

## #9-2023 POLICY BRIEFS

Project: Irrigated Land Tenure in South-East Asia

# Irrigated land tenure in South-East Asia: the subject of limited attention; a major issue for the sustainability of irrigated territories

Agricultural development policies in South-East Asia are very often accompanied by land transformations that have two complementary faces: land concentration and exclusion. By changing the prospects for exploiting land, investment in irrigation tends to reinforce these trends. However, relatively little attention has been paid to the issue of irrigated land tenure, whereas it is crucial to take it into account to achieve the sustainable economic and social development of territories.



### KEY MESSAGES

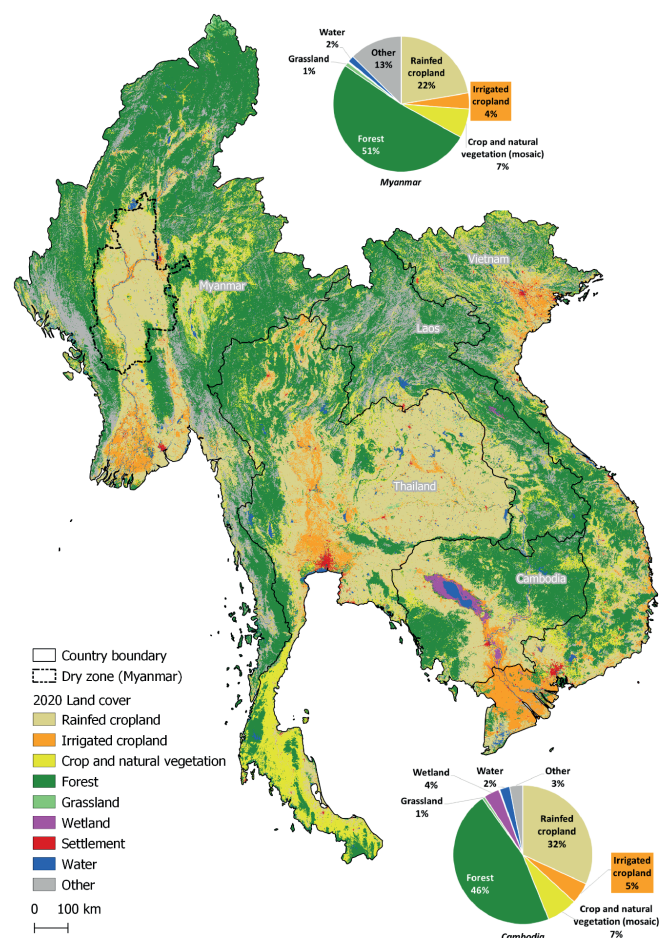
- 1/ Various texts govern the rights of access to and use of irrigated land, which are therefore generally recognised institutionally. The development of irrigated agriculture in forest and floodplain areas calls into question the conditions of access to and use of the resources that are prevalent in these areas. Accompanying measures need to be implemented to limit environmental degradation, the risk of conflict between actors and inequalities.
- 2/ Although farmers' rights are institutionally recognised, there is a high level of land tenure insecurity. This is linked to the dynamics of agrarian differentiation that affect intensive irrigated rice farming. Greater technical and financial support for the most vulnerable farmers would help to reduce the phenomenon of land concentration currently observed in favour of a minority of entrepreneurs.
- 3/ The land tenure dynamics associated with irrigated agriculture need to be the focus of specific attention from actors in the sector, which could take the form of territorial approaches and cross-sector collaboration..

### ISSUES AT STAKE AND OBJECTIVES OF THE ACTION

The development of irrigated agriculture is a priority for governments in South-East Asia, including those of Cambodia and Myanmar. By offering new prospects for agricultural development, investment in the sector is profoundly changing the relationships between societies and their environment, particularly the dynamics of access to, use and development of land, which are leading to major socio-environmental reconfigurations. However, to date in South-East Asia, and in contrast with other regions, little attention has been paid to the land tenure dynamics associated with the development of irrigated agriculture and their implications for the sustainability of the sector. The objective of this study was therefore to put this issue 'on the agenda' for actors in the sector, including ministries, funding agencies and non-governmental organisations. By carrying out a diagnosis of the various land tenure issues raised by irrigated agriculture in the different agro-ecosystems of South-East Asia, the study aimed to identify 'points of attention' to be taken into account in the formulation and implementation of projects aimed at developing sustainable irrigated agriculture that contributes to the fair and resilient development of rural territories.

### PRESENTATION OF THE METHODOLOGY

COSTEA's 'Irrigated Land Tenure in South-East Asia' project was implemented discontinuously over a three-year period starting in November 2019, in two countries, Cambodia and Myanmar. The project was led by two independent researchers specialised



Land use map for the Mekong region of South-East Asia (source: ESA-CCI land cover - mapping by J.-C. Diepart)

in land tenure issues, in close collaboration with COSTEA's Technical and Permanent Secretariat and CTFD (Comité Technique 'Foncier et Développement', Technical Committee on Land Tenure and Development). The aim of the study was to: (i) characterise the land tenure issues associated with the various irrigated agricultural systems in South-East Asia, and (ii) make recommendations on how these issues could be taken into account in future projects aimed at developing irrigated agriculture.

The study began by categorising irrigated systems by comparing: (i) the types of hydro-agricultural infrastructures and the level of water control they provide with (ii) their vulnerability to flooding. This cross typology was justified by the fact that irrigated agriculture is largely found in the region's large floodplains, as illustrated by the land use map presented here.

A review of the political, legal and institutional frameworks and interviews with resource persons (funding agencies, sectoral ministries) enabled us to draw up a (theoretical) situational overview of the way in which the question of land tenure is dealt with in the context of projects aimed at developing irrigated agriculture. In Cambodia, it was possible to compare this situational overview with the land tenure issues encountered in practice in five irrigated schemes that are representative of the

diversity of the systems existing in the country. Unfortunately, it was not possible to carry out this fieldwork (surveys with local resource persons and focus groups with farmers) in Myanmar, but the results obtained in Cambodia echo the literature existing on the subject in Myanmar.

## RESULTS OF THE STUDY, KEY MESSAGES AND LIMITS OF THE APPROACH

The analyses produced by the action on land tenure in South-East Asia have enabled COSTEA to formulate consensual findings and messages. These provide elements aimed at strengthening the economic and social development of irrigated territories by securing land tenure for farmers in the face of the phenomenon of land concentration and the development of agriculture in the 'pioneer fronts.' They also seek to promote territorial and participatory approaches in relation to land tenure dynamics.

**1/ Various texts govern rights of access to and use of irrigated land, which are therefore generally recognised institutionally.** There is no specific institutional framework for the governance of irrigated land, which is therefore regulated by various texts relating to the definition of land tenure systems (the Farmland Law in Myanmar, the Land Law in Cambodia), to land tenure management (the Land Acquisition, Resettlement and Rehabilitation Law in Myanmar, the Law on Expropriation in Cambodia), but also to the management of water, irrigation and fisheries, or environmental protection. Despite this multiplicity of texts, which can lead to confusion in some cases (see below), the majority of irrigated systems are located in the large floodplains where the population mainly belongs to the dominant ethnic groups (Bamar or Khmer). Rights of access to and use of irrigated land are generally institutionally recognised. Indeed, the majority of the irrigated land is eligible for land titles that can be transferred by inheritance or sale (whether as property rights, as in Cambodia, or usage rights, as in Myanmar). This can be explained in particular by the fact that, from the colonial period (late 19th century/early 20th century) and even earlier, the development of irrigation was associated with rice growing and took place in parallel with the creation of a land register aimed at generating income for the authorities, but which also had the effect of institutionalising access and use rights in areas considered to have high development potential. This approach, whereby the State builds its legitimacy on the development of irrigated rice growing (which is partly based on the institutionalisation of rights), has persisted regardless of the political systems and crises that these two countries have experienced since their independence.

**2/ The development of irrigated agriculture in forest and floodplain areas calls into question the conditions of access to and use of the resources that are prevalent**



in these areas. Accompanying measures need to be implemented to limit environmental degradation, the risk of conflict between actors and inequalities. The (land tenure) insecurity linked to the development of agriculture in the 'pioneer fronts' that make up the forest and floodplain areas is twofold. The first form of insecurity relates to the nature of the resources and the multiplicity of uses - in time and space - to which they are put. In forest areas, a large proportion of the population belongs to ethnic minorities, who historically practised slash-and-burn farming. The development of permanent agriculture, in which irrigation has played a part, has contributed to policies of sedentarisation and control of forest margins, largely based on a dual process of the privatisation and individualisation of land rights, with little regard for pre-existing customary rights. In rainforest areas (the Mekong and Ayeyarwadi deltas and around Tonle Sap), irrigated agriculture tends to establish 'the land' as the primary resource to be optimised, with water mainly being considered as an agricultural input in the same way as fertiliser and seeds. This has resulted in a lack of recognition of certain uses of these areas - and the associated access rights - first and foremost small-scale capture fisheries. The development of irrigation is responsible for the deterioration of these fragile environments, and can be a source of conflict between actors with divergent interests in the construction/management of hydro-agricultural infrastructures. The second form of insecurity relates to land tenure status in these pioneer front areas, which are generally not eligible for titling (protected areas, land in the domain of the State,

land considered 'virgin' or 'vacant'). It should be noted that the development of irrigated agriculture on these pioneer fronts is generally in contradiction with existing environmental legislation, but can take place either through the mobilisation of government funds (projects) or in the form of private investment by farmers and/or entrepreneurs and investors. Whatever the case may be, the fact that it is not possible to issue land titles means that the level of security of access and use rights is the result of multi-actor negotiations that form part of networks of patronage and influence from which small-scale farmers are often absent.

**3/ Although farmers' rights are institutionally recognised, there is a high level of land tenure insecurity. This is linked to the dynamics of agrarian differentiation that affect intensive irrigated rice farming.** Greater technical and financial support for the most vulnerable farmers would help to reduce the phenomenon of land concentration currently observed in favour of a minority of entrepreneurs. The development of irrigated rice growing has always been accompanied by the use of credit (seasonal credit to finance inputs and/or medium-term credit to finance agricultural equipment). Due to price volatility and a lack of maintenance, hydro-agricultural infrastructures can only provide a very partial guarantee of water supplies (particularly in the dry season). In this context, the widespread use of credit often results in high levels of debt. Debt, combined with a liberalised land market, has led to a concentration of land in the hands of a minority of individuals made up

of entrepreneurs, users and/or investors, while small-scale farmers find themselves agricultural employees and/or sharecroppers on land they have been forced to sell. In Myanmar, this phenomenon of land concentration has also been accelerated by the fact that the government has not hesitated to take back the land use rights granted to farmers if they are unable to comply with the obligation to cultivate rice, and redistribute them to entrepreneurs who are often close to the powers that be (who may or may not have complied with this obligation).

**4/ The land tenure dynamics associated with irrigated agriculture need to be the focus of specific attention from actors in the sector, which could take the form of territorial approaches and cross-sector collaboration.** The fact that land is irrigated (or that projects to develop irrigated agriculture are being planned and/or implemented) is not a criterion that the cadastral authorities, responsible for issuing land titles throughout the country, take into account when defining their titling programmes. These follow other logics, mainly the eligibility of the plot for titling, which does not depend on irrigation. The funding agencies, for their part, endeavour to identify the owners of land located in the schemes whose rehabilitation and/or construction they are financing, but this identification work: (i) is primarily aimed at identifying the people liable for future financial contributions dedicated to infrastructure maintenance and (ii) does not make it possible to monitor the numerous land transactions that characterise irrigated agriculture (see above). The fact that rights to irrigated land are generally recognised institutionally undoubtedly explains the lack of specific attention paid to the subject by actors in the irrigation sector. However, the sources of insecurity and the risks of conflict are real, and closer attention needs to be paid to the land tenure dynamics that accompany the development of irrigated agriculture. As these land dynamics are part of wider socio-eco-environmental transformations, it is necessary to adopt planning and monitoring approaches that are territorial, cross-sectoral and multi-actor. These approaches should pay particular attention to land transactions and recourse to credit, with a view to avoiding over-indebtedness and distress sales of land by the most vulnerable households, so that the development of irrigated agriculture is not accompanied by a growth in inequalities.

### Limits of the approach

The study on irrigated land in South-East Asia was mainly confronted with difficulties linked to health and political crises. These made fieldwork difficult, particularly in Myanmar. More generally, one of the major issues remains finding levers to provide operational responses to the problems identified in this policy brief, which are closely linked to strong political choices in terms of agricultural development priorities and methods. In particular, this would mean strengthening links with the ministries in charge of management and putting the specific issue of irrigated land tenure on the (political) agenda.

## COSTEA OUTPUTS IN RELATION WITH THE STUDY

- Interim report on the Cambodia project (in English) ([www.comite-costea.fr/actions/foncier-irrigue](http://www.comite-costea.fr/actions/foncier-irrigue))
- Final report on the Cambodia project (in English) ([www.comite-costea.fr/actions/foncier-irrigue](http://www.comite-costea.fr/actions/foncier-irrigue))
- Final report of the Myanmar project (in English) ([www.comite-costea.fr/actions/foncier-irrigue](http://www.comite-costea.fr/actions/foncier-irrigue))
- Synthesis on 'Irrigated land tenure in Myanmar and Cambodia' (in English) ([www.comite-costea.fr/actions/foncier-irrigue](http://www.comite-costea.fr/actions/foncier-irrigue))
- First articles of a special issue posted online for Cahiers Agricultures ([www.comite-costea.fr/actions/foncier-irrigue](http://www.comite-costea.fr/actions/foncier-irrigue))
- A documentary database ([www.comite-costea.fr/base-documentaire-eau-et-agriculture](http://www.comite-costea.fr/base-documentaire-eau-et-agriculture))