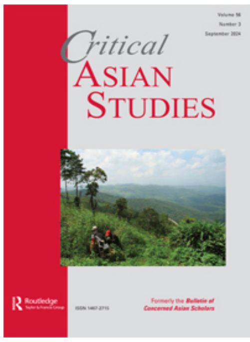

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Thailand's Contract Farming Act at a Crossroads: Impacts, Shortfalls, and the Need to Better Protect Smallholders

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ABSTRACT
Thailand is a global pioneer in contract farming (CF). Many smallholder farmers have gained better access to markets and capital while achieving higher and more stable incomes. Nevertheless, farmers have also faced exploitative conditions in their contractual relationships with agribusiness companies. In response, the Thai Parliament in 2017 passed the Contract Farming Promotion and Development Act. Based on fieldwork with key actors and contract farmers, this article examines how debates around CF have unfolded over time, the key issues discussed in the reform process before and after the CF Act was enacted, and its implications for smallholders. The law has had some success with increasing transparency, improving the conciliation process between farmers and companies, and deterring companies from unfair practices. However, in reality, it has done little to protect the livelihoods of Thai farmers due to a number of limitations, including weaknesses of the law itself, its limited implementation, and the country's wider agrarian political economy. Specifically, the country's oligarchic and oligopolistic political-economic structures have resulted in farmers having little bargaining or political power and limited access to markets.

KEYWORDS
contract farming; Thai agriculture; agrarian political economy; legal reforms; poultry farming

Introduction

Over the past decade, contract farming (CF) has experienced a resurgence in interest from policymakers and international development organizations as a strategy to foster inclusive rural development and encourage ethical investments.[1] In this article, we examine how CF has unfolded in Thailand and whether it has led to inclusive or exclusive development. Given that smallholder farmers occupy[2] most of the country's agricultural land, the expanding role of the private sector in agriculture, and the government's push towards a more export-oriented economy, the move

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[1]Martiniello et al. 2022.
[2]Some own land outright, but others rent and others encroach, such as on land in national forest areas which in the past was not protected. Hence we use the term, "occupy."

to CF has been a logical development. Agribusiness corporations have expanded their CF activities with the support of government programs, particularly increased credit through the state-owned Bank of Agriculture and Agricultural Co-operatives (BAAC).

Many smallholder farmers have benefited from commercial relationships formed through CF, gaining better access to markets and credit while achieving higher and more stable incomes. Nevertheless, farmers have also faced serious problems with the commercialization of farming and their contractual relationships with agribusiness companies. In the early 2010s, evidence emerged of unfair practices by agribusinesses and unsustainable indebtedness among Thai farmers. Public concerns also arose over the health impacts, including cancer and cardiovascular disease, and the high levels of smallholder debt caused by contract farming. In response, the Thai government developed and the Parliament passed the Contract Farming Promotion and Development Act (hereafter CF Act) in 2017.

Given Thailand's importance for CF in Southeast Asia, we analyze why the Thai government took this action, the ways in which the debate around CF has unfolded over time, the key issues discussed in the legal reform process before and after the CF Act became law, and the success of this law to address problems related to contract farming. We argue that the new law has had some success in increasing transparency, improving the conciliation process between farmers and companies, and deterring companies from unfair practices. However, it has done little to protect the livelihoods of Thai farmers due to various limitations, including weaknesses in the law itself, its limited implementation, and the country's wider agrarian political economy. Specifically, Thailand's oligarchic political and economic structures limit smallholder farmers' bargaining and political power as well as market access.

This paper contributes to the broader policy debate about how to best design effective contract farming regulatory frameworks through evidence based on the actual experiences of farmers, policymakers, and their interlocutors. It also addresses a gap in the current literature on the legal dynamics of contract farming and agrarian change, which Mark Vicol and his colleagues (2022) have found to be thus far under-theorized. Further, it provides a substantial update on current CF research in Thailand, since the vast majority of articles and reports on the topic were published over a decade before the new law was enacted.[3]

We begin by reviewing the literature on contract farming and explain why using a political economy framework is useful to examine this issue. We then discuss the development of contract farming in Thailand and the issues and challenges that have arisen as a result. Next, we examine the stages and processes involved in drafting the new legal framework and ways in which various groups sought to influence its final provisions. Subsequently, we discuss how roles and responsibilities are divided among government agencies, companies, and farmers under the new law. Finally, we investigate the extent to which the CF Act has been practiced on the ground and the experiences of farmers and investors in complying with its provisions.

[3]Cf. Burch 1994; Singh 2005a; 2005b; Sriboonchitta and Wiboonpoongse 2008; Walker 2009.

Literature Review

Several policymakers and development agencies have viewed contract farming as having the potential to deliver more inclusive economic opportunities to rural areas. It has also been viewed as an alternative approach to large-scale agro-commodity production and an alternative to the failed concession model. It has consequently become increasingly integral to the continued expansion of agricultural value chains in the Global South.[4] For example, the UN Food and Agricultural Organization (FAO) and the World Bank have framed CF as a collaborative business model which has the potential to make large-scale agricultural investment more smallholder "friendly."[5] The evidence so far, however, reveals that despite the rhetoric about CF benefiting smallholders, the consequences have been "uneven at best."[6] Instead, CF has enabled companies to source agricultural commodities at lower costs, avoid direct investment in land and labor, and shift risks to out-growers (farmers who commit to providing a buyer with crops at a future date while adhering to specified conditions) through a strategy of flexible accumulation.[7] In some cases, CF has exacerbated indebtedness, which can potentially become a mechanism to control and dispossess smallholders[8] and convert them into quasi-employees or worse.[9] On the other hand, CF has sometimes provided benefits to smallholders, including improved access to credit, markets, and technical support, enabling farmers to better diversify their crop portfolios.[10]

Consequently, scholars have cautioned against making generalizations about CF due to the "sheer diversity of CF experiences across countries and crops," including differing outcomes in terms of welfare, varying levels of bargaining power, and specific contractual arrangements.[11] Little and Watts have highlighted CF's heterogeneity, arguing that it is a "constellation of institutional and production relations" which are "a crucial means by which agriculture is being industrialized and restructured."[12] Vicol and his colleagues concur, noting that due to the vast variety of "modalities, arrangements and conditions," it is difficult to define "contract farming theoretically, and therefore difficult to measure its incidence and expansion."[13] Despite these variations, scholars agree that CF is an expression of uneven multi-scalar power relations and is grounded in specific socio-political contexts. During the peak of the influence of the Washington Consensus in the 1980s and 1990s, mainstream advocates of CF tended to downplay the significance of power relations, arguing that CF benefited both farmers and companies. However, more recently, these advocates have come to better recognize the importance of power relations in CF.

Building on a recognition of power, scholars have also explored the role of the state in shaping CF relations.[14] In developing countries, the state has often facilitated CF through

[4]Cole 2022a; Martiniello et al. 2022.
[5]Vicol et al. 2022.
[6]Little and Watts 2022, 2022.
[7]Martiniello et.al. 2022; Little and Watts 1994.
[8]McMichael 2013.
[9]Vicol 2017.
[10]Shonhe and Scoones 2022.
[11]Oya 2012, 15.
[12]Litte and Watts 1994, 6.
[13]Vicol et.al. 2022, 14.
[14]CF. Burch 1994; Shonhe and Scoones 2022; Martiniello et al. 2022.

enabling public-private partnerships, helping smallholders gain better access to finance investments for CF, and incentivizing both parties to set up CF schemes. However, these state interventions have varied, with some states more hands on and others taking more of an arms-length approach. In some countries, after helping initiate these schemes, the state has retreated through structural adjustment reforms.[15] We therefore place the role of the state central in our analysis. In doing so, we acknowledge that a state is not monolithic but is composed of many different actors with differing interests and incentive structures,[16] which can lead to policy fragmentation and incoherence.[17]

In this paper, we use a political economy perspective in our analysis. This approach seeks to understand how institutions (viewed as social processes that regulate behavior), interests (the desires of actors) and ideas shape the ways in which goods, services, rights, and opportunities are distributed, often focusing on the interaction between the state and the economy.[18] We situate our study in Thailand, which has one of the world's largest wealth gaps, with the richest one percent controlling almost sixty-seven percent of the country's wealth.[19] These wealth inequalities have bred "other kinds of inequality … built into the structure of society and the attitudes of its members," including privileged access to legal, economic, and political structures.[20] Particularly, since 2006, the country's political system has experienced "authoritarian tendencies" and recurrent military leadership.[21] Through "political clientelism," business tycoons have been given lucrative state concessions and contracts, within a business-friendly legislative agenda.[22]

The political economy of Thailand's agricultural sector replicates these deep-seated inequities. The wealthiest ten percent of people own over sixty percent of private land, and forty percent of private title deeds belong to the top one percent.[23] Additionally, the sector is dominated by oligopolies, such as Charoen Pokphand Group (CP), Mitr Phol, and Betagro.[24] Finally, thus far Thai consumers have had limited awareness of the social and environmental problems in this sector and thus have exerted limited pressure for reforms. As we will show, these political and economic factors, taken together, shape inequities within CF and are obstacles to make it fairer.

Methods

Our analysis is based on twenty-six interviews conducted by the first and third authors with NGO representatives, government officials, academics, corporate representatives,

[15]Vicol et al. 2022.
[16]Collins 2010.
[17]Marks and Lebel 2016.
[18]Barnett 2022.
[19]Lindsay 2019.
[20]Phongpaichit and Baker 2015, 17.
[21]Glassman 2020.
[22]Kanchoochat, Aiyara, and Ngamarunchot 2021.
[23]*Bangkok Post* 2023.
[24]The Charoen Pokphand Group is the largest private company in Thailand, with annual revenue of more than US$ 80 billion. Owned by the Chearavanont family, it is involved in a range of sectors, including food production. Charoen Pokphand Foods is the largest shrimp and animal producer in the world, as well as one of the largest poultry and pork producers. Mitr Phol Group, controlled by the Vongkusolkit family, is the largest sugar producer in Asia. Betagro is a food production conglomerate that also has interests in Laos, Myanmar, and Cambodia.

and farmers. Most of these interviews took place between June and September 2021. Four follow-up interviews were conducted in July 2023 to understand the current implementation of the law and gaps (see Appendix A). We also conducted semi-structured interviews with thirty poultry farmers in four districts of Khon Kaen Province. We chose this province because it is a major poultry producing region of the country.[25]

Additionally, we analyzed government legislation and reports, academic and media articles, and NGO reports. We then triangulated data from our interviews with this secondary data. This type of analysis is conducive to identifying power asymmetries and political perceptions that do not lend themselves to quantitative analysis. Qualitative document analysis is well suited to examining perceptions of the fairness and inequities, aspects that quantitative methods may not fully capture. It is also conducive to analyzing political choices and power asymmetries that do not lend toward statistical analysis.[26]

Political economy of contract farming in Thailand prior to the new law

Like many of its regional peers, Thailand has undergone a subsistence-commercial transition, progressing faster than most other countries in Southeast Asia due to its earlier engagement with global markets and significant productivity gains over the last few decades. Simultaneously, Thailand's agrarian political economy has played a crucial role in the government's shift toward regulatory solutions to address farmer dissatisfaction. Farmers represent one of Thailand's "most important political constituencies"[27] and the country has a long history of populist rural policies and electoral promises aimed at them.[28]

CF became a commonly used business model in Thailand's sugarcane, tobacco, poultry, pineapples, and vegetable agricultural sectors beginning in the 1970s.[29] Given that smallholder farmers occupy most agricultural land, the expanding role of the private sector in agriculture, and the government's push towards a more export-oriented economy, the move to CF was a logical development.[30] In 1977, the Charoen Pokphand Group (CP), which has since become one of Thailand's largest conglomerates, started signing contracts with swine and later poultry farmers. CP and other companies provided inputs, credit, and technical instructions in exchange for farmers selling their livestock directly to them, usually at below market prices. This spurred demand for compound animal feed, with industrial feed mills and crops becoming another major area of CP's investments. The company has since played a leading role in promoting CF throughout and beyond Thailand.[31]

[25]Farmers were initially identified by local government officials. The interviewees then recommended other farmers to be interviewed. The poultry farmers were asked about their current and past farming practices, levels of income and debt, their CF arrangements, and their opinions of CF and the companies with whom they work. Corporations such as CP and Betagro, and private sector organizations that promote industry interests to the Thai government, such as the Thai Broiler Processing Exporters Association and Thai Feed Mill Association, did not respond to multiple requests for interviews. Consequently, we have been unable to ascertain companies' opinions about the new law outside of their broad public claims.
[26]Bowen 2009.
[27]Ricks and Laiprakobsup 2021.
[28]Pye and Chatuthai 2022.
[29]Kelly et al. 2017.
[30]Panchamlong 2010.
[31]Cole 2022.

The expansion of agribusiness in Thailand complemented the government's intensifying focus on agricultural commercialization in the 1980s, aiming to address poverty in rural areas. In the context of this modernization drive, production of poultry and other commercial products under CF has been deemed "successful," but large swathes of the rural economy areconsidered to "remain marginalized."[32] From an industry perspective, CF has been instrumental in establishing vertically integrated value chains, particularly in the poultry sector, in which CP was a market pioneer. The 1990s were a period of rapid expansion of CF schemes for a wider range of crops, including animal feed, aquaculture shrimp, fish feed, soybeans, and maize, providing the raw materials needed for these export-oriented food processing industries.[33] By the 2000s, more than 500,000 Thai households were involved in CF production.[34]

Since its beginnings, the number of farmers and companies engaged in CF in Thailand has expanded, along with the variety and quantity of products produced. While each crop varies in terms of growth duration, land requirements, the number of production cycles per year, labor inputs, investments, market structure, regulations, and standards, certain similarities can be identified. Overall, corporations have garnered higher profits from CF than have farmers, aligning with global trends.[35] For instance, CF played a pivotal role in contributing to CP's earnings before the company diversified its activities. CP has since become the world's largest producer of animal feed and the sixth-largest broiler producer. This success, coupled with the firm's other investments, has made its owners, the Chearavanont family, one of Thailand's wealthiest families.

According to a mid-level official interviewed by Prapimphan Chiengkul (2017), Ministry of Agriculture and Cooperatives (MOAC) officials have close relationships with companies involved in CT due to Thailand's patronage system.[36] For example, CP has built close relations with a number of government agencies and political leaders through entrenched patron-client structures, gaining significant advantages over multinational corporations. These advantages include price supports, subsidies for inputs, and access to regional trade agreements.[37] Sukhpal Singh argues that the state has favored agribusinesses because of their domination of Thailand's policy-making arena as well as the country's position as a major agro-exporter.[38] Therefore, MOAC often promotes policies that favor agribusiness companies over the interests of smallholder farmers.

The role of state institutions in promoting contract farming

Although the private sector initiated CF programs in Thailand, the state has played a major and proactive role by setting policy directions and supporting private sector activity. A number of agencies have been at the forefront of these efforts, including the Board of Investment (BOI), the National Economic and Social Development Board (NESDB), the Department of Agricultural Extension (DOAE), and BAAC.[39] Although

[32]Goss and Burch 2001, 980.
[33]Sriboonchitta and Wiboonpoongse 2008.
[34]Singh 2005b.
[35]Vicol 2017.
[36]Chiengkul 2017.
[37]Hayward 2021.
[38]Singh 2005b.
[39]Singh 2005b.

the Board of Investment had no particular mandate to encourage CF, its involvement in agribusiness promotion has meant that this became an inevitable by-product of its activities.[40]

The Fifth National Economic and Social Development Plan of the NESDB (1982-1986) had already begun to emphasize agribusiness, but it was in the Sixth Plan (1987-1991) that a leading role was given to private investors, including public-private partnerships through CF.[41] The plan called for cooperation between agribusiness, farmers, state agencies, and financial institutions to promote CF.[42] The plan sought to leverage agribusiness firms' resources and position CF as a mechanism for them to engage with smallholders, establishing a profitable connection between the latter and markets.[43] Initially, the plan focused on agricultural commodities for both export and import substitution.[44] DOAE, an agency of the Ministry of Agriculture and Cooperatives (MOAC), purchased inputs from companies and then sold these to participating farmers at subsidized prices. Additionally, the department organized training sessions to educate farmers on the optimal implementation of CF.[45]

In the early 1980s, BAAC began to cooperate with the Charoen Pokphand Group and provide credit to contracted farmers. In addition, the government invested 250 billion baht (equivalent to US$10 billion at that time) in BAAC, facilitating the expansion of credit, both in cash and in kind, for farmers participating in contractual agreements.[46] By the 1990s, participating farmers could access between 30,000 Baht (US$1,176) and 60,000 Baht (US$ 2,352), double the usual amount, in some instances, without needing collateral. A primary motivation for BAAC to promote CF through credit extension was to mitigate financial risk, as corporations could directly recoup loans and interest payments from farmers' sales receipts.[47]

Due to high fixed-start-up costs for commercial production, particularly in industries like poultry and pig production, this substantial increase in access to credit played a pivotal role in the widespread expansion of CF across the country.[48] Having a contract with a company made it significantly easier for farmers to obtain loans from BAAC.[49] Furthermore, contract farmers benefited from lower interest rates (though this was contingent on farmers' credit ratings). The majority of these loans are secured by using land and houses as collateral. BAAC lends contract farmers up to 100 percent of the value of this collateral, exceeding the more common rate of seventy to eighty percent. However, the lack of stringent criteria regarding borrowers' ability to repay loans has contributed to cycles of indebtedness, as many farmers sign contracts with little guidance or experience in managing repayments.[50]

Overall, significant financial and technical support from state institutions has played a crucial role in the development of CF but this also has facilitated the expansion of large

[40]Burch 1994.
[41]Rossi and Nan 2017.
[42]Singh 2005b.
[43]Christensen 1992.
[44]Pansin and Khamkaew 2012.
[45]Singh 2005b.
[46]Sriboonchitta and Wiboonpoongse 2008.
[47]Singh 2005b.
[48]Chantanusornsiri 2018.
[49]Delforge 2007.
[50]Bisonyabut et al. 2018.

agribusinesses, such as the CP Group. Consequently, the power imbalance between agribusinesses and farmers has widened.

The benefits and downsides to contract farming for farmers prior to the new law

As we discuss above, many Thai farmers have signed up for contract farming because this provides them with access to capital and markets. Farmers receive inputs directly from companies and credit from BAAC.[51] According to a provincial livestock official, CF "can guarantee an income," while a seed broker mentioned that farmers who participate in these schemes "have better incomes." CF also is an opportunity to modernize farming practices. As a local NGO worker emphasized, CF "will improve the new technology for farming and growing crops." Crucially, CF offers stable access to markets. According to a CF Commissioner, "under CF, farmers can feel secure. There is a fixed price, and companies will find the market for them." A seed manager added, "farmers have more confidence that they can have a market to sell their products to."

While CF can certainly benefit farmers, five major issues adversely affect their livelihoods. First, CF has resulted in numerous farmers experiencing high levels of indebtedness and low levels of income, particularly in livestock raising. A 2013 survey found that 1,657 famers had accumulated an average debt of 6.2 million baht (US$190,000).[52] In livestock raising, for example, typical start-up costs are much higher than for growing crops. A participant must invest in new technologies and infrastructure, such as evaporative cooling systems, backup generators, and livestock houses, typically on a long-term basis, such as five to ten years. Yet high returns do not always materialize. As a local NGO worker explained:

> At first, farmers don't know that they will be in debt because of the past limitations of the law. When the company officers introduce CF, they will bring the farmers to the bank and they will start with CF by being in debt. For those who are engaged in animal farming, they start with at least a million baht (US$30,000) in debt. This process is like becoming chained and you have less power to negotiate when you are chained.

A high level of debt is not necessarily unsustainable if, as mentioned above, the appeal of CF lies in the anticipation of enhanced access to higher-value markets, leading to increased and more stable incomes, as well as improved yields under optimal conditions. However, these expectations often are not met for two primary reasons: low profit margins resulting from meager prices and high input costs, and low yields due to factors such as flooding, animal diseases, and crop diseases. Such unexpected factors make it challenging for farmers to fulfil their debt obligations.

A local NGO worker elaborated:

> A farmer's income level is like people swimming in the water. They don't drown at first but float on the surface. They die after seven years. The first three years it is still new. After five, the conditions worsen, such as animals getting diseases … after seven years, they will need to decide: they are already in debt and will have to get a loan again or they will quit … some have lost everything, including their land … sometimes their debt is passed to their children.

[51]Singh 2005a.
[52]Thailand Contract Farming Network 2014.

High levels of indebtedness among farmers are not always the fault of companies, as global evidence shows that farmers' poor management of CF and low financial literacy also play important roles.[53] However, companies rarely contribute to improving farmers' financial literacy,[54] and more often conceal or underemphasize key information which is necessary for farmers to make informed decisions, especially in relation to price fluctuations and risks.

Second, farmers unequally bear production risks, such as crop failures due to environmental disasters, floods and droughts, or livestock dying due to diseases and other factors. CF enables agricultural conglomerates to externalize these risks on smallholder producers and taxpayers. Most contracts do not include any provisions for compensation (such as insurance) in case of production failure.[55]

Third, farmers' weak bargaining power has led some to be exploited by companies. Farmers have to borrow on a long-term basis, such as five to ten years, but most production contracts are much shorter, usually between one and three years. For example, broiler and swine contracts are often written for twelve months while those for eggs are typically for eighteen months. Although farmers have the right to terminate a contract, indebtedness often prevents them from exercising this option.[56] A chicken farmer in Singburi Province said it was unfair that her loan from BAAC would take seven years to repay but her contracts were on a yearly basis. This short-term commitment by companies compared with farmers' long-term debt increases companies' bargaining power. Some companies use farmers' perilous financial situations to exploit them. A key drafter of the new law commented: "The companies will threaten the farmers by not giving them inputs [on credit]. In the end, farmers have had to continue their contracts or they will not be able to pay back their debt to the bank."

Farmers often find themselves with little choice but to depend on companies for marketing their products, especially in industries such as livestock and poultry, which are dominated by monopolies. This is a key issue, but the Thai state has taken minimal action to break up these monopolies, partly due to weak enforcement of competition and anti-trust laws.[57] A handful of major companies, including CP, Betagro, Laemthong, and Saha Farms, control the majority of the country's agricultural trade, leaving independent farmers with limited market access. These companies also possess significant lobbying power and directly influence Thai economic policies.[58] Farmers who end their contracts with one company will not easily find another to buy their products.

Fourth, contracts are often unclear, not legally valid, or include unfair terms. A former provincial MOAC representative explained, "Farmers don't clearly understand the contract – they want to work so they just sign without studying the details." Some farmers do not possess copies of their contracts and, when they request a copy, companies have sometimes refused to provide one, claiming that all details had been acknowledged by

[53]Gaurav and Singh 2012.
[54]Singla and Sagar 2012.
[55]Zachary Frye (2019) examined the case of a fish farmer in Mahasarakham province who had been contracted by CP to produce fish and fish feed. But when her fish died, CP did not provide any compensation, leaving her with a debt of more than one million baht. She and other producers for CP alleged that their fish died due to the poor quality feed sold to them by CP, but the corporation refused to accept responsibility. See also Pansin and Khamkaew 2012.
[56]Delforge 2007.
[57]Chiengkul 2017.
[58]Delforge 2007, 19.

farmers before signing.[59] According to a drafter of the new law, "While Thai agribusiness companies had a legal team to draft the contract to evade penalties under the Unfair Contract Terms Act, farmers had to enter CF schemes without reading the contract." Companies did this because, according to a CF Commission member, "they will get more benefits if CF is not monitored." Moreover, some farmers only have oral agreements with companies. A provincial Livestock Development official claimed that some "did CF for twenty years and never had a chance to read their contracts."[60]

The terms and conditions included in contracts often favor companies.[61] According to a poultry farmer, prior to the new law, "the basic civil and commercial law were not based on equality because both sides [of CF] have different levels of knowledge about the law and different financial conditions." The Thai Senate Committee on Agriculture and Cooperatives reached a similar conclusion. In a 2003 report, it acknowledged that, although CF has the potential to modernize Thailand's agricultural sector, "most of the contracts exploit farmers and producers. Farmers have to follow the conditions set by the factories which are not equitable."[62] Interviewees told us that some farmers refuse to complain or to report companies' unfair practices that affect them because they are afraid that their contracts could be terminated.

In addition, companies have at times changed contractual terms without prior notice. For example, some companies have increased the prices of inputs, such as medicine, seeds, and vaccines, without telling farmers, thereby increasing farmers' production costs. In Chaiyaphum Province, poultry companies increased the price of chicken feed and doubled the transportation fee farmers had to pay. While in the middle of her contract with CP, a farmer in Singburi Province who had invested fifty million baht (US$ 1.6 million) in industrial chicken farming had to increase the amount of feed she used. Concurrently, the company reduced the amount they paid her per egg by twelve percent. As an official from the Chaiyaphum Provincial Livestock Development explained, "the negotiation power is unfair. The private sector is the only side that can control the inputs and the factors of production so they have more power." Another frequent source of discontent among farmers is that sometimes companies are late with their payments, even though these payments are necessary for many farmers to pay their day-to-day expenses.[63]

Prior to the new law, weak judiciary knowledge of the causes behind farmers' inability to meet contractual conditions enabled companies to penalize them without fear of legal punishment. For example, if farmers failed to deliver eggs due to noise from overflying planes which terrify chickens so much that they stop laying eggs or because of poor-quality chicken breeds supplied to them by their contracting company, company officials simply maintained that farmers had not followed the conditions set out in their contract and penalized them. Furthermore, when NGOs and other organizations

[59]Pansin and Khamkaew 2012.
[60]In one case, farmers agreed to sell their produce exclusively to Frito Lay Thailand, but under the terms of their contracts the company was not committed to buy their produce (Singh 2005b). A senior official from the office of the CF Commission noted that prior to the new law, "there were companies who previously took advantage of farmers … at that time, it was just oral contracts. Farmers did not know or care much about the contract. At the end, it is a disadvantage to farmers – they have no evidence in court. So that's why we needed to have a new law."
[61]Pansin and Khamkaew 2012.
[62]Quoted in Delforge 2007, 5.
[63]Walker 2012.

have tried to help farmers file legal cases, they have been unable do so because they are not considered a directly affected party. In 2003, the Senate Committee on Agriculture and Cooperatives agreed that the lack of a dispute settlement mechanism was a major problem, stating: "There is no agency acting as a mediator to look into the fairness of the contracts and to consider how both sides can gain more benefits. Farmers are at a disadvantage, so the contracts are unfair."[64]

Sixth, a major problem stemming from the wider industrialization of the agricultural sector, of which CF is a significant component, is increased health and environmental issues linked to agrochemicals, air pollution, and deforestation. These issues not only affect the farmers themselves, but also wider communities and beyond. Researchers found from blood tests that six percent of farmers producing seeds in Sakhon Nakhon Province had unsafe agrochemical levels in their blood, while twenty-four percent faced borderline risks. Such high contamination levels can lead to both short and long-term health issues, including cancer and cardiovascular disease.[65] Another common health problem linked to CF schemes is caused by farmers burning leftover crop, such as sugarcane and maize stalks, to reduce costs and clear their land for new planting, leading to health problems associated with particulate matter.[66]

Despite all these problems, the MOAC had no monitoring system to ensure that contractual arrangements were fair and that companies abided by stipulations in contracts.[67] According to a CF Commission member, "The MOAC thought that this issue [of monitoring] was not their mandate. Their mandate was to approve or certify standards. Many times they said it was the mandate of the Ministry of Justice or it was a private-to-private contract." In many cases, government officials have tried to negotiate with companies to postpone filing lawsuits against farmers who have overdue debts, but they have been unable to do more to help.

Build-up to and passage of the new law

In the second half of the 2000s, seeking to address health and environmental issues in agriculture, the Thai Health Promotion Foundation funded research by scholars and NGOs to identify solutions to these challenges. In August 2011, scholars, NGOs, and farmers involved in CF schemes for seeds, aquaculture, poultry, and swine formed the Thailand Contract Farming Network (TCFN).

In 2012, additional studies by Thai academics and NGOs uncovered many more cases of indebtedness and unfair corporate practices. Seven farmers who had been sued by companies contacted the TCFN, which then presented their cases to officials from MOAC and the Ministry of Justice. Officials argued that these cases were unrepresentative of CF as a whole and thus not sufficient evidence for a policy change, even though, according to our informants, officials from both ministries admitted that they lacked sufficient data on the number of indebted farmers and their debt levels.

In response, in 2013, the TCFN conducted a survey to ascertain the level of farmers' indebtedness from CF. The study identified 1,657 farmers who had a total debt of

[64]Delforge 2007, 21.
[65]Pansin and Khamkaew 2012.
[66]Marks and Miller 2022.
[67]Singh 2005b.

1.03 billion baht (US$310 million), an average of 6.2 million baht (US$190,000) per farmer.[68] TCFN submitted a policy paper with these findings to the MOJ, disseminated video clips to journalists, and organized seminars and press conferences to expose the problems of inequitable contracts. The organization also drafted a Bill of Fair Contract Farming based on their findings and recommendations from farmers and civil society groups. In December 2014, the TCFN submitted this bill to Parliament and to the Prime Minister's office. Thai Prime Minister Prayuth Chan-O-Cha reportedly even stated that he wanted this law to be a "gift to farmers."

In August 2015, the National Reform Council (NRC) proposed the new CF legislation to the cabinet and appointed MOAC to review the draft law. In November 2016, the National Legislative Assembly nominated a special commission to draft a final version. In May 2017, this was approved by the National Assembly and came into force in September 2017.

The agribusiness sector, led by CP, unsuccessfully lobbied against this law. According to one interviewee, agricultural corporations spent an estimated 400 million baht (US$13 million) on their lobbying campaign. Once they realized that they would be unable to stop passage of the law, they sought to influence members of the parliamentary commission (which included both pro-farmer and pro-corporation supporters) which could propose revisions. According to an NGO leader involved in advocating for the law, "if the conditions in the CF Act were too strict, the Act might not have been passed. Therefore, the pro-farmer group had to negotiate with the other group and could not realize every demand."

According to a senior official from the Office of the Secretary of the CF Commission, the law was not only supposed to protect farmers' rights but also to create a legal mechanism for contract dispute arbitration. Pro-corporation representatives sought to completely delete the alternative dispute resolution mechanism, arguing that contract disputes should be settled in court. In the end, legislators kept the dispute resolution mechanism but placed it under the jurisdiction of provincial rather than local officials. According to a TCFN member, "in the end, CP agreed to pass the new law on CF but gradually changed the words in the law, reducing its power, and changing it from being focused on justice for farmers to support for contract farming."

Passage of the CF Act should be viewed within the context of the Thai government's efforts to address the concerns of farmers, a significant voting bloc.[69] Indeed, similarities exist between the pro-farmer policies implemented by former Prime Minister Thaksin Shinawatra (including subsidies and price support schemes) and the Prayuth administration's support for passage of the CF Act in 2017. Given that parliamentary legislative procedures were suspended during this time, the law's enactment was unique in terms of Thailand's legal process.

Key elements and limitations in the Contract Farming Act

The CF Act created a governmental body, the Contract Farming Promotion and Development Commission (CF Commission), comprised of twenty-five members with the

[68]Thailand Contract Farming Network 2014.
[69]Ricks and Laiprakobsup 2021.

MOAC Minister as chair and the MOJ Minister as sub-chair. This committee is responsible for making policies related to CF and announcing new measures and regulations, including proposed revisions.[70] The Office of the Secretary of the Contract Farming Promotion and Development Commission is responsible for promulgating the law, raising awareness of it among government officials, agricultural companies, and farmers, collecting documents relating to CF (including business prospectuses and final signed copies of all contracts), and publicizing this information on its website.

As mentioned above, a provision in the law created an independent alternative dispute mechanism at the provincial level, chaired by the governor. If a dispute arises, either party can request a reconciliation process before the case is forwarded to a court. MOAC's provincial office then collects documents and facts. The office subsequently forwards the request and a fact-finding report to the Chair. If an agreement is not reached, the case goes to court.

Under terms of the CF Act, companies that wish to participate in contract farming must first register with the Office of the Permanent Secretary for the Ministry of Agriculture and Cooperatives. Companies also must submit their prospectus and production plan with their registration. The law also requires companies to write contracts in clear and straightforward language. Although there is no mandatory template for contracts, the law states that any technical terms must be accompanied by explanatory notes. Contracts must include the names of both parties, date of signing, duration of the contract, locations of production, duties of both parties, product and input prices and how these are calculated, date and location for product delivery, indication of property ownership, compensation rates for breach of agreement, and conditions under which the contract can be terminated. A company is required to give farmers a copy of the contract on the day of its signature and submit a copy to MOAC's Office of the Permanent Secretary.

There are defined penalties for several specific instances in which a party does not comply with the CF Act. Business operators can be fined up to 300,000 Baht (US$ 8,700) if they terminate a contract without following the terms or if they fail to follow all requirements. Either party can also be fined up to 300,00 Baht if they unilaterally terminate a contract.

Interviewees identified a few key gaps in the law. First, the law defines contract farming as an agricultural production agreement between a business and more than ten "natural persons" who are farmers. This definition creates a legal gap as companies can avoid the obligations set by the law by signing contracts or making verbal agreements with fewer than ten farmers. Individual farmers in such CF schemes who are not part of a cooperative or group are therefore not protected by the new law. As one NGO official stated, "I thought that the Act would protect all kinds of farmers, but it will protect only groups of at least ten farmers." A professor involved in drafting the law expressed his disappointment and stated that this definition differed from the one proposed in the bill drafted by the TCFN.

Second, according to the Act, a farmer is defined as a "natural person" who is engaged in agriculture as his/her occupation, including as a member of an agricultural cooperative. However, to reduce their tax burden, some farmers have registered as "legal" not

[70]Contract farming Promotion and Development Act, B.E.2560 2017.

"natural persons." By registering as an individual cooperative or company (deemed "legal persons), farmers receive a twenty percent tax break compared to if they register as individual farmers (deemed "natural persons"). The rationale behind thus policy is to promote small businesses, which a farmer becomes by registering as a legal entity. However, by doing so, they are not protected by the CF Act.

Third, the reconciliation process is managed at the provincial level by unelected officials. Pro-farmer groups sought to place this process under the domain of local officials, as they are elected and thus are more inclined to respond to constituents. Provincial governors also have limited terms and are transferred every few years. A TCFN member stated, "CP especially did not want locally elected politicians to be involved." Further, according to international best practices, an alternative dispute resolution should generally be administered by an independent party, not a government regulator.[71]

Fourth, only three of the twenty-five members on the CF Commission are farmer representatives, compared to sixteen government officials and six corporate representatives.

CF in Thailand after the new law

Our interviewees had divided opinions about the impact of the new law. Government officials, middlemen, and traders were keen to highlight the successes they had observed in the implementation of the law. According to them, companies understand the law and many are following its requirements, such as registering and providing both farmers and the government with copies of contracts. Contracts are also clearer, since companies must specify when farmers will be paid and when a farmer will fully repay his/her loan.

The head of the CF Commission claims his office has conducted sessions for farmers throughout the country to raise awareness about the new law. He admitted, however, that due to travel restrictions during the COVID-19 outbreak, his staff had been unable to visit many provinces. Nevertheless, commission staff members believe the law has improved farmers' bargaining power by supporting their right to complain to provincial offices and initiate an alternative dispute mechanism.

A Livestock Department officer in Chaiyaphum Province said that company executives will generally "try to talk to his provincial office to prevent his office from reporting disputes to a higher level." These executives are more amenable to resolving disputes at the provincial level since passage of the law. In three case studies of the dispute resolution process in the provinces of Chaiyaphum, Kanchanaburi, and Tak, respectively, companies and farmers compromised, enabling the latter to receive some of the compensation they were owed. According to a farmer in Chaiyaphum, the new law " … helps a lot. At least, we know the channel to use for contacting the government officers. If there was no such act, the officers would not care and would just ask farmers to take a company to court. This Act forces the officers to take care of such issues." A MOAC Officer in Kanchanaburi concurred, explaining, "The law helps farmers because they can have better access to government officials. They don't have to go to court and pay the costs."

The head of the office of the secretary of the CF Commission believes the law has been beneficial:

[71]Plevri 2020.

> Overall, the Act has improved contract farming a lot because we look at statistics and can analyze the causes of the problems … in the past four years, we had 100 cases which went to the reconciliation process, and the provincial offices were able to solve eighty-six cases in twenty-four provinces.

However, a MOAC provincial official suggested that the judiciary often is unfamiliar with the process of the settlements agreed through conciliation. Therefore, its members are uncertain about whether or not cases can be enforced if the parties do not abide by the terms of the agreement.

NGO staff members and a farmer representative on the CF Commission were mostly disappointed with the impact of the new law. They pointed to several problems that the law had failed to address, especially a lack of awareness among farmers about its provisions. They believe that government officials have not provided farmers with enough information.

Worse, according to NGO interviewees, farmers are still afraid to report issues to the provincial reconciliation committee because they fear that they will be threatened by the companies. One farmer commented that "if pig farmers will go against a company, the pigs won't be bought by the company." A senior staff member with the Sustainable Alternative Development Association pointed to a lack of support from provincial officials: "The problem is that there is no government agency who will push the law forward. If this is going to work, we need provincial authorities to work together with the farmers." To add to the challenges, some provincial offices have established strong patronage ties with agribusinesses, causing them to prioritize these companies' demands, which, in turn, results in a lack of protection for smallholders.

NGO activists also were concerned about the limited effectiveness of the law because of its reduced scope. The law, for example, does not provide an independent mechanism to inspect inputs provided by companies. One activist argued for an independent body to oversee inputs, saying there "should be an agency in the middle like a university or lab that helps the farmers by monitoring the quality of inputs." A farmer commissioner also contended that the law failed to adequately protect farmers' livelihoods due to monopolistic practices and a lack of insurance for farmers to mitigate against accidents.

A former official from the Department of Internal Trade noted that the law's effectiveness is limited because of a market structure dominated by a few firms, giving them unequal bargaining power and market access. She added that the government should use the law to "fight the big guys" but it "has not been enforced" because of close political ties between the military government and large agribusinesses.[72] Overall, our interviewees show that power relations between companies and farmers remains a critical structural issue, one that the new law largely fails to address.

Khon Kaen poultry farmers' views

Our interviews with poultry farmers reveal that the Act has so far had a minimal impact from their perspective (Table 1).

Only one of the thirty farmers we interviewed knew about the new law. Common replies included, "I don't know what the Act is about" and "I heard about this Act for

[72]Phongpaichit and Baker 2015; Kanchoochat, Aiyara, and Ngamarunchot 2021.

Table 1. Survey results of Khon Kaen farmers.

Question (Y/N)	Number (out of 30)	Percent (%)
Awareness of the new contract farming law	1	3
Satisfied with contracting companies	10	33
Dissatisfaction with contacting companies	20	67
Did not receive written contract	5	17

the first time from you."[73] Government officials and agribusinesses have undertaken minimal efforts to educate farmers about the new law. One farmer stated, "I joined the contract farming training [provided by MOAC] before but never heard about the new Act." Another said, "The company never provides any training for us."

Only ten of the farmers were satisfied with the CF schemes in which they were participating. The other twenty were dissatisfied with the companies they were contracted to, and many of them felt that their contracts were unfair or the companies did not follow the terms. In addition, although the law clearly stipulates that farmers must receive a copy of their contract, five interviewees claimed they had not. Others said their contracts were oral, or they did not know the terms before signing.

Because of the long-term basis of farmers' borrowing, they are reluctant to complain. One farmer, who still had twelve to thirteen years of payments left on his bank loan, complained that the price he was paid for chickens decreased after he had signed a contract, but he was obligated to accept this because of his high level of debt. Another said he was not happy when his contracting company made him purchase more chicken feed than he needed, but he did not complain.

Farmers also said that companies sometimes were late in delivering chicks or they came late to pick up the chickens, which increases a farmer's production costs. One farmer explained:

> The company informed us that the customer postponed, so this affected us as well. The disadvantage of receiving late payment is that it is like carrying a burden. We always must order more chicken feed until the date the company comes to pick up the chickens.

Companies also delay payments, which can place farmers in a difficult financial situation. Late payments of one or even two months became common during the COVID-19 pandemic.

As discussed above, the law lacks a mechanism for quality control of inputs and a clear methodology to assess agreed-upon production quality. Companies unilaterally deduct money from farmers' payments for allegedly lower quality hens or eggs, without negotiation.

However, when companies deliver low-quality inputs, farmers are compelled to pay and cannot reject poor-quality batches. As one farmer said, "The disadvantage of the company is that I want them to deliver the same size of baby chicks to us. If we don't get the same size, I would like to reject that batch. I do not think it is fair."

[73]Some respondents, not knowing this law is actually on the books, even said that developing such a law would be useful to help protect them. One farmer said, "I would like the government to create qn act to protect the farmers. For example, if the company takes our chickens without paying us money, I want to know who we can inform about this issue. I would like to see a clear act."

Overall, these interviews indicate that the CF Act has had a limited impact on the ground due to low awareness among farmers, limited implementation by state institutions, and the narrow scope of the law, which fails to address key issues. Consequently, farmers continue to endure exploitative conditions and inequalities under CF.

Conclusion

This article contributes to CF literature by enhancing understanding of the role of adjusting legal frameworks in addressing well-known power imbalances within CF systems. Thailand's CF Act has the potential to safeguard farmers from unfair practices and foster increased trust between farmers and agricultural companies. Perspectives we have shown in this study indicate that the law has had some initial positive effects, prompting companies to feel somewhat more compelled to clarify contractual terms with farmers. However, as Cohen et al. (2022) have noted, substantial challenges persist. Crucially, many issues that predated the enactment of the new law endure, suggesting that relying solely on adjusting the law is unlikely to sufficiently address critical power imbalances between farmers and companies.

Advocates for the CF Act argue that one of its key benefits has been the establishment of a dispute resolution mechanism, which has provided an avenue for a limited number of farmers to have their grievances addressed. However, it remains unclear what proportion of these grievances have been adequately and fairly addressed. Issues with the formulation of the law and its implementation have hindered more significant impacts. Companies still maintain significant structural advantages, owing to their financial, political, and monopolistic power.

The law can be revised after five years, and the head of the Office of the Secretary of the CF Commission has stated that they intend to do so. The Commission is considering a revision of how the law defines CF by removing the need for a minimum of ten farmers and expanding it to also cover only one "natural person" (e.g., one farmer). Addressing these two limitations could potentially strengthen the law for the benefit of all farmers.

That said, the Act has achieved some successes. It has increased transparency through the creation of a government database of companies engaged in CF. Additionally, the Act requires that all contracts are registered, with copies kept by both the CF Commission and participating farmers. The addition of an out-of-court alternative dispute mechanism could help smallholders achieve a quicker, more cost-effective, and fairer resolution of their grievances compared to what they can expect from the courts. However, this process needs to be better known and applied. Organizing it at the local level, where state officials have a closer relationship with farmers and the public, could increase its effectiveness. Finally, consideration should be given to increasing the penalties outlined in the law so that they serve as a more significant deterrent against unfair corporate practices.

However, the new law has not resulted in significant improvements in the livelihoods of Thai farmers due to several limitations. These include weaknesses in the law itself, its limited implementation, and issues within the agrarian political economy of Thailand that extend beyond the law's scope. Specifically, the country's oligarchic and monopolistic political-economic structures have left farmers with little bargaining power and limited access to markets. The challenges stemming from contract farming in Thailand will only be fully addressed when these larger issues are resolved.

Further research, including quantitative studies, are needed to better understand the effectiveness of the CF Act on contract farming practices in Thailand at a deeper level. Gathering such evidence will be useful for developing a relevant advocacy strategy aimed at influencing further revisions of the Act. The process of reassessing and revising the law presents a critical opportunity to improve fairness and address lingering exploitative practices and inequalities in contract farming in Thailand. Civil society and farmer organizations should mobilize to contribute to future public consultations to evaluate the implementation of the CF Act to ensure that the voices of farmers are heard and considered. As a pioneer of CF, Thailand also has an opportunity to share its experiences in developing legal frameworks with other countries.

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Appendix: List of Interviewees

#	Position	Institution	Date(s)
1	Previous provincial head	Sakhon Nakhon Province MOAC	6/9/21
2	Assistant professor	Rajamangala University of Technology Lanna Nan	6/11/21
3	Executive	TRR Sugar Group	6/15/21
4	Drafter of new Contract Farming Law	Chiang Mai University	6/26/21
5	Senior official	Office of Cane and Sugar Board	6/24/21
6	Senior official	Thailand Alternative Agriculture Network	6/28/21
7	Seed farmer broker in Chaiyaphum Province		6/30/21
8	Senior official	Alternative Agriculture Network in the Northeast	6/30/21 & 7/24/23
9	Professor	Thammasat University	7/2/21
10	Senior official	Sustainable Alternative Development Association	7/2/21
11	Midlevel official	Chaiyaphum Provincial Livestock Development Office	7/6/21
12	Executive	Khon Kaen Sugar Company	7/7/21
13	Manager	Seed company in Khon Kaen Province	7/7/21
14	Representative and commissioner	Chaiyaphum Chicken Meat Cooperative and National Contract Farming Development and Promotion Law	7/7/21 & 7/24/23
15	Senior official	Department of Internal Trade, Ministry of Commerce	7/7/21
16	Senior official	The Office of the Secretary of Contract Farming Promotion and Development Commission	7/8/21
17	Manager	Seed company in Khon Kaen Province	7/8/21
18	Senior official	Institute for a Sustainable Agriculture Community	7/9/21
19	Senior official	Department of Internal Trade, Ministry of Commerce	7/15/21
20	Poultry contract farmer in Singburi Province		7/18/21
21	Drafter of new Contract Farming Law	Chiang Mai University	7/19/21
22	Previous senior official	Thai Contract Farming Network	7/20/21
23	Senior official	Kanchanaburi Province MOAC	7/21/21 & 7/24/23
24	Senior official	Tak Province MOAC	7/9/21 & 7/24/23
25	Chaiyaphum chicken farmer		7/11/21
26	Senior official	Chaiyaphum Province MOAC	7/22/21