

# Land rent conditions for rice farmers in Thailand: connecting policies and practices to enable transformation of farming systems

DRAFT, COMMENTS ARE WELCOME

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## Summary

In Thailand, rice farms are under increasing pressure to transform in order to remain sustainable, for instance by shifting to organic rice or by diversifying agricultural production. A key constraint for doing so is the conditions of land rent. The study investigates prevailing policies with regard to agricultural land rent, actual land rent practices in Prachinburi Province (Eastern Region), and ways to improve land rent conditions for tenants. Eighty rice farmers were interviewed and a workshop was organised with farmers and actors officially involved in regulation of land rent in Prachinburi Province. Several acts have been enacted since the 1950s in order to provide better protection to tenant farmers. However, legislation was very weakly implemented in the study area. Tenant rice farmers signed contracts of less than three years, which makes it difficult to move away from conventional rice farming. Workshop participants suggested rental contracts of a longer period and a stronger enforcement of existing legislation, especially thanks to the presence of a third-party at the time of writing land rent contracts. Implementing an actual control of land rent conditions in Thailand - which has been until now a blind spot of agricultural policies – is a promising way to help farmers transform their systems towards more sustainable ones.

**Key words:** farm structure, land rent, rice farming, Thailand

## Introduction

Rice production represents the main crop grown in Thailand, as it occupied 47% of agricultural land in 2017 (Pongsrihadulchai, 2017). The profitability of rice farming has decreased over the past decades. In particular, after a series of major public programs to support rice price at farm gate, the government decided in 2015 to strongly reduce this support, leading to a decrease in farmers' incomes (Napasintuwong, 2019; Ricks, 2018). Many farms produce at very low or no benefit (Rigg et al., 2018). Thus, an increasing number of rice farms in Thailand are under pressure to transform to remain economically sustainable (Faysse et al., in press). In irrigated areas of the Central Region of Thailand, rice farmers do not plan to increase the areas grown with rice, but rather plan to diversify their production (ibid.) For many years, the Thai government tried to convince farmers to decrease the paddy area produced with conventional practices (i.e., based on the use of chemical fertilizers and pesticides). Programmes attempted to promote diversification but they had limited results (Sirisup and Kammeier, 2003). More recently, in 2017, the government launched a programme to support transition to organic farming on 160,000 ha (Hérique, 2019).

However, there are several constraints to such changes, such as farmers' investment capacities and labour availability (Kasem and Thapa, 2011). Another potentially major constraint is the conditions of

land rent. According to national statistics (Office of Agricultural Economics, 2017), around 19% of agricultural land is rented and this rate has been stable over the past decade. This share is higher in rice farming areas, e.g., it reaches 38.4% in the Central Region (Sajjanand et al., 2018; Srisopaporn et al., 2015). Moving away from conventional rice farming requires making changes in the fields. For instance, shifting to organic production requires to set up buffer zones and to initiate a long-term change of soil ecosystem. In irrigated areas in Prachinburi Province (Eastern Region), growing non-rice crops often requires protecting the fields from floods, e.g., based on the costly building of levees or the uplifting of land. Faysse and Phiboon (2019) analysed a group of farmers who had raised land for a cost of 143,000 baht<sup>1</sup> per hectare, approximately ten times the annual net benefit from conventional irrigated rice farming (two cycles per year) in the study area. Thus, tenant farmers need to make sure that they will keep on farming on rented fields on a period sufficiently long that it makes sense for them to undertake changes in these fields. Farmers interviewed by Faysse and Phiboon (2019) invested almost only on owned land – the few rented fields on which they had invested belonged to members of tenants' families.

Studies which investigated the linkage between the duration of land rental contracts and investment made to improve farm land mostly focused on developed countries (e.g., Leonhardt et al., 2019). In a developing country context, contract duration of land rent was found to have an impact on tenants' propensity to invest in land (Abdulai et al., 2011) and on farming efficiency (Zhou et al., 2018). In Thailand more specifically, over the past decades, the academic debate around agricultural land tenure has mainly focused on the issue of unclear or weak land rights that farmers get from the state in previously public land (e.g. Chankrajang, 2015; Charoenratana and Shinohara, 2018). Much less attention has been paid to the legislation on land rent and on how it affects actual land rental practices.

The present study analyses the conditions under which farmers rent fields for rice cultivation, and some possible options to enhance these conditions. This analysis is based on assessing the legislation with regard to the rental of paddy fields, actual rental practices – including to what extent the official legislation is indeed implemented –, and a discussion between actors involved in land rent on possible ways to enhance land rental conditions for tenants.

## Methodology

The method was three-pronged. The first axis focused on the legislation with regard to land rent. Academic literature on the topic in English and Thai languages was reviewed. The second axis focused on actual rental practices in Bang Phluang irrigation scheme, which is located in the western part of Prachinburi Province. An assessment of the land rent situation of 80 rice farmers in three subdistricts located within this scheme was done in 2017. In 2018, we interviewed eight actors in Prachinburi Province: seven members of subdistrict land lease committees and one working in a non-governmental organisation involved in agricultural development, and which intervenes in cases of conflicts between tenants and landowners. Interviewees were asked about the implementation of national policies concerning land rent and about their suggestions to improve the land rental conditions for tenants. Finally, in March 2019, a workshop was organised in Prachinburi Province to discuss existing challenges related to land rent and possible options to solve them. The 20 participants in this workshop were farmers, heads of villages, members of land lease committees, representatives of the Ministry of Agriculture and Cooperatives, and an expert in land lease policies in Thailand.

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<sup>1</sup> In March 2019, 1 USD = 31.6 Thai baht.

## Results

### Legislation on land rent for rice farming

Key pieces of land rights legislation in Thailand were set up in the 19th century (Larsson, 2007; Chankrajang and Vechbanyongratana, 2017). A series of acts were enacted during the past 70 years, which specifically focused on the conditions under which paddy fields are rented. In 1950, a land lease act scheduled a decrease in the price for renting paddy fields but it was not implemented (Haberkorn, 2009). The Farmers' Federation of Thailand was a strong farmers' organisation in the 1970s. After massive street protests, this organisation managed to obtain the enactment of another Land Rent Control Act in 1974. This act aimed for a standardisation of land rent conditions. It set a decrease in the land rent price of paddy fields and a minimum duration of six years for paddy field rental contracts. It also scheduled the presence of committees at provincial level that would involve local administration and representatives of tenants and landowners. These committees were in charge of determining maximum land rental rate. However, few of these committees were eventually created, one reason being the weakening of farmers' unions in Thailand, especially after a series of violent actions – including murders - against their leaders (Haberkorn, 2009).

The Land Lease for Agriculture Act of 1981 confirmed that the minimum duration for renting paddy fields should be at least six years (and if the land is rented without contract, the rental period is also deemed to length at least six years). The Act also set the creation of land lease committees at subdistrict level. Fines were defined in the case when a landowner rented land above the maximum price set by these committees. The land lease committees were in charge of checking unfarmed paddy fields and to allow tenants to farm these fields. These committees were in charge of handling any complaint about land lease issues. Finally, the Act provided the tenant with a pre-emption right in case the landowner wants to sell the land.

The 1981 Act set criteria for landowners to be able to get back the land. In particular, landowners had to indicate their willingness to terminate the contract in writing at least one year before the end of the contract. Moreover, the lease could not come to an end unless the landowners planned to make use of land according to a list of specific purposes set in the act, such as farming by themselves or by their families.

However, as previous ones, the 1981 Act was weakly implemented. Most farmers did not know about the content of the act. Moreover, tenants who knew about it were not powerful enough to make use of this act when determining the conditions of land rent with landowners (Krainara, 2015; Sajjanand et al., 2018). Similarly, when tensions occurred between the owner and the tenant, the tenant did not come to raise the problem at the land lease committee. One reason was that they feared that if they did so, landowners might not let them access their land in the future (ibid.). Another reason was that tenants took loans from landowners (Jearaphan, 2010). Many members of the land lease subdistrict committees had limited knowledge of the content of this act and in particular on the specific missions of their committees (Wiyaporn, 1985). Actual land rent prices were not monitored and controlled (Itsarangkul and Setthasirot, 2010; Daungbootsri, 2017).

From 2011 to 2014, the Thai government implemented a major programme to support rice prices at farm gate. Since the profitability of rice farming increased during this period, landowners organised an increase of land rental prices from 3,100-6,200 baht/ha per year before the scheme to 6,200-12,400 baht per ha per year once the scheme was implemented. In 2015, the scheme stopped and farmers asked that land rental prices should decrease as well. The government intervened and announced a decrease in these prices for rice farming tenants of at least 1,250 baht per ha (Jaroenjit, 2019). However, the implementation of the measure was seldom monitored.

The redaction of a new act was initiated in the 2010s. The government put forward several reasons for doing so. A first reason was the dissatisfaction of many landowners, who considered that the minimum

duration of land rent contracts was too long. Moreover, they complained that criteria they had to meet to be able to get land back from tenants were too difficult to achieve. At that time, several studies showed that some landowners preferred not to rent out land and to leave it unfarmed (Dengsi et al., 2008; Aiemsakul et al., 2016; Thairath, 2016). The amount of unfarmed paddy fields had reached 176,000 ha in 2010 (Jaroenjit, 2019) The role of the 1981 Land Act in landowners' decisions not to rent land out is unclear as the several studies mentioned above described a very weak implementation of this act. Unfortunately, there was no structured evaluation of the actual impact of the 1981 Act. A second reason for writing a new act was that the 1981 Act prohibited non-Thai citizens to rent land but did not give sufficient details about business partnerships (Thairath, 2016).

Anoter act was enacted in 2016 and set the main following changes. First, the minimal duration of land rent contracts decreased from six to two years. Second, the 2016 Act scheduled that non-Thai citizens renting land in the frame of a business partnership should have less than 25% of the shares of this partnership.

### Land rent in Prachinburi Province

Overall, 58% of the rice fields farmed by interviewed farmers was rented. Table 1 presents a typology of interviewed farmers according to the way they accessed land for farming rice. One third of these farmers rented all the rice fields they farmed and they had on average a smaller farmed area compared to farmers that owned part or all of their rice fields.

Table 1. Land access by interviewed farmers in Prachinburi Province

Types of access to land	Number of farmers (N=80)	Average farmed land (ha)
Owning all the rice fields farmed	17	7.1
Owning some rice fields and renting others	38	4.1 (owned) and 6.4 (rented)
Renting all the rice fields farmed	25	5.5

Among interviewees, 20 farmers rented land from family members or relatives, without a written contract and without a specific duration. The average price was 6,730 baht per ha per year. Other farmers generally signed contracts for one to three years. Thirty farmers rented from acquaintances, at an average price of 6,950 baht per ha per year. Nine farmers rented from rice traders at 6,760 baht per ha. Finally, three farmers rented land from a beverage company which had a production site in one of studied subdistricts. These three farmers rented land at an average price of 3,670 baht per ha per year. The company proposed a low price to get a good relationship with farmers. Tenants mentioned that, in case of disasters, landowners were the ones who obtained financial support granted by public offices. Tenants did not dare to raise this issue to the land lease committees for fear of losing access to land.

All informants confirmed the very weak implementation of the 1981 and 2016 land lease acts. Land lease committees met very rarely and they did so mainly to handle conflicts between a tenant and a landowner. These committees had never tried to assess the amount of unfarmed land in their subdistricts and to make this land available to tenants. In two of the three studied subdistricts, the maximum price officially set up by the committee was 6,250 baht per ha per year, whereas in the third one, the maximum price was 5,000 baht per ha per year. Thus, two thirds of interviewed tenant farmers paid a rent above the official maximum price. More generally, in the studied subdistricts, landowners were fewer than tenants and informants considered that the formers were the ones able to dictate the rental conditions.

## Proposals to enhance land rent conditions

During the workshop held in Prachinburi Province, participants made three proposals in order to enhance the conditions of land rent for tenants. First, land lease committees should organise meetings to inform tenants and landowners about the dispositions of the 2016 Land Lease Act. Official land lease contract forms should also be made available. These forms should include the penalties scheduled in the 2016 Land Lease Act if the contractors violate its dispositions.

Second, at the time of writing a land rent contract, a third party (for instance a representative of subdistrict land lease committee or a lawyer working at the subdistrict administration) should be present. The registered presence of this third party should be a criterion for landowners to be able to get any support from public administration. Third, tenants should be able to choose alone the type of crops they want to grow and the land lease committees should define a maximum value for rental prices for other crops than rice. Legislation should also detail the land rent conditions when tenants aim to modify land. For instance, participants considered the situation of a tenant that would aim to make investments to protect rented fields from flooding, in order to diversify production. Participants agreed that a tenant in this situation should be able to get a rental contract of a duration of at least ten years. They thus proposed to move moving backwards compared to the shortening of the duration the contracts decided in the 2016 Act. Rent contracts of a long duration in case tenants want to invest were actually not new in the Bang Phluang irrigation scheme. In subdistricts close to the ones considered in the present study, many farmers focused on shrimp and fish farming. In these areas, farmers who wanted to rent land in order to build a pond to start raising fish and shrimp signed contracts of three to six years with owners (Aguilhon,2017).

## Discussion

Having short-term rental contracts was not too much a constraint during the past decades, when rice farmers used conventional practices, since farmers did not see the need for making long-term investments in improving farming fields. In the Bang Phluang irrigation scheme, farmers using conventional practices to grow rice used the same practices on owned land and on rented land (Aguilhon2017). However, nowadays, these short-term contracts have become a major impediment for farmers to transform their farming systems.

The issue of supporting contracts of a longer duration has not yet become visible at national level. The discussion that took place during the 2016 Act focused on the issue of controlling how foreigners access land and on the need to decrease the amount of unfarmed land. It did not encompass the issue of facilitating changes in rice farms using conventional production practices. Facilitating changes in rice farming systems will require changes in the legislation.

Besides, a thorough evaluation should be made about the reasons for the occurrence of unfarmed land, and to what extent land rental conditions indeed limit landowners' incentives to rent out their land. Anyway, limiting the amount of unfarmed land does not necessarily require limiting the regulation on land rent as it can be achieved with other policy tools, such as land taxes (an option actually discussed in Thailand, Thairath, 2016). Such type of intervention would not be novel in Thailand as, under the reign of King Chulalongkorn (1868–1910), a law was passed that required landowners to use land or to lose ownership (Haberkorn, 2009).

Actually, several dispositions of the Land Lease Acts in Thailand are comparable to what has been implemented in France, in particular a minimum duration of land rent, the definition at local level of a maximum rental fee by a committee involving representatives of state administration, tenants and landowners (Barral and Pinaud, 2017). Several other countries of the European Union have also similar policies (Ciaian et al., 2012). However, the difference resides in the degree of implementation – and this relates to the capacity of actors representing the interests of tenants to make sure that indeed

laws are implemented. This capacity appears to have been missing in Thailand since the first act was enacted in 1974.

The issue of land rent is not the only one calling for a support to change in farm structures. The farming sector in Thailand faces massive changes, especially because of the ageing of the farming population (Ruiz Salvago et al., 2019). A promising axis of intervention in order to increase the sustainability of farms in regions currently focusing on paddy production is the installation of young farmers. Policies have recently emerged in Thailand on this topic (Faysse et al., 2019). These two issues are related: offering better conditions for farmer tenants, especially with regard to the duration of rental contract – can be one element of policies to support the installation of young farmers, who need land to be able to get sufficient income but who generally do not have sufficient capital to purchase land.

## Conclusion

The rice production areas of Thailand have to “reinvent” themselves in order to meet the challenges facing them. The Thai government is aware of this need, as the programme to shift to organic farming suggests. However, the issue of land rent conditions has not yet been integrated as part of a pathway to change conventional rice farming systems. Moreover, the regulation of land rental conditions was a highly political topic 50 years ago and still remains so. The design and the actual implementation of policies enabling enhanced conditions for tenants will likely require strong farmers’ organisations able to genuinely represent the interests of tenants, both at local and at national level.

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