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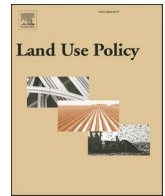
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Silent transitions: Commercialization and changing customary land tenure systems in upland Laos

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ABSTRACT

What happens to local institutional arrangements regarding access and use of communal land under the forces of agricultural commercialization? Taking Khwaykham village in Phongsaly province, Laos as a case study, this paper sheds light on this question as farm households in the settlement have progressively transitioned to commercial farming, specifically tea cultivation. Traditionally, farm households' access and rights to use the land were embedded in their swidden agriculture practices. The adoption of tea has increasingly fixed land use rights, making land sticky at the household rather than communal level. How, why and with what effects this occurs are the focus of the paper. We argue that while this transition to tea cultivation has benefited – in income terms – most farm households in the village, it has also created an agrarian context for increased inequity between those households who rapidly took the opportunity from the tea boom and others who have missed out on it.

1. Introduction

The commercialization of agricultural production is a key policy instrument to improve farm households' livelihoods and increase their income while contributing to wider processes of rural development (Newby et al., 2014; Baird, 2011; Dwyer, 2007). Market integration – or connection – lies at the heart of this process and has been a key focus of state policies across mainland Southeast Asia (Sikor, 2012; Phimmavong et al., 2009; Manivong and Cramb, 2008). This is not just a state undertaking; market-integration and agricultural commercialization are often also enthusiastically embraced by local communities. In Laos, for instance, agricultural commercialization is central to the achievement of the state's national socio-economic development plans and strategies¹ and the country's agricultural and rural development (GoL, 2019). At the same time, local communities have viewed agricultural commercialization and the increased income it brings as a key avenue to improving their livelihoods (Cole, 2020).

Sometimes it can seem that there is no alternative to commercialization-driven rural development. As a result, any negative effects are pushed to the margins, and downplayed in the process. In this

paper, we foreground one of these often less noticed effects, namely the evolution of customary land tenure systems under conditions of thorough-going agricultural commercialization. We do this through an analysis of the transition from swidden agriculture to tea cultivation in upland Laos.

Khwaykham² village in Phongsaly province provides our 'case', a settlement where, following a tea 'boom' in 2008, customary land tenure systems have been transformed. This transformation incorporates a cascade of changes to local tenure institutions, rules, mechanisms, and practices. We are not just interested in what has changed, but in revisiting this process in terms of its impacts, not least on poorer households and more vulnerable groups.

Agricultural commercialization has raised rural production and, with this, rural incomes in aggregate terms. The story of poverty reduction in the hills of Laos is intimately tied to agricultural commercialization (Cole, 2020). To make a case that challenges the developmental outcomes of commercialization, it is necessary to ask – and to explore – what has been changed or curtailed in this process, and how this might impact the well-being of some, if not of all.

Customary or community-based land tenure systems play an

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¹ See also the government's policy direction on Dwyer (2007) and the GoL (2013).

² This village name is a pseudonym.

important role in sustaining the livelihoods and well-being of individual farm household and, because they are communal, by extension the local community (Fujita and Phanvilay, 2008; Keovilignavong and Suhardiman, 2019). Seidel et al. (2007) has shown how customary land tenure systems exist among all ethnic groups in Laos, in both upland and lowland contexts, and covering a variety of land uses. Scholars have noted how customary land tenure systems have come under increasing pressure from external forces, such as government policies and market penetration (Sikor and Vi, 2005). Similarly, local communities' and farm households' access to communal land are often depicted by civil society groups and state institutions as providing a degree of protection to swidden agriculture from market forces and modern forms of production (Baird, 2013; Milne, 2013; Flower, 2018).

In this paper, and in contrast to the literature on land grabbing by external actors, we show how tea has set in train a process in Khwaykham village of internal land contestation, often entangled with inter-household conflicts, over who has the right to use and claim land. Thus, it brings to light the role of local communities as internal agents of change in relation to the evolution of customary land tenure systems under conditions of agricultural commercialization. Tea becomes the proximate cause of these contestations and conflicts, as farm households' access and rights to land embedded in swidden agriculture practices alter to accommodate the demands and strictures of tea cultivation, not least the change from fluid to fixed land claims. We also show, however, that these changes cannot be seen solely as the inevitable outcome of agro-ecological 'facts'. Their sedimentation in Khwaykham village is tied, equally, to community-level societal structures and norms. Finally, all this needs to be set against the wider politico-economic forces that are driving Laos' regional integration.

In illuminating the nature of changes to local communities' access to communal resources including communal land, we see agricultural commercialization acting through three filters: the agro-ecological; the community; and the geo-political. We use the term 'filter' to emphasise that the nature and direction of change is not pre-ordained; it can be sifted or filtered according to environmental, social and geo-political conditions. Through these three filters, we shed light on the community-level evolution of customary land tenure system in Khwaykham village under conditions of agricultural commercialization. Our starting point is to view local communities, like Khwaykham village, as heterogeneous (Agrawal and Gibson, 1999), where farm households' interests, strategies, and access to resources are varied *ex ante*, but also change *ex post* with commercial tea cultivation.

2. Farm households' strategies as key building block to rethink customary land tenure systems

Amidst a growing critical literature on resource governance and customary land tenure (Erni, 2021; Suhardiman and Scurrah, 2021a; 2021b; Li, 2014; Baird and Flaherty, 2005), customary land tenure systems continue to be portrayed as idealized, static and normative, where communal land is governed through traditional systems of tenure institutions embedded in local institutional rules and arrangements (Claessens et al., 2021; Fisher and van der Muur, 2019). Similarly, they are often thought of as being steeped – in other words, soaked to extract its flavour – in the past and evolved largely in isolation from state and market forces (Suhardiman and Scurrah, 2021a; 2021b). For agencies of development seeking to enact change, they are often perceived as inherently conservative, incapable of adapting to change, and a hindrance to progress (Besteman, 1994; Gyasi, 1994). In this paper, we look at customary land tenure systems as a socio-political construct. We illustrate how customary land tenure systems have evolved as a result of key stakeholders' strategies to negotiate and acquire access and the rights to use communal land following the tea boom and farm households' decision to transition from swidden agriculture to tea cultivation. Thus, rather than positioning customary land tenure systems as something fixed, in isolation from the wider processes of agrarian change, we

view it as something in flux, if not constantly changing. Or, as Claessens et al. (2021):1 write: “Hence, the commons [communal land tenure] ...are rather a starting point to rethink land governance in a contextualized socio-historical perspective”.

Scholars have discussed and analyzed how customary land tenure systems are changed, eroded, and erased by state policy interventions and market forces, as they have transformed upland territories through processes of commodification (Suhardiman and Scurrah, 2021a; 2021b; Suhardiman et al., 2015; Kenney-Lazar, 2012; Vandergeest, 2003; Vandergeest and Peluso, 1995). They have also brought to light how customary land tenure systems are sidelined by other more powerful forces outside the communities that practice such systems (Korf et al., 2015; Sikor, 2004; Sturgeon, 2004; Li, 2002). Moreover, current discussion on local community-land relations identifies state, market, and local community as key but distinct forces (re)shaping relations. The distinction reveals the complex and dynamic processes involved in the overall shaping of local community-land relations. At the same time, such distinctions also tend to homogenize the local community as a unified and cohesive group sharing common beliefs and objectives (Agrawal and Gibson, 1999).

Viewing customary land tenure systems as part of the fabric of socio-economic and power relations (Li, 2002; Besteman, 1994), we view farm households' strategies as reflective of human agency and the ability of local inhabitants to shape the system's overall evolution processes. The local community represents various forms and types of human agency (economic, political, and cultural) (Li, 2002; Hefner, 1990). As stated by Li (2002):418: “Economically, agency is manifested in peoples' livelihood strategies and the projects they pursue. Politically, agency can be understood as the forms that militancy (or quiescence) takes at certain periods. Culturally, it is present in people's sense of how and why they do things, and the frameworks within which they assert entitlements and make claims”. We focus on the role of farm households in (re)shaping local rules and institutional arrangements pertaining to a local community's access to communal land, and how these in turn direct the evolution process of the customary land tenure systems.

Placing our research within broader debates on the politics of agrarian change (Borras and Franco, 2009; Bernstein, 2008; Edelman, 2008; Bernstein and Byres, 2001) and building on Kerkvliet (2009) conceptualization of everyday politics in Vietnam, the paper brings to light distinct characteristics of rural politics that have shaped processes of agrarian change in upland Laos. As Kerkvliet (2009):232 writes: “Everyday politics occurs where people live and work and involves people embracing, complying with, adjusting, and contesting norms and rules regarding authority over, production of, or allocation of resources and doing so in quiet, mundane, and subtle expressions and acts that are rarely organized or direct”. Key elements in understanding the (re)shaping of everyday politics is the recognition that like customary land tenure systems, farm households and local communities are dynamic entities that are constantly changing and evolving. As Edelman (2008):83 writes for Central America: “The first thing to acknowledge is that the campesino of today is usually not the campesino of even 15 years ago”.

Agricultural commercialization of formerly unmonetized, largely subsistence or semi-subsistence households and settlements is a feature of agrarian change across Laos, impelled by government policies and market forces. This process has had repercussions for use and access to communal land, which in turn has impacted living condition and livelihoods. This paper explores two aspects of this process, at the 'input' and 'output' ends of communal land transitions. First, it looks at the ways in which different agricultural interventions have varying effects, in this instance through the lens of the expansion of tea cultivation. While at a general level it is reasonable to state that commercialization is diminishing communal lands and limiting community access to land, the nature of this change varies, and this speaks to crops and cropping practices and regimes. Second, the effects of these changes to communal lands and their access variously impacts rural households and livelihoods; it is far from a case of one-size-fits-all. Some households benefit

while other lose out, and understanding how the transition plays out, and why, is also an important aim of this paper.

Taking Khwaykham village as a case study and looking at the evolution of the customary land tenure system in the context of agricultural commercialization, this paper brings to light farm households' various strategies as they navigate the transition to tea cultivation. These strategies reveal how processes of neoliberal globalization through agricultural commercialization have altered land-labour-capital relations. It shows how farm households and local communities have reconfigured rural livelihoods and production, through land use transition from swidden agriculture to tea cultivation. It reveals the blurred boundaries, between local community, market, and state actors. For example, farm households who fully transitioned to tea cultivation and become traders represent both local community and market actors at the same time, thus highlighting the role played by local traders³ in (re)shaping processes of agricultural commercialization and the evolution of customary land tenure systems. Similarly, farm households who are members of the Village Committee also represent the state. How do various farm households with differing dependencies and obligations shape their farming strategies in relation to tea cultivation? How do these strategies direct the evolution of the customary land tenure systems, and vice versa? How do these strategies (re)shape local community-land relations before and after the tea boom? These are the questions explored here. Tying these questions back to the politics of agrarian change and peasants struggles, the paper brings to light the importance of locating the analysis of agrarian transformation within a perspective that is both relational (Bernstein, 2007) and locally attuned. Contesting the residual perspective which position the rural poor's exclusion from the market as the main cause of persistent poverty, the relational perspective argues otherwise, that poverty is rooted in poor people's insertion into (or exclusion from) certain patterns of social relations. In Khwaykham village, these patterns of social relations were manifested in farm households' different strategies in the transition from swidden agriculture to tea cultivation.

3. Research Methodology

We employed an in-depth case study approach (Yin, 1994) to examine how local institutional arrangements governing upland swidden, initially for swidden agriculture and livestock grazing and later to tea cultivation, changed over time. Khwaykham village in Nyot Ou district, Phongsaly province, was selected as a case study based on recommendations from Comité de Cooperation avec le Laos (CCL) project staff who identified this village as one of the villages in the area that has fully transitioned to tea cultivation.

The field research was conducted in September-October 2021 and aimed at unpacking local institutional arrangements pertaining to communal land tenure and how such arrangements changed following farm households' strategies to fully transition from subsistence to commercial farming through tea cultivation. We focused on four elements: 1) the evolution of customary land tenure systems following the move to agricultural commercialization through tea cultivation; 2) how such evolution is influenced by farm households' various strategies to fully transition to tea cultivation; 3) how these strategies shape farm households' views and perceptions of change brought on by tea cultivation and in relation to their access and rights to use land; and 4) how from these perceptions it is possible to infer their notions of inequity embedded in agricultural commercialization.

The first and second authors conducted the field research. This was undertaken with the support of a Yao to Lao translator during the interviews and focus group discussions. The village head, village elders, members of Village Committee, and other farm households participated

in the discussion conducted in mid-September 2021. During the focus group discussions, we discussed the history of the village and how villagers perceived their land use change over time. Based on the information gathered during the discussion, we then selected 14 farm households for in-depth semi-structured interviews. The small sample size of interviewed households represents more than a quarter of the total households in the village ($n = 52$). Households were selected based on their farming characteristics in relation to access to farmland (e.g. lowland paddy fields, upland fields, tea cultivation), access to forest tea trees area (both individual and communal), as well as taking into account households' wealth status (e.g. poor and wealthy households). Initially, we selected 14 farm households from different wealth strata. We then inquired into their farming characteristics and access to farmland. We ensured to incorporate households which had lowland paddy fields and/or upland fields (for upland rice cultivation, livestock grazing, or both), before they transitioned to tea cultivation. In this way, we sought to connect farm households' farming characteristics with their socio-economic status.

4. Khwaykham village

4.1. History of multiple resettlements

Khwaykham village is located in Nyot Ou district, Phongsaly province, approximately 135 km from Phongsaly city, and 30 km from Ou Tai town. Khwaykham is a relatively remote upland village established in the early 1960 s, or during the period of Secret War that lasted through the early 1970 s, or before Pathet Lao declared the country's new political system in 1975. The village comprises 52 households. All villagers identify as ethnic lu Mien, though they are often referred to by outsiders as ethnic Yao, and share the same place of origin in China's Guofeng Zhai area.

Like other ethnic Yao settlements in Laos, Khwaykham village has moved several times since they finally settled permanently in Laos. They occupied various sites in the high mountains straddling China and Laos, moving across the border to clear and cultivate swidden fields. In 1963, during Laos' civil war, Khwaykham divided into three neighboring villages (e.g. Khwaykham 1, Xiengvou, and Houaykham). Some villagers also moved back to China during this time. The reason for this move was because they did not feel safe in their previous village location due to the civil war. Some went to Houaykham village in the high mountains, in a hidden, albeit quite small area where there was no access to lowland paddy. Others went to Xiengvou village (a pre-existing settlement), where Pan Wu, the Yao leader representing the Yao ethnic group in the Communist Party also lived. The majority of villagers, however, moved to a new area to establish Khwaykham 1, not too far away from Xiengvou village. In 1970, Khwaykham 2 village was established, comprising villagers from Khwaykham 1 and Xiengvou villages as well as some inhabitants who returned to Laos from China. Almost two decades on, in 1999, Khwaykham village 2 moved to another location to found what we term Khwaykham 3. Villagers explained that they wanted to move closer to their lowland paddy fields, which were distant from Khwaykham 2. In 2003, Khwaykham village 3 moved to its current location. This most recent move occurred within the context of the government's policy on internal resettlement, leading to the merging of Khwaykham village 3 with Xiengvou village. Village elders from both villages discussed the proposed merger with the district government,⁴ bringing Khwaykham villagers even closer to their lowland paddy fields. Fig. 1 provides a summary visualization of the village's multiple locations over the years.

With the tea boom in 2008, Khwaykham villagers significantly benefited from the transition from (shifting) swidden agriculture to (permanent) tea cultivation. In the process, most villagers changed their

³ See also Korf et al. (2015) on the role of indigenous merchants in re-spacing African drylands towards sedentarization and commodification.

⁴ See also Baird and Shoemaker (2007) on village consolidation policy.

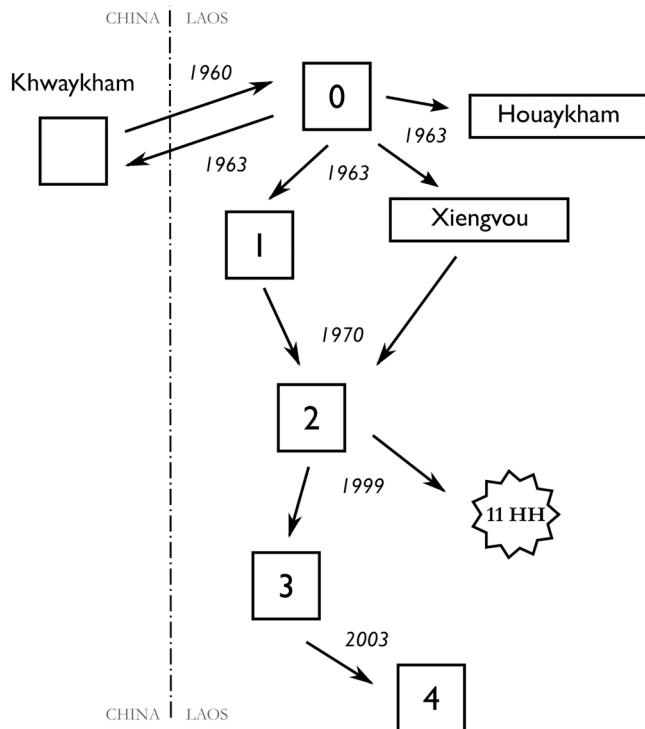


Fig. 1. Khwaykham's village multiple locations in line with its respective resettlement from 1963 to 2003.

Source: Authors' compilation.

wooden houses (which were easily deconstructed when they decided to move) into concrete ones. The move from shifting to settled agriculture and from movable to immovable houses occurred in tandem.

4.2. Customary land tenure systems under swidden agriculture

All farm households had upland rice fields where they practiced swidden agriculture on a rotation basis (approximately 10–15 years). Twelve households in the village also had access to lowland paddy fields but these were small and often did not produce sufficient rice for a family's yearly rice consumption. Lowland rice terraces were the only type of land in the village that could be bought and sold. These transfers only occurred when entire families had relocated away from the village, and this was arranged informally as no land titles had been issued in the village.

In contrast to the more privatized claims over lowland paddy fields, upland rice fields involved a mix of individual and collective tenure arrangements. When Khwaykham village was first settled in its current location, households established land claims to upland fields by being the first to clear and cultivate patches of forest. In general, farm households would maintain tenure rights over their individual upland plots throughout the swidden agriculture rotation cycle, returning after the fallow period to cultivate the same plots of land they cultivated years before. In practice, however, because the village residential area had moved several times, this resulted in farm households claiming more and more land located nearby their village. Here, farm households could both claim new land surrounding their new village location or ventured further to use their old upland fields located in closer proximity to the old village residential area, if these fields have not been claimed by other households, that is. The return to old and distant fields mostly occurred when farm households were not able to find a good plot of land nearby or had issues with overlapping land claims, which forced them to find alternative plots of land for that particular year. Obviously, when farm households moved further to claim new land for their upland rice

cultivation, other households were free to claim their uncultivated land elsewhere. Here, tenure rights over farm households' individual plots were rooted in the condition of the land (e.g. uncultivated or cultivated).

Prior to the tea boom, farm households practiced swidden agriculture in groups of four, each composed of ten to fifteen households, based on kinship. Each year, they would go together to seek and select their individual upland plots. The village head together with the Village Committee would organize this visit. During the visit, farm households would discuss which fallow fields they would clear for planting upland rice (Suhardiman and Scurrah, 2021a; 2021b). They would also coordinate among themselves to ensure they stayed at a distance from one another, to reduce risk of uncontrolled fire spreading to another group's fields, but also to ensure they did not claim the same piece of land. For example, upon completion of their rice harvest in November, villagers would collectively and individually select fallow fields in good condition for next year's cultivation (usually starting in February). The village head together with the Village Committee would oversee the overall process of plot selection to ensure that each household had access to upland fields and that farm households' claims to land were based on the number of laborers available. They did not have to follow the same rotation order they did in the previous 10–15 years but would rather select areas based on soil condition and negotiate with other villagers if they ended up selecting the same plots. If such negotiations were not successful, the relevant households would approach the Village Committee for possible mediation.

The kind of flexible tenure arrangements described above are a common feature of customary tenure systems, which often seek to mediate between multiple forms of resource relations including those between ownership and access, and collective and individual rights (Suhardiman and Scurrah, 2021a; 2021b). An underlying logic of the Khwaykham village land tenure system is that if one household had claims over a piece of land but were not using it, then other households who needed land had the rights to use it. At a broad level, the system balances out land and labor availability, as the latter also prevents over-accumulation of land individual households. It is, in effect, a land and labor management system designed to ensure equity by limiting the ability of households to claim land beyond their ability to cultivate that land. In those instances when households did have land beyond their capability to cultivate they would happily "lend" some of this land to other households, knowing that in future years when their labour availability might have changed, they would need to borrow land.

Apart from upland swidden fields and lowland rice paddy fields, farm households also had livestock (e.g. cattle and buffaloes) both as an investment and to support them with land preparation. During the agricultural season, farm households designated a separate area in their upland area for livestock grazing. This way, livestock grazing would not intrude on upland rice cultivation, especially when they first had to burn the fields, which might harm the cattle. Similarly, during harvesting time, it also helps to keep the cattle from damaging the upland rice.

The tea boom that arrived in the village in 2008 changed villagers' farming activities, from subsistence upland cultivation to commercial tea cultivation, and in turn also changed the customary land tenure systems rules and mechanisms pertaining to access to land and farm households' land use rights.⁵

5. The tea boom and processes of Agrarian transition: Its unfolding

In this section we discuss and analyze how the village underwent processes of agrarian transition following the arrival of tea as a high priority cash crop in 2007. We focus on: 1) the origin of the tea boom

⁵ This commercial connection is not unique as generally, many ethnic groups have cross-border commercial trade connections facilitated by relatives on different sides of the border (Baird and Vue, 2017; Sturgeon, 2013).

and how this is rooted in the village's close proximity to China; and 2) how the tea boom affected farm households' strategies as they navigated the transition to tea cultivation.

5.1. The tea boom

From the discovery of wild forest tea trees to the central positioning of tea cultivation as farm households' sole source of income.

Located less than 5 km from the Chinese border, Khwaykham villagers' first interaction with Chinese tea buyers started as early as 2003, shortly after the village was settled in its current location. During that time, villagers visited their families and relatives in China (e.g. Guofeng Zhai district), just across the borders and garnered information about the rising importance of tea as the up-and-coming high priority cash crops. Chinese tea buyers and traders began to visit the village around the same time. They would meet with the village head and inquire about wild forest tea trees located across the village's upland area. As one of the farmers we interviewed said: *"In 2003 forest tea trees became very valuable and many farm households started to pick tea leaves from these trees to sell them to the Chinese traders"* (interview, October 2021). Unlike later tea cultivation, these wild forest tea trees were not planted by the villagers. They were spread across upland areas, mostly in high-altitude locations. At that time, nobody claimed these trees as theirs as every farm household could pick the leaves and used them for home consumption. However, this changed in 2007 when some farm households started to claim trees, with other villagers quickly following suit.

Farm households would search for the wild forest tea trees in the village upland area and stake a claim to them. The process of claiming happened in several ways. Firstly, farm households would take care of the identified forest tea trees and in so doing make it clear to others that these trees were being managed and therefore claimed. Secondly, farm households would claim the land where these trees were located, by planting more tea trees in the area. Some farm households would find these forest tea trees in their upland plots and claim them almost automatically when they renewed their land claim. By the time of the fieldwork, all wild forest tea trees in the village were claimed. While these wild forest tea trees were the first thing that attracted Chinese buyers and traders to visit the village back in 2003, this was only the start. In time, the full-scale agricultural commercialization of the area took hold, focused on tea cultivation for sale to the Chinese buyers.

5.2. Farm households' various strategies shaping processes of agrarian transformation

Based on empirical data gathered through our field research, we identified several generalizable farm households' strategies that mark the transition from swidden agriculture to tea cultivation. These strategies include: 1) direct transition to tea cultivation through rapid land claims; and 2) gradual transition to tea through gradual land claims. While some households transitioned faster than others, all households made the transition to tea cultivation regardless of their diverse socio-economic assets (e.g. labor availability, access to tea seedlings).

While most households had transitioned fully from swidden agriculture to tea cultivation by the time of our fieldwork, the timing, speed, and approach varied between farm households. Some, especially those who had decided to transition fully to tea cultivation quite early after the tea boom in 2007, started both using their old upland rice plots and claiming unused plots for tea cultivation. Rather than taking a gradualist approach, one plot at a time, these households claimed these unused plots almost all at once. The main objective of farm households' strategies to transition to tea cultivation through such rapid land claims was to ensure they could claim as many unused upland plots as possible. As one farmer we interviewed explained: *"These types of farm households would move rapidly from their old upland rice plots A and B to other unused plots B, C, and D, previously claimed by other farm households, almost at once, so that they could claim all these plots as their lands for tea cultivation"*

(interview, October 2021). Unlike other farm households who would plant tea tree seedlings and wait for them to grow before moving to another plot, these households grabbed as much land as they could.

The farm households who applied this strategy were mostly those who had direct connections with Chinese traders, often through relatives in China. Farm households could afford to make the transition at pace because they were assured of their ability to sell the tea directly to the Chinese traders, rather than waiting for these traders to come to the village. While many farm households might have had the labour and financial means to transition rapidly to tea cultivation, they opted to take a gradualist approach due to their lack of knowledge and direct connection with the Chinese traders. This was most apparent among farm households with access to lowland paddy fields. In general, these were wealthier households but only a fraction decided to rapidly transition to tea cultivation. Among those who did, it was those with close connections to Chinese traders.

Farm households' livelihood activities also played an important role in determining their decision to transition rapidly or gradually to tea cultivation. For example, among all farm households which transitioned rapidly, most only had a few cattle. The transition from swidden agriculture to permanent tea cultivation was a logical step because they did not need to worry about sustaining grazing land for their cattle.

Another key factor behind farm households' decision to transition rapidly was their skills and ability to process the tea leaves. Again, the link to China was important; it was this that allowed households to gain the skills to process the tea, including mastering the tea leaf pressing techniques that allowed farmers to sell their tea at a premium compared to those who could only sell the dried tea leaves.

Farm households could apply this rapid land claim strategy because at that time, nobody thought that such strategy would come at the expense of other farm households' access to land and thus their opportunity to expand tea cultivation later. A farmer explained: *"Looking back, I think it is unfair for these households to rapidly claim those unused plots of land during that time. Obviously, they have silently grabbed other farm households' rights to use the land especially when these households also planned to use these plots of land for tea cultivation later"* (interview, October 2021). Traditionally, farm households were not allowed to keep their land use rights for land that they do not use under swidden agriculture. But the rapid land claim strategy for tea cultivation did not violate any rules in the existing customary land tenure system. Nonetheless, farm households' decision to focus entirely on tea cultivation resulted in land accumulation for some and the silent loss of by other households. By 'silent' we mean that households were not aware of this land loss until years later. Already planted with tea trees, these households often could not reclaim their unused plots. Here, the customary land tenure rule embedded in swidden agriculture that allowed farm households to claim unused land (previously claimed by other households) was key in enabling farm households to rapidly claim upland fields (including those previously used by other households) for tea cultivation.

Farm households' strategy to directly transition to tea cultivation by rapidly claiming land to expand their tea cultivation put them in an advantageous position vis-à-vis other households because not only could they choose the best land for tea cultivation, but they could also directly solidify their land claim by planting tea. This process occurred without social friction as the previous users of the land were not even aware of what was occurring, almost under their noses. Once the previous users were aware about the land loss, there was they could do because technically – in line with established and customary practice – they had lost their rights to use the land when another farm household had claim the unused land several years previously. A farmer said: *"In the past, I have more plots of upland fields than what I have now claimed for tea cultivation. This is because other farm households had already claimed these plots earlier. I could not do anything to get it back because I was too late to try to reclaim my unused plots of upland fields years later after other households claimed it"* (interview, October 2021).

Tea cultivation gave the opportunity to these farm households (especially those with labor, cash, and access to tea trees seedlings) to erase previous land claims embedded in the swidden agriculture, rewrite the entire land claims at the village level while still following the same rules as defined in the customary land tenure system, and then effectively overwriting these very same rules when they solidified their land claims with tea cultivation.⁶ Institutionally, this rule change in the customary land tenure system occurred almost without any interference; it silently rendered an equitable, inequitable.

Most farm households, however, transitioned to tea cultivation gradually, starting with tea cultivation in their upland plots, and expanding gradually from there. They did this together with other farm households and/or individually, claiming land nearby their initial plots' location for tea cultivation and gradually expanding from there. At the same time, these farm households considered other upland plots nearby their initial location, consulting with other farm households whether they could use these lands for tea cultivation. When other households also wanted to use the land to expand their tea cultivation, they would search elsewhere. In cases where two or more households claimed the same plot of new land, they shared and distributed the land equally among themselves. As a farmer we interviewed explained: *"We will work together to claim more land for tea cultivation. We will discuss where to go to open new lands and once we located these lands, we will discuss how we can distribute it among ourselves, based on each household's labor availability and expansion plan (how much tea tree seedlings we can purchase)"* (interview, October 2021).

Farm households gradually expanded their tea cultivation following similar rules and practices applied in swidden agriculture, working together to find suitable plots. While this was a slower process of claiming land than those instances when farm households worked individually and rapidly it ensured that inherited community norms rooted in approaches to shifting cultivation were adhered to, minimizing intra-community conflict.

As more and more lands were claimed by these two groups of farm households for tea cultivation, other farm households found that they had to transition fully to tea cultivation. This reflected in the sale by all farm households in the village of their livestock; they simply could not afford to pay the compensation costs if their cattle destroyed other farm households' young tea trees: *"I decided to sell all my cows and buffaloes because I was worried that if they eat or destroy the young tea trees of others, that will cost me a lot of money to pay for the compensation. I used the money from selling my livestock to buy tea tree seedlings"* (interview, October 2021). Here, farm households were left with little if any choice but to reorientate their livelihoods and farming strategies in line with the demands – and knock-on risks of tea tree cultivation. Moreover, these farm households could not practice swidden agriculture as freely as before, because tea cultivation plots were scattered through the upland areas. One farmer explained to us: *"After the tea boom, it was more challenging to do upland rice cultivation, as we had to ensure that the fire did not damage the tea trees. After a while I decided to transition fully to tea cultivation too because it has become almost impossible to keep the upland plots for upland rice cultivation with all these tea trees surrounding it"* (interview, October 2021). In these ways, the economic value of tea cultivation positioned itself not only as a high priority cash crop for farm households in the village, it also indirectly forced some households to fully transition to tea cultivation regardless of their previous farming strategies.

6. The evolution of customary land tenure system and its (In)equity implications

In this section, we look at how farm households' strategies of

⁶ See also how local communities introduced cashew nut into their communal swidden system in Ratanakiri, Cambodia (Ironsides, 2022), and in so doing reducing the amount of land available for future swidden agriculture.

transitioning to tea cultivation were influenced by the way local institutional arrangements pertaining to access to land and land use adapted and changed, and vice versa. We also look at how these institutional changes later resulted in land conflicts among the different farm households in relation to their different tea transition strategies, and their implications for the way farm households perceive inter-household relations and increased inequity in the village.

6.1. From communal land tenure to individualized land use under tea cultivation

In the context of swidden agriculture, farm households' access to land and land use rights were applied rather flexibly, linked to their ability to work on the land and their need to produce sufficient food for home consumption. Farm households could claim as much land as required to meet their needs, spread throughout the village land area, but this did not mean they could claim it forever. Rights to use the land might change in the following years, as other farm households staked their claims over fields that had not been used for some years. Hence, the customary land tenure system provided equal opportunities and access to all farm households to select and access upland fields for their swidden agriculture.

The practice of searching for suitable land continued when farm households transitioned to tea cultivation, with the same groups of farm households together searching for new lands to claim. Nonetheless, this collective practice stopped when all the available land had been claimed for tea cultivation. Over time, the logics of such collective action in combination with the demands of farming a tree crop gradually undermined and finally erased the collective element in households' farming systems and livelihood options in the village.

The village head together with the Village Committee divided the upland into two distinct agricultural zones: 1) areas for upland rice and other crops (e.g. cotton, maize, vegetables); and 2) areas of grazing land for livestock. This distinction existed long before the tea boom, to ensure that when farmers burned their fields for upland rice cultivation, it happened far away from farmers grazing their livestock. Here, villagers came up with institutional mechanisms to arrange and ensure that the different types of farming activities – each equally important for sustaining farm households' livelihoods in a subsistence-oriented system – could go hand in hand. When all lands were claimed as tea cultivation expanded, however, these institutional arrangements not only fell apart but become redundant. Tea cultivation does not require any collective effort to ensure good production, with each farm household proceeding individually. Indeed, collective institutional arrangements for tea cultivation were regarded as slowing and restricting households' individual interests, making the collective element in swidden agriculture something to be removed, rather than preserved.

Arguably even more profoundly, tea cultivation changed the customary land tenure system, as tea trees transformed farm households' claim to the land from loose, fluid, and temporary, into fixed, solid, and permanent. Tea cultivation solidifies and fixes farm households' land use rights (and ownership of the tea trees), regardless of whether the unused land had earlier been claimed by other farm households (for swidden agriculture). Tea cultivation uses the existing customary land tenure rules and institutional arrangements as its entry point but overwrites them once tea trees are planted, at the expense of households who may have left their land unused perhaps never anticipating that they would be taken out of the community equation long term. Here, tea cultivation changes the customary land tenure system to benefit recent claimers at the expense of previous claimers. Previous claimers could not refuse recent claimers' right to claim the land when it was unused (e.g. due to labor unavailability), as this was in enshrined in the customary land tenure system. But having done so, the land never again becomes available for use. In this way, the customary land tenure system fails to protect farm households' ability to reclaim their land use rights.

Following the tea boom, the village's tendency to favor tea cultivation in the evolution of customary land tenure system is most apparent from the way farm households and the Village Committee decided to transform the role and function of the upland area, initially designated for livestock grazing, to tea cultivation. Tea had, by this time, replaced cattle as the main livelihood resource, and the fact that cattle could destroy tea tree seedlings forced the issue. A former member of the Village Committee said: *"In one of the village meetings, we decided to ask farm households to sell all their livestock to protect farm households' tea trees seedlings. Obviously, not everyone was happy about the decision because many would still want to use the grazing land for livestock farming"* (interview, October 2021).

During that time, farm households under the supervision of the Village Committee also started to develop a mechanism to compensate for the loss of tea tree seedlings by cattle. This move made clear the position of tea versus cattle, and the relative community and economic valuation of each in farm households' farming strategies and activities. While some farm households wanted to continue to raise livestock, the defined compensation mechanisms, in the end, pushed them to sell their livestock. The risk was simply too great. A farmer explained his predicament: *"I am forced to sell my cattle because I could not afford to pay for the defined compensation cost if they destroyed other farmer's tea trees seedlings. This compensation cost is so high that it is almost not worth it to stick with livestock farming because the benefits one gets from it would never exceed the compensation one has to pay"* (interview, September, 2021).

The village arrived at a new institutional arrangement to support and facilitate tea cultivation, and by so doing giving farm households who had already decided to transition to tea cultivation an advantage vis-à-vis other farm households. The transition from upland rice to tea cultivation was supported by institutional rules that favored and facilitated the latter, in the end successfully displacing other farming activities (e.g. livestock and upland rice or other crop cultivation). The creation of the village's compensation mechanisms served to protect farm households' tea tree seedlings from livestock and, in the end, the Village Committee simply recommended that households sell their cattle to protect tea gardens. Individual, commercial interests supplanted community, subsistence needs.

This process, while initially silent was not without conflict, especially as its consequences became clear. The tea boom was accompanied by a period of intensified land conflicts, as households claimed land to expand their tea cultivation: *"During that time, we had a lot of land conflicts between different farm households in relation to overlapping land claims"* (interview, September 2021). Some of these conflicts were resolved by the households without recourse to the Village Committee, but others made it to the Village Committee. In most cases, when the land was unused, the Village Committee returned the land use rights to the original claimer. In most cases, however, land use rights could not be returned to the original claimers because the new claimers had already planted the land with tea trees. In cases where these tea trees were still seedlings, the original claimers might be awarded the land, but s/he would need to compensate for the cost of the tea trees.

The way the customary land tenure systems have evolved from swidden agriculture based to more individualized, fixed, land use rights in the context of tea cultivation echoes how various groups of farm households have (re)shaped local institutional arrangements pertaining to land access and use rights. These privileged individual economic interests. At times such interests could be achieved within the terms of local institutional arrangements. Increasingly, however, tensions and conflicts were in evidence, and reconciling such conflicts brought to the fore issues of power and the political fabric of local community-land relations. Hefner (1990):2 writes: *"Economic change is never just a matter of technological diffusion, market rationalization, or capitalist penetration. Deep down it is also a matter of community, morality, and power"*. In Khwaykham village, the transition from swidden agriculture to tea cultivation cannot be viewed in isolation from the important roles played by the village head and Village Committee in facilitating

adjustments and changes in the way customary land tenure systems were practiced, reflected in the sacrificing of the livestock grazing area in favor for tea cultivation.

6.2. Farm households' perceptions of change and their different conceptualization of (in)equity

Farm households view the transition to tea cultivation as benefitting most households in the village. Living standards – in material terms – have increased significantly, using their income from selling tea to repair their houses, buy cars and motorbikes, even build roads to their upland fields. Some households even mentioned that they could now go to the hospital if they fell ill. Moreover, tea cultivation had also reduced the hard labor of swidden farming. These benefits were broadly – albeit not universally – shared and most young adults and children in the village aspired to be tea farmers and producers, not swidden farmers. Nonetheless, farm households were also aware that tea cultivation benefitted some households more than the others. There was a degree of land accumulation in the village and a realization that some households were not just benefitting *more than* others, but at the *expense* of others. As a farmer explained: *"In the past, all households have approximately the same amount of land for their swidden agriculture. At that time, nobody came up with the idea to rapidly claim the land, at the expense of others. Every household just did their own things, in their own time. When they need to use the land for food production, they will claim it and use it, but not more than that"* (interview, October 2021).

Farm households explained unequal access to land in relation to the tea boom through two different and potentially opposite lenses (Li, 2001). Firstly, they linked access to land with their perception of (un)fairness and social justice, and how they contextualized the latter by bringing to light the dual functions of the land for food production and income generation: *"Following the tea boom, more lands were taken by those households who planted it with tea trees, especially those who did this rapidly. This situation is unfair for a large family who has less land. This does not mean that large family should have more access to land than small family, though land access should also be linked to its role for both food production and income generation"* (interview, October 2021).

Secondly, some households linked access to land with their perception of farm households' (un)willingness, (in)ability, and determination (or the lack thereof) to work hard to claim lands and expand tea cultivation. As one farmer said to us: *"Farm households who claimed a lot of lands to expand their tea cultivation are hardworking households who will make things work regardless of challenges they faced. This is the opposite of farm households who lack the willingness and motivation to do tea cultivation"* (interview, September 2021). Here, land accumulation was not a matter of social justice and unfairness – a structural explanation – but sheer effort, industriousness and mindset – an explanation rooted in the individual and their agency: *"The most important factor is the mindset. Even with a lot of labor, if farm households did not know or did not value the potential of tea cultivation for increasing their income, they still would not do anything about it. The mindset issue also comes with one's knowledge about tea cultivation. If farm household A knows everything and advanced itself, farm household B did know it initially but seeing A's success they would also follow suit (to focus on tea cultivation). However, the problem is that B does not always have the capacity of A"* (interview, September 2021). Those who had benefitted the most, however, were those who had transitioned into becoming local traders, middlemen, developing connections with Chinese buyers: *"Local traders, middlemen, and those who have direct connection with the Chinese buyers benefited more than farm households who could only cultivate and produce tea. This is because the latter is entirely dependent on the first to determine the price of their tea"* (interview, October 2021). Unlike in the past, when rich and poor households were separated mostly by their assets and access to lowland paddy fields, during the tea boom connections to Chinese traders played an important role in directing the speed, motivation and direction of farming strategies.

Tea cultivation deepened and introduced new forms of inequity among households in the village. While tea economy has fulfilled the collective interest of farm households, it has also eroded the collective nature in subsistence farming: “While growing tea can be done by every farm household, mastering the tea processing, establishing good relations with Chinese traders and buyers, and really understanding what it takes to produce good quality of tea can only be done by a few farm households in the village. Hence, only a few will reap the most benefits from tea cultivation” (interview, October 2021). This also brings to light the exposure of tea farmers as they depended almost entirely on local and Chinese traders to buy their tea. In tying their livelihoods so thoroughly to a perennial cash crop dependent on a single market, the farming households of Khwaykham village had rendered themselves both richer and more dependent.

7. Conclusion

Our case study highlights the intersections between agricultural commercialization and customary land tenure institutions and local institutional arrangements. Farm households’ strategies in the transition to tea cultivation set in train land claims that ultimately undermined long established communal land tenure arrangements. Farm households actively (re)shaped the rules, mechanisms, and local institutional arrangements pertaining to access to and the rights to use land to meet the economic and agro-ecological demands of tea (see Li, 2002). The goal was to increase farm household income, but the end result was to shape the resource landscape in favor of commercialization and individualization at the cost of collective interests and labour (Li, 2014).

Linking agricultural commercialization, evolution of customary land tenure systems, and processes of agrarian change, our research shows how communal structures and individual agency play over time (Hefner, 1990). This was most apparent in the way farm households spoke of effort and reward as a justification for the emergence of new village entrepreneurs and increased inequity following the tea boom. It also became a means to defend land claims and resolve inter-farm household land conflicts.

Tea cultivation has resulted in the evolution of customary land tenure rights and systems, with commercialization as the key driver. This process was driven by forces and patterns of social relations that favored individualization and commercialization, but the case is more than just (another) story of elite capture, state territorialization and primitive accumulation. It shows, rather, how agrarian transformation unfolds as an outcome of local level negotiations, arrived at largely collectively even if collective interests are sacrificed in the process. Put differently, it is the collective agreement that allows the individualization of customary land tenure systems and practices. Here, the residual takes over the relational (Bernstein, 2007) when farm households including the poorest vote for a path of agrarian change that will benefit all, but not all equally, while reproducing existing power structure and relations. Farm households mimic the forces of neoliberalism and globalization when they transition from swidden agriculture to commercial tea cultivation. Building on Li (2014)’s analysis, our case study shows how agrarian commercialization sustains and reproduces new geographies of inequality, not between traders and farmers, but also among farm households. Here, increased inequity between wealthier and poorer households happened not because of “one grand land grab, but a series of changing contexts, emergent processes and forces, and contestations facilitating shifts in de jure and de facto land control” (Peluso and Lund, 2011: 669).

From a policy perspective, the paper brings to light the important role of customary land tenure systems in facilitating, even promoting, rather than hindering processes of agricultural commercialization embedded in the tea boom. Far from relics of the past, it illustrates how customary land tenure systems have been able to adapt to emerging changes, albeit imperfectly and unevenly, both at village institutional and household levels, as farm households transitioned from swidden

agriculture to tea cultivation. Similarly, it highlights the fragile character of customary land tenure systems governing swidden agriculture in Laos and how they are easily overridden when market forces are at work. This highlights not only the need for farm households to act collectively and individually as they adapt and transition to new changes, but also the need to manage – or govern – the transition from swidden to commercial agriculture to mitigate exclusionary outcomes for the poorest and most marginalized groups within local communities, when individual interests dominate collective needs.

Data Availability

The data that has been used is confidential.

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