Corruption of lawyers interferes with effectiveness • Courts have to get opinions from “above” before bringing down a decision 	<ul style="list-style-type: none"> • Ensure courts have adequate factual information and evidence to make valid decisions • Investigate ways to reduce the level of interference in court decision making • Improve the independence of the court system • Investigate corruption within the court system • Review the staffing and budget allocations for the courts • Provide specific training for court judges in land conflict resolution
4. Administrative Authorities	<ul style="list-style-type: none"> • Relations with courts is not good • No administrative body directly responsible for land conflicts • Inadequate monitoring of SAT activities • Ad hoc committees not very effective • NLMA and the courts need to co-operate • Conflict resolution system is in a state of 	<ul style="list-style-type: none"> • Expand land titling and SAT to resolve disputes • Need more action from NLMA • Improve co-operation between the courts and NLMA • Increase efforts to recruit staff for PLMA and DLMA

	<p>flux since NLMA was established and there is less direct influence from SAT</p> <ul style="list-style-type: none"> • PLMA is new and it's role still not secured • Lack of staff in PLMA & DLMA • Districts do not have much of a role • Communication between provincial and district actors not adequate • Thirty day period for LT claims may not be enough in rural areas • NLMA does not yet perform it's role well • PLMA has insufficient time to deal with cases and court decisions • Delays in settlement when SAT sends cases to PLO 	
5. National Assembly	<ul style="list-style-type: none"> • People try to use the NA to have court decisions over-ruled 	<ul style="list-style-type: none"> • More data gathering in the field is needed to help resolve disputes
6. Unregulated Mechanisms	<ul style="list-style-type: none"> • Too much interference from unregulated bodies • Provincial committees control foreign investment concessions, e.g., LPB golf course • Villager dissatisfaction with provincial investment committee activity • Orders from high places to postpone implementation of court decisions • Reports not prepared for land appropriation – only complaints • Interference from Governor's in overturning conflict resolution decisions 	<ul style="list-style-type: none"> • Control the level of interference from unregulated bodies • More transparency required for concession investments and provincial management
7. Enforcement	<ul style="list-style-type: none"> • Lack of enforcement of provisions in the Law • Little action on implementing court decisions • Pressure used to discourage enforcement • Cronyism and use of power limits effectiveness • Enforcement not used properly 	<ul style="list-style-type: none"> • Review the issue of non-enforcement to identify causes and possible solutions
8. Co-ordination – Cooperation	<ul style="list-style-type: none"> • Parallel systems prolong settlements • Parallel systems increases conflict costs • More effective since the State got involved • Competition & rivalry between relevant bodies • Intervention from the Prosecutor's Office • PAFO is confused about conflict resolution responsibilities of conflict resolution actors at different levels • Little technical support from PAFO sought by province • Little co-operation between agencies • Too many actors involved in conflict resolution 	<ul style="list-style-type: none"> • Review the co-ordination aspects of the various conflict resolution bodies concerned with the aim of avoiding competition and rivalry between them • More technical support from PAFO required for concessions to help avoid disputes arising over appropriation of village land
9. Knowledge-Training	<ul style="list-style-type: none"> • The conflict resolution system does not assist the illiterate and uninformed people very well • Awareness of local people about conflict resolution is low 	<ul style="list-style-type: none"> • Increase efforts to raise awareness of local people about conflict resolution procedures
10. Laws and Regulations	<ul style="list-style-type: none"> • Land Law does not provide advice on how to resolve land conflicts 	<ul style="list-style-type: none"> • Improve effectiveness of law dissemination

	<ul style="list-style-type: none"> • Laws-regulations on land conflicts are not clear or complete • Policy on State land not implemented effectively • Too many bodies granting land • Insufficient reliance on laws for conflict resolution • Lack of broad dissemination of laws reduces effectiveness 	<ul style="list-style-type: none"> • Concessions need to be scrutinized closely to ensure the rules are followed
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8.3 Channels and Initiatives to Avert Land Conflicts

The information provided in this section is drawn from the 40 interviews conducted during the study at central, provincial, and district levels. The opinions on channels or initiatives to avert land conflicts totalled 116 which were disaggregated under 11 broad categories. Quantification of the relative importance of different categories was determined by recording and totalling the number of suggestions recorded under each category. The results of this analysis are presented in Table 14.

Table 4: Suggested Channels and Initiatives to Avert Land Conflicts

Land Conflict Category	Range of Channels or Initiatives to Avert Land Conflicts	Score	Ranking
Land Registration and Land Titling	All concerned family members should participate in land titling, families should prepare written Wills not rely on the spoken word, accurate land parcel surveys, prevent the falsification of land documents, accelerate the issue of land titles, mobilize the population to survey land and issue land documents in town and rural areas, provide individual tenure of some sort to satisfy villagers, ensure proper PR is undertaken and DSA paid to make sure the adjudication process is done adequately, LTs must be issued correctly, improve land registration implementation.	23	1
Laws and Regulations	Review Laws and Regulations, improve clarity in regulations, i.e., Land Law Articles 77 and 78, enforce the law/s properly, disseminate Laws and regulations broadly in the population and also the military, improve the Land Law, develop clear regulations to support the Land Law, strictly implement Article 9, Para 2 of the amended Land Law, amend the Land Law so it is more systematic, develop respect for the law in society, regulations have to be strictly implemented, i.e., land sale and transfer, registered land with the Public Notary, strict control over false declarations of loss of Land Titles, investigate causes, loopholes, and measures to avert an increase of LC, detailed decrees for implementing the Land Law, ownership has to be according to laws, use the Provincial Rural Development Division (Kong phathhana sonnabot khong khouang) to disseminate laws in all village development clusters (kum ban pattana), use NLMA and PLMA to disseminate laws and regulations.	23	1
Organisation and Mechanisms	Amend the mechanism and organization in NLMA, hold a workshop between Ministry of Justice, Supreme Court, Prosecutor General, State Inspection, Prime Minister's Office, National Assembly and NLMA to address major issues, development an organization to investigate land policy, develop an organization to solve land issues, ad hoc meetings to address land conflicts, organize NLMA to the	23	1

Land Conflict Category	Range of Channels or Initiatives to Avert Land Conflicts	Score	Ranking
	grass roots level and reports from village to higher administrative levels, allocate budget to improve inspection and monitoring, use the Committee for the Protection of the Law (khana pokpong kotmay) to investigate and mediate complaints other than those that go through the courts, develop a good land management, registration, and monitoring system, the procedure should be: village mediation, DLO, and then courts if necessary, expand land titling, take action on internal bureaucratic and outside influences that exacerbate disputes, send back cases not going through relevant channels for reconsideration, use ad hoc Conflict Resolution Committees (khana kaykieo garn katyang) meetings for urgent cases, districts, provinces and Vientiane must co-operate according to the laws, field trips to acquire land conflict data from many sources (e.g., the neighbours of the disputed land).		
Land Use Planning	Develop more transparency in land management, develop a better data base for land management, NLMA should undertake land use zoning, undertake new village land use planning, classify types of land and do town planning for different land uses, after LUP is completed move to land management and development, LUP-LA needs to be investigated – land allocations sometimes excessive, forest land must not to be used for production, follow the principle that each plot has to have a owner, detailed land use planning and land allocation to avert land sales by villagers, reassign land that is unused, prevent indiscriminate land clearing, use administrative channels first, have the companies do LUP with the villagers (e.g. OJI).	15	4
Concession Issues	Improve co-operation between government agencies in relation to concessions, DAFEO staff should not be “agents” of companies and District Governors for concessions, adopt a five point plan for concession approval, form a Provincial Investment Management Committee, give the technical agencies a leading role in assessing concession applications, explain to the villagers that they are the rightful land users and the village must approve land before companies acquire land, improve villager awareness about financial benefits they will receive from concessions, manage the approval of agricultural land concessions properly, prevent development deals like infrastructure (roads) in exchange for large areas of concession land.	9	5
Mediation Procedures	Use mediation procedures in villages to avoid having to use the judicial system, use Village Mediation Units, use grass-roots committee for mediation, mediate court decisions which are not being implemented.	7	6
Courts and Prosecutors	Follow-up on court rulings about new parcel surveys, eliminate dual systems, i.e., Courts versus the Prosecutor, enforce the Laws, improve lawyer understanding of Laws, the courts should rule in favour of those who registered the land.	5	7
Inter-agency Co-operation	Improve co-operation and co-ordination between agencies, improve co-ordination between SAT and Land Authority, co-ordinate between Justice Office, Court implementation, Prosecutor’s Office, the Justice Office and NA.	4	8
State Managed Land	Give land to families who stayed – not the State, investigate the use of state land under various line ministries, cease	3	9

Land Conflict Category	Range of Channels or Initiatives to Avert Land Conflicts	Score	Ranking
	considering land of those who fled (as has been done in Bolikhamxay and Vientiane Provinces).		
Inheritance	Ensure all relatives are involved in the LT adjudication process to avert later complaints, understand history of inheritance, sale, state transfer etc.	2	10
Agency Roles and Duties	Stop corrupt practices by officials, use DAFEO (village land use planning to avert land conflicts), encourage district officials to use administrative means of conflict resolution.	2	10

8.4 Training of Lawyers in Conflict Resolution

The training and education of judges is based on using case studies from the experiences of lecturers, including judges, lawyers, and former judges. Their task is to solve conflicts within the society, and they are considered as people on whom to rely to uphold justice in the society. Presently, it is the civil section of the court system that is competent to solve land conflicts concerning the management and administration of land, and the court needs to gather sufficient evidence and information to conduct their work in an objective manner.

The judges have a very important role in the settlement of land conflicts. Article 81 of the Land Law outlines the methods to solve land conflicts of a civil nature [as opposed to land conflicts of an administrative nature] by starting conflict resolution with the village mediation unit. Unresolved cases may be brought to the District Justice Office, and if still unsolved, the decision will rest with the court. Land conflicts of an administrative nature are solved by the administrative authority, but if this avenue fails to solve a case, the court has the responsibility to make a decision.

This indicates that judges have to accept their important position in conflict resolution, and therefore have a responsibility to strengthen their skills and possess a determination to perform their role. While there is no particular organ within the court system to deal with land conflicts, the judges have the responsibility to exchange experiences and to improve their professional skills regarding land conflict resolution through special training. The following case illustrates the necessity for further training of judges in land conflict resolution.....

“A judge in Bolikhamxay Province explained that the Provincial Lands Office forwarded a case where the land title holder declared the land title lost in order to acquire a new title. The judge claimed that it was the responsibility of the Provincial Lands Office to issue the new land title there being no need for the court to make a ruling about the issue. In this case the issuance of a new land title did not proceed because the Lands Office was reluctant to take a decision.”

In a case such as this, Article 50 of the Land Law provides that if a land title is lost or destroyed without trace, the court has to make a ruling, and it is only with such a court ruling that the Lands Office is empowered to issue a new land title. This indicates that the judge in this case was not familiar with the law and was attempting to shift responsibility to the Lands Office. This case highlights the need for specific training of judges in land conflict resolution.

The District Court of Vang Vieng in Vientiane Province does not accept cases where the land value is more than Kip 20 million, a value more than allowed by the law, which renders the court not competent to take a decision. In other locations, however, the district court agrees to consider cases without considering the value of the asset. In a divorce case therefore, the division of joint assets of the spouses will be a problem when the assets are more than Kip 20 million. This indicates that judges country-wide have different understandings regarding their duties in the settlement of land conflicts. There is a need for consistency which would be improved if specific training was provided.

Workshops on the settlement of economic disputes have been conducted by the Economic Arbitration Committee in the Ministry of Justice but no land conflict subject matter is included in these courses. Training is required on land conflicts of an administrative and civil nature. There are also concerns about the role and rights of the courts and the steps to settle civil cases, subject areas where more training is required.

Historical documents on cases regarding the settlement of land conflicts are useful to judges and should be made available to them as well as relevant text books or guidelines to assist judges to carry out their tasks properly.

The LTP II and the DoL have initiated a series of voluntary training sessions for Members of the Bar Association concerning the processes of land titling, the operations of the Lands Office, improving understanding of the relevant laws, and land related contractual issues. This initiative could be expanded to include other members of the judiciary which would prepare them for dealing with land conflicts. The LTP II has also produced a video in Lao language on averting land conflicts to support the Lands Office in raising public awareness about land registration procedures and the importance of land registration. This also would be useful material for judges to possess.

9 Conclusions

- Land titling is viewed by many officials in the land administration system, the judiciary and provincial and district offices as a key mechanism in averting land conflicts. Although there were frequent references regarding conflicts arising from land titling, a closer examination of various data indicated that a significant number of these relate to problems and issues in the implementation of the process rather than land titling itself. For example, many respondents mentioned that land title claimants do not have sufficient documentary evidence of land ownership, and lack family registration and personal identification. It is concluded that these types of problems relate to public awareness and should not be considered as conflicts arising from land titling.
- The drain of previous LTP II/SAT staff to positions in the Provincial Land Management Authority has considerably weakened the capacity of the LTP, which many advocate is a key mechanism for conflict resolution. This is at a time when the program is being pressured to undertake expansion activities in anticipation of Phase III program. This is an issue that warrants careful

consideration and review as the staff movements may reduce the impact of land titling in averting and resolving land disputes.

- The public itself creates problems in the land titling process, because they sometimes do not understand the documentary requirements for titling land sufficiently, and therefore do not present sufficient evidence such as family registration and personal identification.
- The back log of unresolved cases in the Lands Offices needs to be dealt with to restore confidence in the land administrative agency.
- The conflict resolution system is quite complicated there being administrative, judicial, and Party channels. The existence of these parallel channels results in competition between the various bodies which is not conducive to the operation of an efficient conflict resolution system. A case in point is the courts and the prosecutor's office where it appears that the courts complain of interference by prosecutors in the judicial process.
- The unregulated authorities further complicate the resolution system by making fairly independent decisions parallel to the regulated system. This has a tendency to undermine the regulated system and perpetuates subjective decision making on conflicts which may not be in the best interests of the public and peace within the society.
- The administrative channel of the conflict resolution system is experiencing difficulties in functioning effectively because of the restructuring of the land administration agency. The National and Provincial Land Management Authority Offices are generally understaffed and struggle to deal with conflict cases before them.
- The study confirmed that village level mediation was viewed very favourably as a land conflict resolution mechanism by officials in the land administration system, the judiciary and provincial and district offices. This is because the villagers are very aware of the local situation, mediation is cheap, there are no "real losers" if an agreement can be negotiated, and mediation circumvents the possibility of protracted court cases.
- The formation of ad hoc committees at provincial and district levels by provincial and district governors to deal with sensitive land conflict issues appears to function quite well. This allows the various agencies to be involved in considering cases and would add depth and impartiality to the conflict resolution process. However in the larger towns it is difficult to get regular attendance of all agencies at regular ad hoc meetings.
- The study team considered the suggestion to establish independent conflict resolution committees. At this stage it is considered that this may not be appropriate in the context of the newly emerging land conflict resolution system, which is relatively new and needs time to prove that it is functioning well before any new initiatives are considered.
- The need exists for a high level meeting of land administration, judicial bodies, legislative bodies, and party organs to discuss the current weaknesses in the conflict resolution system, with the objective of agreeing on making changes in a few key areas that would improve the effectiveness of the system.

- The impartiality and transparency of the courts is under question despite their obligation to deal with cases impartially. The study team received reports that some judges can be solicited to act in favour of one party over another, particularly if the plaintiffs are wealthy and well connected.
- The courts are hampered in their work by the unavailability of sufficient evidence with which to make objective decisions on land conflict cases. Some persons interviewed claimed that the courts are not gathering sufficient evidence at the conflict source.
- Discussions with members of the Bar Association indicated that “illegal lawyers” operate within the land administration and judicial systems and accept incentives for their unprofessional advice to the public. It is understood this situation has been reported to the Central Bar Association without any positive reaction or result to date.
- The accelerated approval of industrial, agricultural and recreational concessions is depriving villagers of some of their traditional livelihood lands and has become a severe and sensitive issue. The approval process is not always transparent and is generally controlled at provincial level where co-operation between the technical agencies and the provincial authorities is inadequate. District agencies and the villagers are rarely consulted properly before approvals are issued.
- In rural areas village re-location creates land disagreements when new settlers acquire or are given land previously used by the original residents.
- Inheritance issues are becoming more common as land becomes more valuable and siblings compete to secure inheritance land from parents. The traditional verbal agreements are now at the centre of land conflicts because family individuals try to manipulate the verbal agreements in order to acquire land assets.
- The issue of people who left the country in the mid seventies returning to claim ownership of their former lands is a significant issue and brings them into conflict with the State. The Laws and regulations are quite specific about the rights of expatriate Lao in relation to such lands, however in Vientiane in particular, the administrative and judicial systems do not deal with these conflicts in a consistent manner.
- The powerful and wealthy act outside the law to secure rights to land at the expense of more vulnerable groups. These rights to land are sometimes facilitated by persons in senior positions in the administrative structure.
- Awareness training for the public on the Land Law, relevant regulations and the importance of land registration was advocated by many offices interviewed and is considered a high priority to help avert conflicts. There appears to be a need to change the “culture” regarding land registration by building up the knowledge of the community. The LLTP II has well established customer education services which could be used as models also for areas outside the titling zones.

10 Recommendations for Land Policy and Legal Changes

The following recommendations for land policy and legal changes are offered based on the conclusions drawn, information provided to the study team, and the views of members of the study team. The first set of recommendations relate to amendments to laws and regulations while the second set relate to policy and land administration issues.

10.1 Suggested Amendments to Laws and Regulations

The improvement of the laws and regulations is necessary, because if not the organs assigned to solve land conflicts will have different understandings regarding the procedures and methods to address land conflicts. The following suggestions are therefore offered regarding amendments to laws and regulations.

1. Generally speaking the existing laws are adequate but not explicit enough regarding land conflict resolution. For example, there are no specific regulations providing direction on how to settle land conflicts in a uniform and standardized way through-out the country.
2. The Land Law, the Justice Law and other regulations such as the Implementation Decree of the Land Law, provide a basis for the settlement of land conflicts. An additional directive should be prepared by NLMA for the local administrative authorities outlining how to solve land disputes more conveniently and harmoniously.
3. There are no regulations regarding the protection and methods for the efficient use of village communal lands. This leads to the conversion of communal lands for other purposes, a practice that causes land conflicts.
4. An interview conducted with the representative of the Supreme Court showed that land conflict resolution is very difficult, e.g., purchasing land use rights is done in different ways. It is therefore suggested that a form and a guide be designed and circulated to clarify the correct steps in land sales and transfers. This would prevent the improper transfer of land titles to the lender in cases where the land title is used as a debt guarantee.
5. All transactions of land use right contracts are under the jurisdiction of the public notary, whose task is directly concerned with contracts, in particular the type of contract. The contents of the contracts have to conform to the laws and regulations before the public notary office certifies the transaction. The crucial requirement of a contract is that it is valid and enforceable, and will not be declared null and void. Thus, coordination between the Public Notary and the land administration authorities on land related issues needs to be increased.
6. There are cases where land titles are declared lost and the owner seeks to have the “loss” certified by the courts with the intent of getting a second title issued, which could be used for additional borrowing. Thus, to raise the level of responsibility of the public it may be necessary to include an Article in the Civil Procedure Law that requires the plaintiff undergo an oath while declaring a “loss”.
7. It is recommended that a regulation be developed on the registration of land transactions according to Article 51 of Land Law. This would include a requirement that contracts be drafted by a professional lawyer and the registration of the

transactions affecting the land use right would be firmly coordinated between the NLMA and the Public Notary office using clear regulations and directives.

8. A guide should be published on the settlement of land conflicts in accordance with Articles 80 and 81 of the Land Law which refer to the administrative and civil nature of land conflicts. This guide would describe these conflicts, the jurisdiction of the administrative authorities and the courts, and the steps to be followed. For example, the procedure should explain how the settlement of conflicts should commence with mediation at the village level.

10.2 Recommendations Regarding Land Policy and Land Administration

- Land titling should continue to be used as a primary means of conflict resolution because there is support for this activity from a wide range of stakeholders at all levels. It should be expanded where possible in areas where land titling has been done before to cover lands that are located outside the boundaries of the village base reference maps.
- The village mediation system should be used as a primary means of land conflict resolution as this is appropriate to the Lao culture, alleviates antagonism and the potential for conflicts developing, is cost effective, and when successful, circumvents the necessity for bringing conflicts before the courts, and the potential for protracted court cases.
- As suggested above, the village mediation system is considered a very viable and appropriate method to deal with land conflicts at the grass roots level, and therefore improving the capability of village leaders in conflict resolution may be a better solution than establishing independent land conflict resolution committees or mechanisms in the short term. Further studies on the establishment of independent land conflict resolution mechanisms should however be considered.
- Means to reduce competition and duplication between the various administrative authorities, the judiciary and legislative bodies should be investigated. The proposal to convene a high level meeting of the various bodies concerned to consider the key issues and areas of concern and mechanisms to resolve them should be adopted with a view to increasing the efficiency of the land conflict resolution process.
- The problem of interference from authorities without jurisdiction in conflict resolution should be investigated, as while this exists, there will remain complications with conflict cases adjudicated by provincial and district governors and village authorities that do not adhere to the provisions of the laws and regulations. Policy directives are needed to clarify the position and roles of these authorities in land conflict resolution.
- The issue of the powerful and wealthy acting outside the law to secure rights to land has become an important issue as the case studies above illustrate. This has become particularly noticeable in the agricultural sector, and, despite the current moratorium on land concessions, has the potential to continue if provincial level authorities continue to approve concession rights without prior reference to technical agencies, district authorities and villagers. It is recommended therefore that the policy on the approval of concession lands be reviewed with a view to securing more meaningful participation by stakeholders at all levels in the process.

- The formation of ad hoc committees at provincial and district levels with membership from the various agencies concerned in land administration and land conflict resolution should be considered at the policy level, with the committees having the responsibility to deal with sensitive land conflict issues as they arise. This would help improve co-ordination and add depth and impartiality to the conflict resolution process.
- It was reported that the Committee for the Protection of the Law created by the Party has had a beneficial impact on resolving out-standing conflict cases in Vientiane. It is recommended that the function and effectiveness of this committee be reviewed with a view to using this facility more broadly.
- The National and Provincial Land Management Authority Offices are generally understaffed and the District Land Management Authority Offices have only recently been established, if at all. There has been considerable movement of staff to these offices from the LTP II which reported a loss of 19 staff members. This situation weakens the capacity of the LTP which has been recognized as a key land conflict body. A review of the staffing establishments would be beneficial in establishing some balance between Departments within the NLMA, the PLMAs and the Land Titling Project.
- Land rights of those people who left the country in the mid seventies is a very important social issue, particularly in Vientiane, and it is recommended that action be taken by the government to ensure that the administrative and judicial systems deal with these land conflicts in a consistent manner, following the example of provincial authorities who have for many years applied the relevant laws and regulations.
- The impartiality and transparency of the courts needs to be investigated with the objective of ensuring that the judiciary performs its functions as stipulated in the Constitution and that the rights of all segments of the population are protected by an independent judiciary. In addition the existence of “illegal lawyers” within the administrative authority and courts offices needs to be further investigated.
- To assist the courts in performing their work more effectively, co-operation between the judiciary and the land administration authorities needs to be improved, and increased efforts should be made by the land administration authorities to educate the judicial system on land administration, land registration and conflict resolution laws and regulations, following the recent initiatives taken by the Land Titling Project II in conducting training for the Lao Bar Association.
- To facilitate the work of the courts in land conflict resolution it is recommended that the judiciary be more active in gathering all relevant land parcel histories and ownership information from conflicts sources rather than making decisions based primarily on evidence presented to the court.
- Table 13 provides a comprehensive list of suggestions from land conflict stakeholders on means to improve conflict resolution mechanisms. These are too numerous to mention in this recommendation, however the information should be referenced by the Land Policy and Land Use Inspection Department of NLMA when means to improve conflict resolution mechanisms are further considered in future.
- Table 14 provides a comprehensive list of suggestions from land conflict stakeholders on ways and means to avert land conflicts. These are too numerous

to mention in this recommendation, however the information should be referenced by the Land Policy and Land Use Inspection Department of NLMA when considering policies or programs to ameliorate and avert land disputes in the future.

APPENDICES

Appendix 1: Terms of Reference

Background:

Land titling activities by Land Titling Project Phase II (LTP II - Worldbank, AusAID, GTZ) in Lao PDR aim among other things at reducing land conflicts and increasing the resolution of land disputes (see LTP II Project Design Summary p. 37 of the Appraisal Document). It is presently very difficult to monitor this key performance indicator as detailed information on the types and nature of land conflicts, their occurrence rates and resolution mechanisms applied is not available.

It can be assumed, as in any other country, that land conflicts occur in Lao PDR in both the urban and rural environment. Anecdotal evidence points to an increase of land conflicts in resettlement areas as well as areas touched by major concession schemes, such as hydropower projects and plantations. Issues of compensation for land appropriated by the state or other organisations could also be of importance.

Types of land conflicts change over time and as a result of land registration activities same as traditional approaches to conflict resolution often get replaced by modern, state-dominated systems. As part of the on-going activities in land policy development in Lao PDR it is considered relevant and timely to analyse the present situation concerning land conflicts and their resolution.

Objectives:

This study aims at investigating the nature and frequency of land disputes and conflicts as well as the conflict resolution mechanisms in place. The study team will come up with a comprehensive assessment of the overall situation of land conflicts in the country, present some sample cases and draw conclusions. An indication on whether specific types of land conflicts are on the increase, remain stable or rather decrease should be given by the team. The findings should lead to some land policy recommendations or, at least, options for policy adaptations as well as any suggested amendments of legal texts and regulations.

Current land conflict resolution mechanisms at village, district, provincial and central level need to be closely investigated and assessed. This concerns official or judicial mediation or adjudication as well as traditional or informal negotiation and arbitration at the various levels. Recommendations on any required changes to current conflict resolution practices should be included in the report.

The overall objective of the study can be described as: to assess the current situation of land conflicts and conflict resolution in Lao PDR by collecting qualitative as well as quantitative information and come up with suggestions on required changes or adaptations in land policy and the legal (regulatory) framework and conflict resolution mechanisms.

Timing:

The study on land conflicts and conflict resolution will commence on 23 April 2007 and must be concluded on 1 June 2007. During this time period the study team will work together for 6 weeks (or up to 36 working days, estimating that some Saturdays will be workdays e.g. during field trips). The detailed working schedule for the 6 weeks needs to be drawn up by the consultants and approved by the German teamleader of LPDP.

Team Composition:

The study team will consist of 4 full-time members and a junior expert:

- A legal consultant with a background in laws (e.g. a lawyer) to investigate legal cases concerning land parcels, compensation cases after land appropriation and conflict resolution at village, district, provincial and central level;
- A social anthropologist or sociologist and specialist on rural societies in Lao PDR with experiences in participatory working methods in rural communities and traditional mediation and conflict resolution approaches.
- A representative of the Department of Land Policy and Inspection, National Land Management Authority (NLMA) responsible for land conflict inspections in future.
- A consultant on land concessions and plantation issues.
- Possibly, the team will be joined by a junior expert on land conflicts and conflict resolution with a University degree.

The study team will be provided with office space at the LPDP GTZ office in Vientiane. Furthermore, the team will be expected to visit at least 4 provinces, including Vientiane Capital City, Vientiane Province, Bolikhamxay and Luang Prabang, and 10 districts and 10 villages within these 4 provinces.

GTZ will organise transport to the provinces (by air or by car) and provide transport within Vientiane by car, including a driver.

Consultancy Fees:

GTZ will pay all consultancy fees and per-diems as well as accommodation costs for working periods outside Vientiane. GTZ will also cover all expenses in connection with the presentation of results and findings of the study and its publication.

Specific Tasks and Scope:

- Review all available literature, reports and other documents on land conflicts in Lao PDR
- Assess the legal framework including provision in the Land Law, relevant decrees and ministerial directions
- Collect data from the National Assembly and the Ministry of Justice and the courts at central (including the supreme court), provincial and district level on legal cases concerning land and land issues
- Interview villagers on land disputes and conflict resolution mechanisms
- Interview district and provincial staff and authorities on land disputes and conflict resolution mechanisms; in particular the Systematic Adjudication Teams (SATs) working for LTP II should be interviewed on their experiences concerning land conflict situations in the adjudication areas
- Establish a systematic analysis of cases of land conflicts (types of conflicts, parties involved, conflict issues, resolution mechanisms applied, jurisdiction etc.)
- Assess whether specific types of land conflicts increase, remain stable or decrease over recent years and under specific circumstances
- Closely investigate and present a few case studies
- Identify how lawyers and courts are presently prepared (trained) and able to deal or cope with cases of land conflicts and conflict resolution
- Draw conclusions from the information collected and make recommendations for land policy and legal changes

- Investigate and make recommendations on the need to install independent land conflict resolution committees in Lao PDR

Expected Outputs:

The study team will produce the following outputs:

- ❖ A detailed workplan for the 6 weeks period and a summary of the investigation methodology to be applied and a list of main interview partners at the various levels.
- ❖ A MS Powerpoint presentation (of approximately 30 Minutes) summarising the methodology applied, findings and recommendations.
- ❖ Two reports of approximately 25-30 pages, plus case studies and data in the annexes in Lao and English language.
- ❖ A separate summary of findings and policy recommendations or options on 2-3 pages for distribution to decision makers.

GTZ staff will assist the team with translation of the final report or other crucial documents from Lao to English and vice-versa, if this is required.

Remark:

These Terms of Reference refer to the tasks and outputs of the entire team. The individual sharing of tasks and responsibilities is left to the team members and their appointed coordinator.

Appendix 2: List of Persons Interviewed

Date	Position and Office
APRIL 2007	
30	Mr. Khamsing Xaysompheng, Director General of Research on Requests for Justice, and Citizenship, National Assembly
30	Mr. Davone Vangvichit, Vice Chairman of Legal Committee, National Assembly
MAY 2007	
2	Mr. Kongchi Yangchue, Chief of Civil Chamber, Supreme Court
2	Mr. Khamsay Kitchakone, Director General of Management and Inspection of Statistics [provided by] Courts, Supreme Court
3	Mr. Boonta So Phabmixay, Deputy Director General of Department of Implementation of Court Decisions, Ministry of Justice
3	Mr. Khamphan Mangkhala, Chief of Cabinet of National Assembly's Branch 1, and Mr. Lamphet Khamho Homkha, Chief of Complaints Division of National Assembly's Branch 1
3	Mr. Sounthone Silaphet, Head of Vientiane Capital City Land Management Authority, Mr. Somphone, Deputy Head, Mr. Manivong, Chief of Unit for Settlement of Conflicts, Mr. Noy
4	Mr. Khamphan Malabandith, Deputy Director of Finance Division of Vientiane Capital City
4	Mr. Khonsavan, Head of Civil Affairs Unit, Vientiane Capital City Prosecutor
4	Mr. Bounleuth Saymitya, Deputy Chief of Division of Nationality, Department of Court System Management, Ministry of Justice
10	Vice President of Civil Chamber, Vientiane Capital City People's Court
10	Mr. Khamsay Kitchakone, Director General of Management and Inspection of Statistics [provided by] Courts, Supreme Court
25	Mr. Somboun Bounmavong, Head of Research, Central Committee's State inspection
25	Mr. Sisouthone So Phabmixay, Director General of Civil Affairs Department, Prosecutor General's Office
28	Mr. Soukan Bounngong, Head of Luang Prabang Province Land Management Authority, Mr. Houmpheng Phonsaya, Chief of Land Conflict Resolution Unit, Mr. Sengphet Hougduangchan, Deputy Head of Administration Office
28	Mr. Saysamone...., Chao Muang of Luang Prabang District, Luang Prabang Province
28	Mr. Khamla....., President of People's Court of Luang Prabang Province
28	Mr. Khamsing Saylatsy, Deputy Head of Justice of Luang Prabang Province, Mr. Kongkham Thavichit, Chief of Implementation Office
29	Mr. Boun Sithinon, Chief of Cabinet of National Assembly's Luang Prabang Branch
29	President and members of Lao Bar Association of Luang Prabang
29	Systematic Adjudication Team No. 1, at Nam Bak, Luang Prabang Province
29	Villagers of Ban May, Nam Bak District, Luang Prabang Province
30	Mr. Bounleuang Manivong, Deputy Prosecutor of Luang Prabang Province, Mr. Sengsavann, Chief of Investigation of Civil Affairs, Mr. Khaphan Manosan, Chief of Cabinet of the Prosecutor Office of Luang Prabang Province
30	Mrs Manivone....., Head of World Heritage Office
30	Mr. Thongying, Deputy Head of State Inspection of Luang Prabang Province, Mr. Sommay, Professional
31	Head of Luang Prabang Province Agriculture and Forestry Office and the former head
31	Mr. Vongsavan....., Head of Finance Division of Luang Prabang Province
31	Pong Vang Village, Luang Prabang District, Luang Prabang Province
31	Xiengkeo Village, Luang Prabang District, Luang Prabang Province
31Village, Luang Prabang District, Luang Prabang Province

Date	Position and Office
JUNE 2007	
1	Huay Maha Village, Phonsay District, Luang Prabang Province
1	Poung Pao Village, Phonsay District, Luang Prabang Province
4	Mr. Khankeo Vongsavanhong, Head of Bolikhamsay Land Management Authority, Mr. Khamva Simvasom, Head of Bolikhamsay Land Unit, Mr Samleuang Sorasern, Landf Use planning and Information
5	Mr. Boivan Kaen Atsavong, Deputy Head of Finance Division of Bolikhamsay Province, Mr. Phaythoun Thiengmalay, Assistant
5	Deputy President of People's Court of Bolikhamsay Province, and his assistants
5	Justice Office of Muang Paksane, Bolikhamsay Province
5	Mr. Thongvan Dedphommathed, Chief of Cabinet of the Prosecutor Office, Bolikhamsay Province
6	Mr. Khene Lomany, Party Secretary and Chao Muang of Bolikhan District, Bolikhamsay Province
6	Head of Khet Pha Muang, focal site of resettlement village, Bolikhan District, Bolikhamsay Province, and assistants of Khet Pha Muang
6	Meeting with villagers of Pha Muang village, Bolikhan District, Bolikhamsay Province
6	Systematic Adjudication Unit at Bolikhan, Bolkhamsay Province
7	Mr. Langsy Keoviset, Deputy Chao Muang of Pak Kading District, Bolikhamsay Province
7	Visit coconut plantation, near Ban Nam Dua
7	Head of Na Vieng village and villagers, Pak Kading District, Bolikhamsay Province
7	Visit OJI eucalyptus plantation
11	Mr. Somdy Phachomphon, Head of Vientiane Province Land Management Authority
11	Mr. Khamtan Sipaseut, Deputy Chief of Cabinet of National Assembly's Branch 10 (Vientiane Province), Mr. Bouathong Sidsongkham, Head of Synthesis Unit, and Complaints
11	Mr. Khamfong Saphakdi, Head of Systematic Adjudication Team, Mr. Noudet Nankhampheui, Deputy Head of Adjudication Unit, Mr. Douang Sayadet, Deputy surveyor (Muang Viengkham, Veintiane Province)
12	Mr. Bouageun Bounsongkham, Deputy Head of Phon Hong District (Vientiane Prov.), and Mr. Sengphet Issala, Synthesis Unit of the District Cabinet
12	Deputy Head of Hin Heup District, and villagers of Ban Na Vay, Hinheup District, Vientiane Province
13	Mr. Kongsy Oudom, Chao Muang of Vang Vieng, Mr. Bounma Ngamvilay, Head of Land Office of Vangvieng District, Vientiane Province
13	Mr. Leusay So Somly, President District Court of Vangvieng, Kasy, Maed Districts, and officers of Justice Office of Vangvieng, Vientiane Province
13	Meeting with Head of village, Party secretary, elders, Lao Women Union, and villagers of Ban Khanmaark at pagoda meeting hall, near cement factory of Vangvieng, Vientiane Province
14	Visit of tree plantation at Phon Hong District, Vientiane Province
14	Mr. Neng Heu Song, Head of Km 52 Village, Mr. Bouakham Vongsavan, 1 st Deputy, Mr. Sitaheng Thongsavan, Head of "grass roots" building team Km 52 village
14	Visit of tree plantation at Nam Souang, Vientiane Capital City
AUGUST 2007	
21	Mr Steve McFadzean, Team Leader, Technical Assistance, Lao PDR Land Titling Project II, NLMA, Vientiane.

Appendix 3: References

1 Lao People's Revolutionary Party - Resolutions and Notifications

- Resolution of the Party Committee of Luang Prabang Province on the Organization of the Committee for the Coordination to Protect Law at Village Level, No. 47/PCLP, 29 June, 2006.
- Resolution of the Politburo on the Organization and the Activities of the Central Committee Inspection Committee, No. 98/PCC, 15 August, 2006.
- Additional Order of the Party Standing Committee of Vientiane Capital City on the Organization of Developed Village and Group Village, No. 408/VCCP, 10 December, 2004.
- Order of the Politburo of the Party's Central Committee on Strengthening the Leadership of the party on the State Apparatus at Local Level and the Organizations Protecting Laws, Rules and Regulations, No. 12/PCCP, 5 November, 1999.
- Notification of the Chief of Cabinet of the Party Central Committee to the Supreme People's Court on the Implementation and Activities of the Supreme People's Court in 1998-1999, No. 337/CCC, 20 July 1999.

2 Lao People's Democratic Republic - Constitution and Laws

- Constitution Amended, No. 25/NA, 6 May, 2003.
- Law on Complaints, 2006.
- Law Against Corruption, No. 03/NA, 19 May, 2005.
- Law on the Oversight of the National Assembly, No. 09/NA, 22 October, 2004.
- Law on the Implementation of Court's Decision, No. 03/NA, 15 May, 2004.
- Law on the National Assembly, Amended, No. 01/NA, 6 May, 2003.
- Law on Local Administration, No. 47/NA, 21 October, 2003.
- Land Law No. 48/NA, 21 October, 2003.
- Lao on Promotion and Management of Foreign Investment, No. 11/NA, 22 October 2004.
- Forestry Law, No. 004/NA, 11 October, 1996.
- Law on Water and Water Resources, No. 005/NA, 11 October, 1996.
- Law on Mining, No. 04-97/NA, 12 April, 1997.
- Law on Agriculture, No. 01-98/NA, 10 October 1998.
- Law on Environment, No. 02-99/NA, 3 April, 1999.
- Law on State Assets, No. 72/NA, 12 October, 2002.
- Town Planning Law, No. 03-99/NA, 3 April, 1999.
- Law on Roads, No. 04-99/NA, 3 April, 1999.
- Secure Transaction Law, No. 011/NA, 14 October, 1994.
- Law on Processing Civil Cases Before the Court, No. 09/90/SPA, 29 November, 1990.
- Law on Processing Penal Cases Before the Court, Amended, No. 01/NA, 15 May, 2004.
- Law on Ownership, No. 01/90/SPA, 27 June. 1990.
- Law on Contracts, No. 02/90/SPA, 27 June, 1990.
- Tort Law, No. 08/90/SPA, 29 November, 1990
- Law on People's Court, Amended, No. 50/NA, 21 October, 2003.
- Law on People's Prosecutor, Amended, No. 06/NA, 21 October, 2003.
- Inheritance Law, No. 03/90/SPA, 27 June, 1990.

3 Lao People's Democratic Republic – Decrees and Regulations

- Prime Minister's Resolution of the National Conference on Land, No. 06/PM, 30 May, 2007.
- Prime Minister's Decree on the Organization and the Activities of the State Inspection Organization No. 195/PM, 21 March, 2006.
- Ministerial Decision on Adjudications Pertaining to Land Use and Occupation for Land registration and Titling No 564/NLMA, 6th August, 2007
- Ministerial Decision on the Organization and Activities of the Province and Vientiane Capital City Land Management Authority No. 62/NLMA, 5 January, 2007.
- Ministerial Decision on the Organization and Activities of the District and Municipality Land Management Authority No. 63/NLMA, 5 January, 2007.
- Ministerial Decision on the Organization and Activities of the Village Land Unit No. 64/NLMA, 5 January, 2007.
- Decree on Compensation and the Resettlement of the Population from the Areas of Development Projects No. 192/PM, 7 July, 2005.
- Implementation Decree of Land Law No. 101/PM, 20 April, 2005.
- Decision of the Minister of Justice on the Establishment and the Activities of the Village Mediation Unit No. 08/MoJ, 22 February, 2005.
- Ministerial Direction on Systematic Adjudication of Land Use Rights No. 997/MoF, 24 June, 1998.
- Prime Minister's Decree on Transforming the Legal Use of State Land and the State Ownership of Housing, Equipment and Furniture in Officials Families, No 194/PM, 12th November, 1994.
- Decree on Credit House (credit companies) No. 10/PM, 2 February, 2002.
- Decree on Land Tax, No. 99 PM, 19th December, 1992.
- Decree on the Organization and Activities of Lao P.D.R. Bar Association No. 64/PM, 21 February, 1996.

4 Literature

Bosch, D. (2002). Land Conflict Management in South Africa: Lessons Learned from a Land Rights Approach. Land Reform Series, FAO

Colin, Jean-Philippe (2004). Côte d'Ivoire: Land Rights and Practices and Intra-family Relations – Conceptual and Methodological Foundations of a Comprehensive Approach. Land Reform Series, FAO

Fujita, Yayoi et al. (2006). Newly Emerging Issues Relating to Land Tenure among different Ethnic Communities in Phonhong (Lak 52) and Khamkeut District (Lak 20). National University of Laos, Faculty of Forestry, Vientiane

Ministry of Agriculture and Forestry (2006). Compilation of Decrees, Resolutions, and Orders on Forestry Activities

Ministry of Justice (2004). Statute Book of Lao PDR

National Land Management Authority (2007). First National Conference on Land Works (7-8 May 2007) in Vientiane Capital City, Lao PDR

Public Conference on Land Management and Development in Vientiane Capital City Chaired by Dr. Sinlavong Khoudphaythoun, Member of the Central Committee of the Party, Governor of Vientiane Capital City, 14-15 June 2006, National Cultural Hall

Ngaosrivathana, P. and Keomanivong, K. (2007). Land Consolidation in Lao PDR. Land Policy Study No. 7, GTZ Laos

Ngaosrivathana, Pheuphanh (2003). Resolving the Nine Pending Policy Issues Impeding the Land Adjudication Process. AUSAID Laos

Schumann, Gunda et al. (2006). Study on State Land Leases and Concessions in Lao PDR. Land Policy Study No. 4, GTZ Laos

Seidel, Kathrin, et al. (2007). Study on Communal Land Registration in Lao PDR, Land Policy Study No. 6, GTZ Laos

Teyssier, André et al. (2003). Experiments in Landholding Mediation in Northern Cameroon. Land Reform Series, FAO

Zakout, W., Wehrmann, B., Torhonen, M.-P. (2007). Good Governance in Land Administration. Principles and Good Practices. GTZ

Zitelmann, Thomas (2005). The Cambodian Conflict Structure - Conflict about Land in a Wider Perspective. GTZ Cambodia

Appendix 4: Summary of Relevant Conflict Legal Instruments and Provisions: (Translation of Legal Provisions).

Legal Instruments	Provisions
1. Constitution of Lao PDR as amended in 2003	Art. 2... “All powers belong to the people, [and are exercised] by the people and for the interests of the multi-ethnic people of all strata...”
	Art. 3 “The party is the nucleus of the political system.
	Art. 6... “All acts of bureaucratism and harassment that can be detrimental to the people’s honour, physical well-being, lives, consciences and property are prohibited.”
	Art. 10... “The State manages the society through the provisions of the Constitution and the laws. Party and State organizations, the Lao Front of National Construction, mass organizations, social organizations and all citizens must function within the bounds of the Constitution and the laws.”
	Art. 17 “The State protects the property rights (such as the rights of possession, use, usufruct and disposition) and the inheritance rights of organizations and individuals. Land is a national heritage, and the State ensures the rights to use, transfer and inherit it in accordance with the laws.”
	Art. 41 “Lao citizens have the right to lodge complaints and petitions and to propose ideas to the relevant State organizations in connection with issues pertaining to the public interest or to their own rights and interests. Complaints, petitions and ideas of citizens must be examined and resolved by the laws.”
	Art. 76 “The governors of provinces and cities and the mayors of districts have the following rights and duties:...4. to manage citizens [and,] within the scope of their rights and powers under the laws, to consider and resolve the complaints and proposals of the people.”
	Art. 82... “In their adjudication, judges must be independent and strictly comply with the laws.”
	Art. 85 “Decisions reached by the people’s courts, when final, must be respected by Party organizations, the Lao Front for National Construction, mass organizations and all citizens, and must be implemented by the concerned individuals and organizations.”
Art. 86 “The Office of the Public Prosecutor has the duty to monitor the implementation of laws...”	
2. Amended Law on Civil Procedure No. 02/NA, 15th May 2004	Art. 79 “Small disputes or disputes which are not of high value such as family disputes, disputes relating to the possession of animals, rights or way and other [disputes] must be settled by the village mediation unit. If the litigants once again, based on the regulation, and mediate between the litigants once again, based on the regulations of the village mediation unit and district justice office. In the event that the justice office of the district is unable to mediate such dispute, the dispute may be brought to a court for adjudication in accordance with the laws if a claim is filed. When a court receives a claim, the judicial tribunal may mediate between the litigants again. In the event that a dispute involves a high amount, the litigants have the right to request mediation as described in the preceding paragraph or can submit a claim to a court directly. A mediation may be conducted if it does not affect peace and social order.”
3. State Property Law No. 72/NA, 12th October 2002	Art. 25 “Conflict resolution” Two types of state property conflicts on: conflicts characterised by administration aspects and conflicts characterised by criminal and civil aspects. Conflict resolutions on state property characterized by administration aspects such as: control and use of state property without approval, controversial to its goals, objectives or rules and regulations. In this case, it is the Finance division, the administration offices and concerned parties to consider.

Legal Instruments	Provisions
	Conflict resolution characterised by criminal and civil aspects are for instance: not follow the agreement or contract, use of artificial documents or corruption. In this regard, it is the duty of the people's court to deal with the issues according to the law."
4. Law on Local Administration No. 47/NA, 21st Oct. 2003	Art. 53 "Authority and duties of village heads: ...10. To resolve local conflicts and complaints of the people within the scope of his authority."
5. Land Law No. 04/NA, 21st October 2003	<p>Art. 10 "General rights and duties of land management authorities:.7. resolve land disputes." "Part V. Settlement of Land Problems, Policies towards Persons with Outstanding Performances..."</p> <p>Art 80 (New). Settlement of Land Problems that have Administrative Characteristics. The settlement of land problems that have administrative characteristics shall be resolved by the concerned land management authority in coordination with the concerned [local] administration at that level at the place where the land is located. [Such problems] include: using land without authorization, using land in contradiction of its objectives, laws, and regulations, not using land within the determined time period after being allocated [such land], not paying taxes or fees on land as determined by regulations, and other problems having administrative characteristics. If the person having the right to use land or the holder of land use rights is not satisfied with the decision taken for resolving the problem, he has the right to request the next higher authority to settle the problem."</p> <p>Art. 81 (New) "Settlement of Land Disputes having the Characteristics of a Civil [Case]. The settlement of land disputes having the characteristics of a civil [case], such as: inheritance of developed land, transfer of land use rights, and [disputes under] other civil contracts relating to land, shall be brought before the people's court to consider according to the laws. Regarding the settlement of land disputes having civil characteristics, the village administration at the place where the land is located shall first mediate the dispute; if no agreement can be reached, then the case shall be submitted to the district or municipal administration to mediate; if settlement fails, then each party has the right to file a claim in court."</p>
6. Implementation Decree of the Land Law No. 101/PM, 20th April 2005	Art. 28. "The settlement of land dispute shall be undertaken in compliance with Articles 73 to 76, Articles 80 and 81 of Land Law. For all cases relating to land, the definite decision taken by the court shall be implemented in a rigorous manner. Any person or organization willing to settle land dispute shall submit the application along with concerned documents to the Land Management Authority for making the study and solving in coordination with the local administrative authority where the land is located. In case the Land Management authority is unable to solve the dispute, the case shall be solved through the legal process"
7. Ministerial Direction on Systematic Adjudication on Land Use Right No. 997/MoF, 24th June 1998	<p>Art. 24 "Consideration of a case by the Committee for Resolving the Problems of Issuing Land Title. The director of the Finance Division of the province, municipality or special zone will appoint suitable persons as members of the Committee for Resolving the Problems of Issuing Land Title.</p> <p>In case a problem has been referred to the Committee through the Office of Land and Housing Management by the Adjudication Unit, then the Committee for Resolving the Problems of Issuing Land Title will make a consideration of the case and make a decision. The Committee for Resolving the problems of Issuing Land Title has all the powers, rights and duties that the Adjudication Unit has and, can consider new evidence which the Adjudication Unit did not have. In this case, the Committee for Resolving the Problems of Issuing Land Title will, for publication of decisions it has reached a conclusion, follow the procedure set out in Article 20 and Article 23 of this Ministerial Direction.</p> <p>In case the Committee for Resolving the Problems of Issuing Land Title is unable to resolve the problem, it will make a request to Land Management and Land and Forest Allocation Committee at the province, municipal or special zone level to resolve the problem. To assist the LMLFAC, the concerned Division of Finance must supply all relevant documents and information. When it has made a decision, the LMLFAC will follow the procedure set out in Art. 20 and 23 of the MD"</p>

Legal Instruments	Provisions
	<p>Art. 27 "Modification of decision made by the Adjudication Unit based on mutual agreement of the two parties..."</p> <p>Art. 28 Re-consideration of decision taken by the Adjudication Unit to the Director of Finance Division. The Director will be assisted by a committee of persons with appropriate skills for reviewing the decision. Parties can appeal to the court against the decision within 30 days</p> <p>Art. 29 Filing a complaint with the court against the decision taken by the Adjudication Unit and or the Head of Finance Division. "...If a person, after receiving the notification concerning the decision of the Adjudication Unit or of the director of the Finance Division of the province, municipality or special zone, has not formulated a petition to the court within the time prescribed in this MD, he or she has no right to make a claim on the right on land from the beneficiary from the decision made by the Adjudication Unit or by the director of the Finance Division of the province, municipality or special zone".</p>
<p>8. Order of the Politburo of the Central Committee of the Party on the Reinforcing the Leading Role of the Party to the State Organizations at Local Levels No. 12/P.CCP, 5th November 1999</p>	<p>Coordination Committee for the Protection of Laws and Regulations at Provincial and District levels.</p> <p>Purpose: For law enforcement and court decision implementation</p> <p>Composition: all members of the Party originating from the National Assembly, Party and State Inspection, Justice Office, Military, Police, Prosecutor, court, military prosecutor.</p> <p>Chair: sometimes the Deputy Party Secretary of the province or the district, and sometime the elected</p> <p>No appeals possible; internal decision-making body.</p>
<p>9. Decision of the General Secretary of the People's Revolutionary Party on the Organization and the Role of the Central Committee Inspection Committee No. 98/P.CC, 15th August 2006)</p>	<p>Art. 3.7 "Receive and analyse the petitions and complaints relating to all manifestations violating rules and regulations of the Party, the resolutions, orders, the implementation of the role of the Party organizations and members. Relating to the proposals made by the population and about the wrong activities of the officials, State employees and the administrative organs of the State at various level, the Inspection Committee has to receive them and to consider on the basis of the laws."</p> <p>Art. 3.10 "To monitor the issuance of laws and regulations and all acts that violate the implementation of laws and regulations by the ministries, provinces, VCC and the organizations under the jurisdiction of the Party Central Committee".</p> <p>Art. 4.2 "Propose the Party/State organizations to amend or cancel the contents of the resolutions, directions, and other regulatory acts that are not compatible with the Party's policy and rules, and the State's laws"</p> <p>Art. 4.3 "Summon the Party/State organizations, mass organizations, social organizations and the Party members, officials, State employees, military, police and the population to report, to give details, give evidence to the Inspection Committee or the inspection official"</p> <p>Art. 4.4 "Ask for evidence and documents about the control, the declaration of assets, personal debts and debts of concerned organizations"</p>
<p>10. Prime Minister's Decree on the Organization and Role of the State Inspection No.</p>	<p>Contents very similar to the Articles in 9 above except that there is no reference to the Party</p>

Legal Instruments	Provisions
195/PM, 21 st March 2006)	
11. Decision on the Reorganization and Role of Department of Policy and Land Use Inspection: No. 20/NLMA, 18th January 2007	<p>Art 2.7 “Find out and submit to higher authority for consideration the problems related to land administrative proposed by the line sectors, local administrative authority or the persons who have the land use rights or the right to use, in order to conduct the land management and administration to be in line with the objectives, in a fair and peaceful manner;”</p> <p>Art 7. Functions of the Division of Land Dispute Resolution</p> <p>7.1 Accepting the application or the proposal from individuals, juridical entities or organization granted with land use rights, right to use land which has problem and land dispute, as well as the persons who are not granted the rights and authorization to use land; the persons who use land inconsistent with the objectives, who did not pay land taxes, custom or fees in accordance with the regulations and other disputes related to land, in order to study and submit to the higher authority for consideration;</p> <p>7.2 Collaborate with line sectors to investigate the application and proposal made by individuals, juridical entities or organization in order to find the appropriate solving method and measures and to be complied with the laws and regulations, to further submit to higher authority for consideration;</p> <p>7.3 Study and provide comments to land dispute resolution in administrative manner as proposed by line sectors, local administrative authority or land users, in order improve the land management and administration to be consistent with the objectives and the laws and regulations;</p> <p>7.4 Coordinate with line sectors to investigate, collect or claim for necessary documents by asking from individuals, juridical entities, or organization concerned in order to learn the background of receiving the land use rights and the right to use land which have the dispute;</p> <p>7.5 Inspect for the accuracy of the evident information concerning the background of receiving the land use rights or the right to use land as stipulated in the laws; in the case that the evident information is consistent with the reality, the two parties might be reconciled and educated in order to acknowledge the land use rights, right to use the land of the other party by compromising in accordance with the real situation and the laws and regulations;</p> <p>7.6 Summarize the cause of the dispute then propose solving methods and measures to the higher authority for consideration;</p> <p>7.7 Participate in the implementation of the court order related to land as assigned by the higher authority;”</p>
12. Decision on the Organization and Role of the Provincial Land Management Authority No. 62/NLMA, 5th January 2007	<p>Arts. 3.14 and Art. 10.8 “To analyse for settlement or to propose to the upper level to settle land disputes that have administrative characteristics according to the proposal of the sectors, district administrative organs, or of the land users or the concerned persons aiming at making the land management and administration to be conform to the purpose, peaceful and fair”</p> <p>Art. 10.4 “To control the correctness of the evidence about the origins of the land use right or the right to use according to the purpose and as set in the laws and regulations; if necessary, may be to propose to the concerned sectors to adjudicate according to the professional rule or to implement according to the steps of the legal process</p>
13. Decision on the Organization and Role of District Land Management Authority No. 63/NLMA, 5th	<p>Art. 3.13 similar to 3.14 above, and 10.7 similar to 10.8 above, and Art. 10.4 similar to 10.4 above, except that the jurisdiction is different between Province and District.</p>

Legal Instruments	Provisions
January 2007	
14. Decision of the Minister of Justice on the Organization and the Role of the Village Mediation Unit No. 02/MoJ, 19th March 2007	<p>Art. 4 Jurisdiction. "...2.To mediate the civil conflicts related to debts, assets, family relations (except divorces that have to be through the legal process), ownership of cattle, the use of land of the village after the land zoning, etc, according to the request or the proposals of the parties in conflict...</p> <p>5.Responsible for helping the administrative authority in setting-up conflict-free villages.”.</p> <p>Art. 5 “Fee: 50,000 kips per case”</p> <p>Art. 6 “Composition. 1 Chairman , 1 to 2 deputies, and 3 to 5 members coming from: Lao Front for Construction in the village; Village Administrative Authorities, Lao Women Union, Revolutionary Youth, Elders and ethnic representatives, police”</p>
15. Directive of the Minister of Justice on Guidelines, Standards and Steps to Create Free-conflict Villages” No. 01/MoJ, 19th March 2007	<p>“The establishment of conflict-free villages makes a major contribution to comprehensive grass roots building and directly contributes to the implementation of the Resolution 09/of the Politburo of the Party and Central Committee, concerning the tasks of grass-roots building which aims at stabilization, living in peace and happiness, solidarity, and joining together in practicing the rights and obligation of a good population.</p> <p>The conflict-free village is a base for establishing village development groups”. This Directive contains the following sections:</p> <p>a) guidelines for the establishment of conflict-free villages, b) details on standards for conflict-free villages, c) the process for building conflict-free villages, (4 Steps), and d) guidance for the practical implementation.</p>
16. Law on National Assembly’s Oversight No. 09/NA, 22nd October 2004	<p>Art. 3 “The oversight by the National Assembly is important and objectively necessary to enable the population to participate in the control, the State management, the management of the economy and society, for the State power, the constitution and laws are enforced, to restrain the offences against the law and regulations, to settle the manifestation of social depression such as: bureaucratism, corruption, the abuse of power and function, aloofness toward own responsibility; to make the organizations and the people to elevated their political responsibility”</p> <p>Art. 5 “Forms of oversight: general monitoring, the monitoring of the issuance of regulations, the oversight of the settlement of the proposal and complaints of the population, the oversight of a particular problem”</p> <p>Art.15 “The National Assembly in its sessions monitor the implementation of laws and regulations on the settlement of the proposals and the complaints of the population by the standing committee of the National assembly, the government, the Supreme Court, and the Prosecutor General”</p> <p>Art. 24 “The Standing Committee of the National Assembly monitors the government, the Supreme Court, the General Prosecutor Office, the cabinet of the NA in the implementation of the laws about the settlement of the proposal and complaints of the population. Through this monitoring, and if the organization and people have violated the interest of the nation, legitimate rights and interests of the organizations and other people, the Standing Committee has the right to take measures on these violations as well as to propose disciplinary measures...”.</p>
17. Law on Settlement of Complaints No. 07/NA, 9th, Nov. 2005	<p>Art. 2, 17,18,19, 23, 24, 25, 26, 27 and 28 “Three types of complaints: proposals to administrative organizations of the State; Litigation to investigation organs, prosecutor and court; Request for justice to the National Assembly”</p>
18. Ministerial Instruction on Adjudications	<p>Article 4.8 Right in mediation: If there is a dispute or a request to oppose a land use right, or about a land parcel border, when there is a border demarcation operation and the gathering of evidence, the problem has to be brought to the Mediation Unit of the village. The Adjudication Unit has the right to attend to the mediation with all parties to reach an agreement.</p>

Legal Instruments	Provisions
<p>Pertaining to Land Use and Occupation for Land Registration and Titling No. 564/NLMA, 6th August, 2007</p>	<p>Article 6.1 Declaration of SAT Decision: SAT will issue a Notification for every parcel of land passing through the adjudication process as follows: a) parcels that have been categorized as having the right to use the land or the land use right, b) parcels about which SAT cannot make a decision. The notifications will be posted at the office of SAT where is visible for the public to scrutinise.</p> <p>Article 6.2 Problem Analysis by the Committee for Solving Land Titling Issues: The Head of the Provincial Land Management Authority, VCC, will assign staff to be members of the Committee for Solving Land Titling Issue. In circumstances where SAT has submitted cases to the Committee for Solving Land Titling Issues through the District Land Office, the Provincial Land Office and VCC Land Office, the Committee has all the same rights, power, and duties as SAT, and in addition, the Committee can also consider new evidence which has not been available to the SAT.</p> <p>Article 7.2 Re-consideration of the Decision (in part): In case an individual is not satisfied with the Decision made by the SAT, and the problem cannot be solved to the satisfaction of both sides, such person can lodge a request for the re-consideration of the Decision to the Head of the Provincial Land Management Authority, VCC, within a period of 30 days for systematic adjudication, and 90 days for sporadic adjudication, starting from the date SAT posted the notification....etc</p> <p>Article 7.3 Petition to the Court (in part): If any individual is not satisfied with the Decision made by Head of the Provincial Land Management Authority of VCC, he/she can lodge a petition to the court to further consider the case in accordance with the law concerning such Decision. The petition shall be lodged to the court within the period of 30 days starting from the date the Decision was publishing by the Head of the Provincial Land Management Authority of the VCC. (provision is also made for lodging a petition to the court on decisions made by the Head of the Provincial Land Management Authority, VCC. The court will decide in accordance with the procedures and regulations in this Instruction).</p>
<p>19. Prime Minister's Decree (draft) on State Land Leases and Concessions</p>	<p>Art. 45 Dispute Settlement: Dispute settlement about State land leases and concession contracts is carried out by Land Management Authority and the lessee with the aim of reaching a compromise. If the negotiations are not successful the parties have recourse to the Economic Arbitration Committee or to go to People's Court. (to be signed September 2007).</p>