

Edited by

Chayan Vaddhanaphuti  
Sabrina Gyrovary

# Land and River Grabbing

the Mekong's Greatest Challenge



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Center for ASEAN Studies, Chiang Mai University.  
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**2015**

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## Foreword

Throughout the Mekong region, large-scale development projects such as hydropower dams, mines, conventional power plants, and mono-crop plantations are displacing communities and limiting access to natural resources. Several hydropower dams have already been built on the Upper Mekong in China's Yunnan Province, and the governments of Cambodia, Laos and Thailand are planning eleven additional large dams on the Mekong River's mainstream. If completed, these dams would not only destroy local ecosystems, but also reduce the flow of silt throughout the Mekong River system, and block major fish migrations, placing at risk over sixty million people who depend on the Mekong for their food security and income.

It's vital for citizens of all six nations who share the Mekong basin's rich resources to work together to promote greater accountability in development planning. This is exactly what is happening among a new generation of Mekong activists. Over the past nine years, alumni from EarthRights International's Mekong School representing communities from the source to the mouth of the Mekong have been working together to advocate for stronger human rights and environmental protection in the region.

In sharing these reports from their communities, Mekong School Alumni hope to inspire citizens throughout the Mekong region to consider the social and environmental impacts of hydropower dams, mines, power plants and other large development projects and to join together to advocate for greater transparency and public participation in development planning.

Chayan Vaddhanaphuti  
Sabrina Gyorvary

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# ontents

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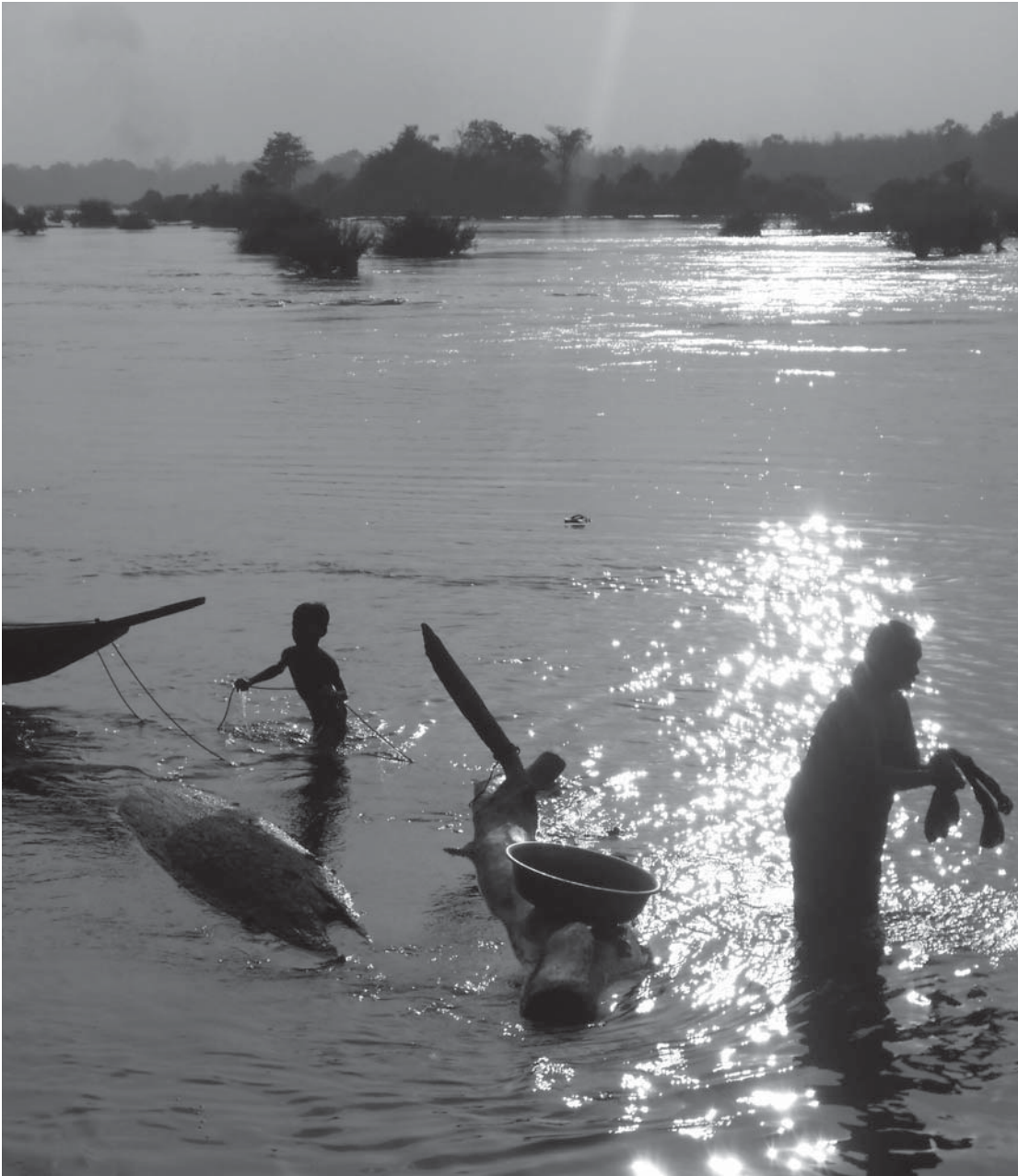
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# Gaps in the Environmental Regulation of Transnational Corporations: a Case Study of Cambodia's Lower Sesan 2 Dam

Li Miao Miao

## **Abstract:**

Transnational corporations (TNCs) are mainly subject to host states' laws according to standard international practices. However, in reality, affected communities often have limited access to grievance or accountability mechanisms to voice their concerns, let alone assert their environmental rights. Taking the Lower Sesan 2 (LS2) dam project as an example, combined with international laws concerning regulating TNCs, this paper clarifies the difficulties in seeking remedies faced by affected communities in the LS2 case. The paper stresses the fact that the current rules and mechanisms at both international, regional and national levels are not sufficient to protect environmental rights based on case observations. The paper ends with a question: besides strengthening current rules and mechanisms governing TNCs, should TNC home states bear more obligations to regulate the behavior of TNCs and to address violations of environmental rights?

## Overview of the Lower Sesan 2 Case

The Lower Sesan 2 hydropower dam is currently under construction at the junction between the Srepok and Sesan Rivers in Stung Treng province (see map in Figure 1). In 2012 Hydropower Lower Sesan 2 Co.,Ltd. (HLS2 Co.) was created as a joint venture between China's Hydrolancang International Energy Co.,Ltd. (owning 51% of HLS2 Co.) and Cambodia's Royal Group (owning 49% of HLS2 Co.) HLS2 Co. owns 90% of the project, and EVN International Joint Stock Company (EVNI) owns the remaining 10%.



Figure 1

**Time Line:**  
EIA and feasibility study were conducted in 2008, and reports were approved in 2010.  
  
In November, 2012, EVN withdrew as the main shareholder when Royal Group signed an agreement with Hydrolancang International Energy Co.,Ltd.  
  
Compensation and Resettlement negotiations began in 2013  
  
construction of the dam followed in 2014 and is expected to be completed by 2017.



Figure 2

In LS 2 case, there are two major areas of concern<sup>1</sup> that will be addressed in this paper: (1) problems with the quality/standard of the environmental impact assessment (EIA)<sup>2</sup> and (2) transparency and accountability issues which include lack of information and access to consultation and participation provided to affected communities in deciding to proceed with the project and in the project's development, including resettlement and compensation plans.

As one villager from Sre Sronok complained:

Representative from 3S Rivers Protection Network (3SPN) reconfirmed that *"The compensation and resettlement plan didn't leave room for affected communities to participate. And we just got informed after they made a decision."*

Even though some villagers have accepted the resettlement and compensation plan,<sup>3</sup> concerns surrounding negative environmental and social impacts and dissatisfaction with the non-transparent decision-making process are still on-going. Increasingly, based on the affected communities' perception that their environmental rights have been violated, they are making efforts to seek remedies from the Cambodian judicial system and from international mechanisms.

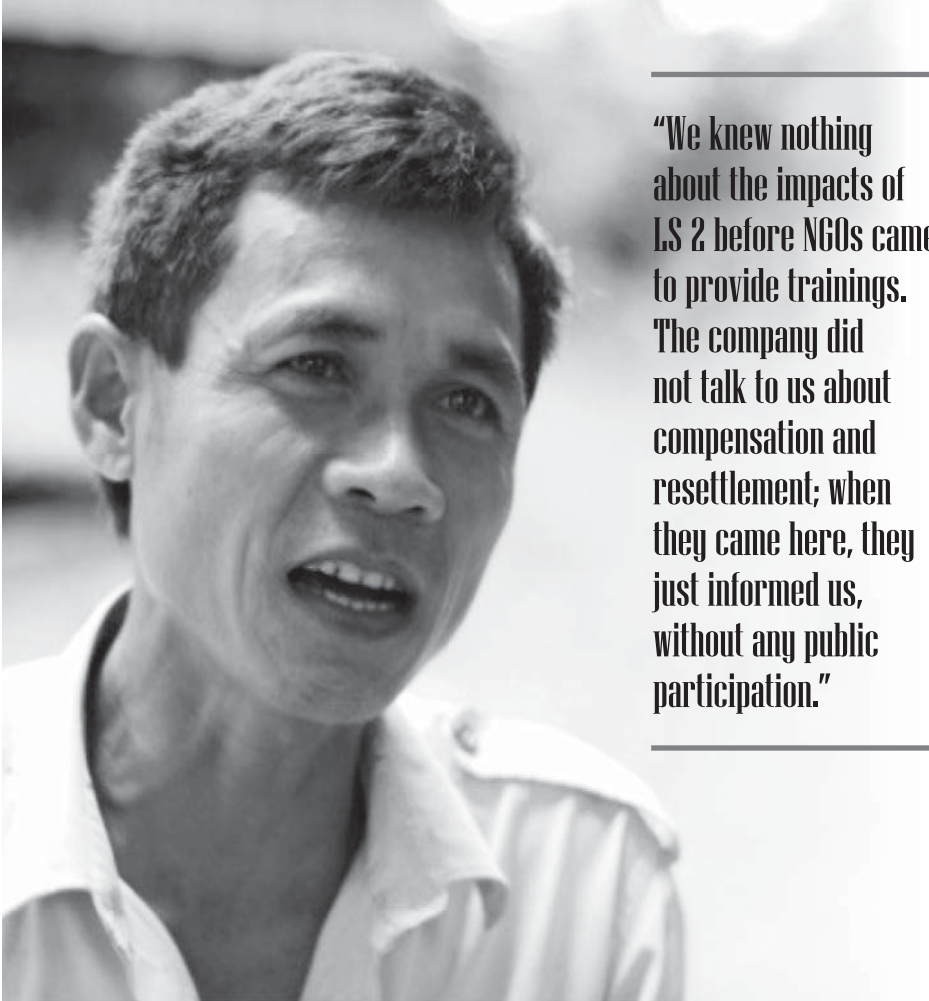
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<sup>1</sup> See: Ogonda, Kim. *Starving the Mekong: Expected social and environmental impacts from construction and operation of the Lower Sesan II Dam*. Berkeley: International Rivers, 2014.

<sup>2</sup> The EIA report has been criticized by independent experts as inadequate. The report only examined impacts in a limited area around the immediate dam site, and did not study environmental and social impacts further upstream and downstream from the project, including along the Mekong River and Tonle Sap Lake. And the EIA report did not examine any trans-boundary impacts even though there are likely to be trans-boundary social and environmental impacts in neighboring countries (Thailand, Laos, and Vietnam). Besides, impact assessment studies do not appear to have given due consideration to alternatives for power generation that are more sustainable and in line with the Cambodian Government's energy sector development objectives. Cambodia Energy Sector Strategy. Draft publication. United Nations. Web. 6 June 2013, at 13. <<http://www.un.org/esa/agenda21/natlinfo/countr/cambodia/energy.pdf>>. "to encourage exploration and environmentally and socially acceptable development of energy resources..." and "to minimize detrimental environmental effects resulting from energy supply and use..."

<sup>3</sup> "Seventy families living close to the site of Cambodia's largest hydropower dam project have accepted a resettlement package from the Hydro Power Lower Sesan II company.....", <http://www.phnompenhpost.com/national/more-families-accept-dam-relocation-offer>

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**“We knew nothing about the impacts of LS 2 before NGOs came to provide trainings. The company did not talk to us about compensation and resettlement; when they came here, they just informed us, without any public participation.”**

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## Difficulties with Environmental Rights Remedies in the LS2 Case

During group interview in Sre Sronok, villagers expressed the concern that:



When examining the efforts of affected communities to seek remedies, we see the following difficulties: first, there is very limited space for initiating dialogue and seeking remedies. Second, affected communities are mainly dependent on the Cambodian legal system to seek remedies, but rarely receive any response. In addition, asking for help from regional and international bodies has have not led to results. Third, access to remedies is informal and weak, and mainly

**“We have done what we can to talk to the government and the company, but they don’t want to listen to us. We don’t know what we can do now. Sometimes we feel hopeless.”**

entails sending petitions and letters to relevant stakeholders. As a result, affected communities and supporting groups rarely receive any response from these efforts.

At the Cambodian national level, affected communities have sent complaints to the Cambodian Human Rights Committee (HRC), and officials from the HRC did come to visit the affected communities, but there has been no satisfactory response yet. In November 2014, representatives of affected communities in Stung Treng province sent a petition to the Cambodian National Assembly president asking for his intervention to immediately revoke the project agreement.<sup>4</sup> Now it is said that the Cambodian National Assembly is paying attention to this case. In October 2014, a statement was issued by regional groups calling for the Cambodian government and project developers to release information on the project redesign and to conduct a new EIA for the project.<sup>5</sup> But there has been no response yet. In February of 2014, affected communities submitted a letter to the Cambodian Ministry of Mines and Energy and other ministries related to the LS 2 project to express their dissatisfaction with the resettlement and compensation plan.<sup>6</sup> There has been no response yet. In addition, two local NGOs including the Cambodian Human Rights and Development Association (ADHOC) and 3SPN are preparing documents to bring a lawsuit to the Cambodian court, but there are some concerns from other interviewees that these two NGOs may lack the capacity not to work on legal cases.

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<sup>4</sup> See: <http://www.thecambodiaherald.com/cambodia/affected-community-representatives-send-a-petition-over-sesan-ii-dam-project-to-national-assembly-7723> (last visit 21<sup>st</sup>, October, 2014) Moreover, members of Cambodian National Assembly came to visit dam site recently.

<sup>5</sup> International Rivers, Press Release and Statement: Thousands of Lives to Be Devastated by Lower Sesan 2 Dam: International Groups Demand New EIA, 16 October 2014, available at: <http://www.internationalrivers.org/node/8422>.

<sup>6</sup> Affected community was given two documents at a meeting hold by the government on 27 January 2014. Two documents entitled "Mechanisms and Procedures of Compensation and Resettlement Policy of Lower Sesan 2 in Stung Treng" dated 17 January 2014 and "Compensation and Solution Policies on Impacts of Lower Sesan 2" through a commune chief, who was given the documents at a meeting

At the international level, in June of 2013 and June of 2014, the Development Partners to the Mekong River Commission (MRC) called for a voluntary submission of the project to the Prior Consultation under the Procedures for Notification, Prior Consultation and Agreement (PNPCA) of the 1995 Mekong Agreement. No response has been made to this call.<sup>7</sup> In January 2015, international and Cambodian groups issued a complaint to the UN special rapporteur on human rights in Cambodia, demanding that urgent and immediate action be taken to investigate breaches of human rights and to engage with relevant stakeholders to address their concerns.<sup>8</sup> The action is under process.

In December 2013, representatives of communities from the Sesan, Srepok and Sekong Rivers (3S Rivers) presented a statement to the Chinese Ambassador to Cambodia in Phnom Penh urging the Ambassador to visit affected communities and intervene with the Chinese companies involved in the project. The villagers said that the Chinese ambassador never came to visit dam site. In May 2014, a group of national and regional NGOs wrote letters to the Cambodian, Chinese and Vietnamese companies and the government stakeholders citing the severe trans-boundary impacts predicted and calling for a halt to the project and further study.<sup>9</sup> No response to these letters has been received. In December 2014, community representatives joined public marches on Human Rights Day carrying banners expressing opposition to the project.

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<sup>7</sup> Joint Development Partner Statement: MRC Informal Donor Meeting, 28 June 2013, available at: [www.mrcmekong.org/news-and-events/speeches/joint-development-partner-statement-mrc-informal-donor-meeting-28-june-2013/](http://www.mrcmekong.org/news-and-events/speeches/joint-development-partner-statement-mrc-informal-donor-meeting-28-june-2013/). Joint Development Partner Statement, Twentieth Meeting of the MRC Council Joint Meeting with the Eighteenth Development Partner Consultative Group, 26 June 2014, available at: [www.mrcmekong.org/news-and-events/speeches/joint-development-partner-statement-twentieth-meeting-of-the-mrc-council-joint-meeting-with-the-eighteenth-development-partner-consultative-group-26-june-2014](http://www.mrcmekong.org/news-and-events/speeches/joint-development-partner-statement-twentieth-meeting-of-the-mrc-council-joint-meeting-with-the-eighteenth-development-partner-consultative-group-26-june-2014).

<sup>8</sup> See: "Submission to UN Special Rapporteur on the situation of human rights in Cambodia Hydropower Dam Development in Cambodia: Lower Sesan 2 and Stung Cheay Areng Hydropower Projects", [http://www.internationalrivers.org/files/attached-files/submission-to-special-rapporteur-on-hydropower\\_151301.pdf](http://www.internationalrivers.org/files/attached-files/submission-to-special-rapporteur-on-hydropower_151301.pdf)

<sup>9</sup> See the press release and copies of the letters here: <http://www.internationalrivers.org/node/8324>.

## Re-examining Current Regulations of TNC's Environmental Behavior

### 1. The effectiveness of host state's systems

Interviewees have little hope in the Cambodian judicial and non-judicial systems, considering that Cambodian laws are weak and poorly implemented, and on-going problems with corruption. When I asked affected community members who should take responsibility for environmental rights violations and what the role of foreign TNCs should be in this case, the villagers had little idea about foreign investors' responsibilities, and they thought it was mainly the Cambodian

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**“The Cambodian government always cheats us. They came to our community and said, ‘if you don’t agree with the project, please raise your hands.’ When all the villagers raised their hands, they took a picture of us. When we read the news about that, we found it said that all the villagers agreed with the project so they raised their hands”**

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government's responsibility. As one villager from Kbal Romeas complains: *“It is our government that allows foreign companies to come to our land and destroy our lives, so the Cambodian government should take responsibility for these human rights violations”*. In interviews with Cambodians, including affected community members, government officials and representatives from NGOs, the majority of respondents believed that when human rights violation happen, they cannot get justice from Cambodian judicial and non-judicial systems. The Commune Chief from Srekor Commune commented,

*"We don't trust the Cambodian government, because they don't care about people's lives and just care about money,"*  
one villager from Kbal Romeas also complained.

The information provided by this villager from Kbal Romeas was corroborated by representatives of Culture and Environmental Preservation Association (CEPA) which was the first NGO to provide trainings in communities affected by LS 2. They said that this kind of cheating happened not only in Kbal Romeas, but also in nearly all the affected villages.

One lawyer from Phnom Penh expressed:

*"Implementation of the law is very weak in Cambodia. Companies violate the law but usually there is no accountability. So people don't have trust or believe that they can get justice from Cambodian courts."*

According to current international law, TNCs are mainly subject to host states' laws, and should be held accountable under host states' legal systems for their wrongdoings. In the LS2 case, by examining the efforts made by communities to remedy violations of their rights and Cambodian's perspectives on their legal system, it is apparent how difficult it is to access justice and protect environmental rights in Cambodia.

## **2. Are current rules and mechanisms sufficient to protect environmental rights?**

Based on this case study, we can see that there are very limited grievance and accountability mechanisms in Cambodia, let alone China and Vietnam, that are available to affected communities to voice their concerns and remedy violations of their rights.

In reality, there are more and more environmental rights violations happening in host countries due to TNCs' lack of adherence to relevant laws. One reason that affected communities are not able to voice their grievances is that international laws and organizations lack binding obligations for the accountability of transnational corporations (TNCs). Another reason is because in host countries, overall environmental

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regulations and governance frameworks are weak and the laws that exist are poorly enforced due to lack of capacity, as well as corruption. In other words, local governments tend to impose loose regulations on TNCs, and instead focus on collecting revenue to boost economic growth, thus compromising environmental and human rights.

In cases where environmental rights violations are caused by foreign investors and affected communities have very limited room to voice their concerns and remedy their situation, this thus raises a question: are international laws and domestic laws in host countries sufficient to protect environmental rights? If not, what are the ways out of this dilemma? Should we change the traditional perspective and require the home states of TNCs bear more responsibility to regulate the environmental behavior of TNCs? This might be an avenue that international communities can explore to address the gaps in human rights protection in overseas investment.





# A Legal Analysis of Heinda Mine and its Impact on Communities

Aye Mon Thu

## Summary

Heinda Mine is in Heinda village, Myitta Sub-Township, Tanintharyi Division, Myanmar. It is about 32 miles from Dawei City. Heinda Mine Project has operated since 1999 as a joint venture with the Ministry of Mines (Myanmar). Initially, the project owners did not enact aspects of protection found within Myanmar environmental law and other relevant laws. Before the investors arrived, the Heinda area was rich in tin and related minerals. The area was also covered with forest, rich ecosystems<sup>1</sup> and was difficult to travel through. The project area is on the banks of the Upper Tanintharyi River in Dawei, southern Myanmar. The Tanintharyi River flows into the Andaman Sea, however, before reaching the sea it flows past at least 30 villages, including the villages I did my interviews in: Taung Thone Lone village, Kyaut Me Taung village and Myaung Pyo village. The sedimentation and pollution of the river described in section 5 is affecting not only Myaung Pyo village but also

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<sup>1</sup> Ecosystem means the natural system existing living, non-living substances and plants in compatibility and the natural environment which have been evolving due to such system {According to Myanmar Environmental Conservation Law, 2012 Section 2(m)}



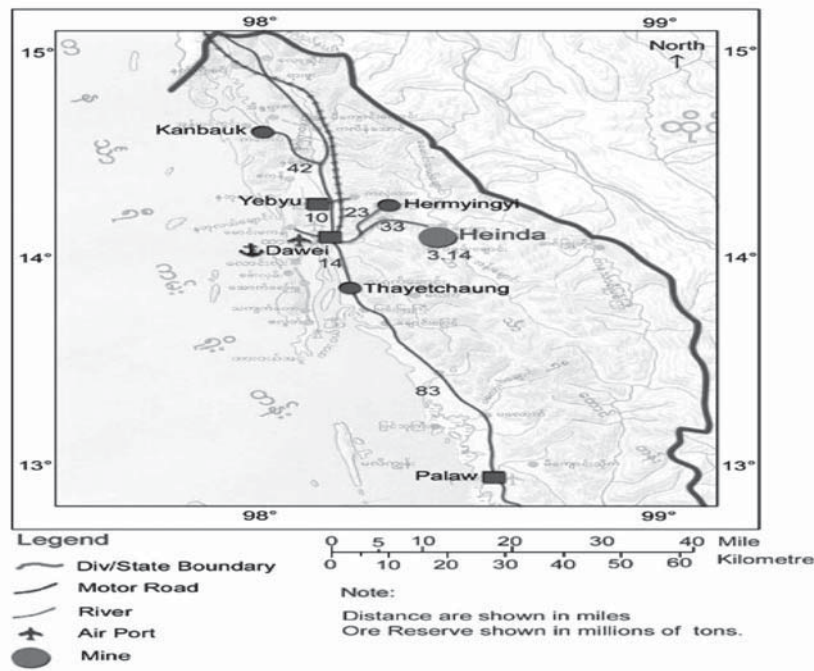
villages downstream. Local residents report that small-scale mining for lead has been ongoing in this area for at least 70 years (since the colonial period). Some villagers owned garden and rice fields. At the beginning of the Heinda Mine's operation, the investors did not responsibly follow the Environmental Conservation Law of 2012 and Foreign Investment Law of 2012. This research focuses on the negligence of the investors and the violations of community rights, and how local communities can apply domestic laws to receive more rights. The research analyses the structure of the mining process and how the investors got a permit from the government, and how they should improve participation with local communities in Dawei.

## **Background**

In early 1983 in Myanmar, the Heinda area was suffering from the effects of the war between the KNU (Karan Nation Union) and the Burmese Army. This area was difficult to travel in as the road condition was bad and not safe. The area's population is ethnic of Tavoy, Karen and Mon. The area was covered in green forest and some people did small scale local mining by themselves. The Heinda area has already established villages. By a local villager's report, the government and investors wanted to operate large scale mines in the area. So the mining companies and the government relocated villages again and again. In 1983, the government relocated the people who stayed near the Heinda area to their current place and established a sub-village of Heinda village. The relocated village is called Myaung Pyo village. At that time, the villagers from near the mine area worked as gardeners, farmers and small scale miners.

Mitta Township had a lot of mining companies and two mining areas: Heinda Mine area and Bawa Pin Mine area. The Heinda Mine area is the largest in Myanmar and it is a hydraulic type of mine. The mining process requires a lot of water to clean the tin. They take water from nearby rivers and streams and store it in their pool. The mining company uses a mining process called the mountain removal system. In the Heinda Mine area, Myanmar Popipat Co.,Ltd. is a joint venture with the Ministry of Mines (Myanmar). The company has been doing

### Location Map Heinda Mine



mining since 1999 in this area. The Tanintharyi Division is rich in natural. Most of the tin is in Heinda Mine, Dawei Township and Tanintharyi Division.

A community report<sup>2</sup> showed that, "Prior to 2005 the heavy annual rainfall in the Dawei region did not caused problems for Myaung Pyo, but since 2005, Myaung Pyo has flooded annually during the rainy season. Local villagers report that the flooding is caused both by annual rainfall that is no longer able to drain into the river effectively and by the MPCL (the mine) because it periodically releases water from a holding pond at the site (that is not big enough to hold the waste water during the rainy season) without warning the villagers. The flooding in 2012 was more

<sup>2</sup> Report from the DLG/DDA by collect of oral and documental Evidence from the villagers <https://www.youtube.com/watch?v=sVFMt5t9U9Y>

severe than in previous years and caused serious damage to plantations, houses and water sources. During an interview a villager said that, “My garden was flooded all the time. Now I can’t grow vegetables anymore.”<sup>3</sup>

## Introduction

This research shows that it is possible to apply the law to fight the negative impacts from the mining process. The research also demonstrates that strategic campaigns are important at a domestic level. Currently, the villagers from Myaung Pyo village are suing the Myanmar Popipat Co.,Ltd. and the Ministry of Mines. This type of case is a “Civil Tort Case”, and if the villagers win, they will get compensation for their damaged plantations, rice fields, houses, wells, and toilets. This research is also an analysis of the Environmental Conversation Law and Foreign Investment Law of 2012, and the permit process of mines in Myanmar. These two laws are weak, but the Myanmar Government has, at times, enacted them. Finally, I recommended to the communities and activists who are working on these cases to look at the provisions and rights under these laws.

## Background

Heinda Mine is in Myitta sub-township, Dawei, Tanintharyi Division, Southern Myanmar. This area is about 3.14 kilometers (6 miles) from Dawei city. According to local [news](#)<sup>4</sup>, the project area is over 2,000 acres, and they are applying to extend the area to 8,500 acres. The Myanmar Popipat Mining Company (MPC) is the main investor in the mining project and they are in a joint venture with No.2 mining enterprise (managed by the government). By the [company news](#)<sup>5</sup>, they share 35% of the profits with No.2 mining enterprise (government) and 65% with the investment company. The military government gave mining production permits to the Myanmar Popipat Mining Company (MPC)

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<sup>3</sup> Saw Dar Shwe – Kan Pong Chaung Villager

<sup>4</sup> <http://www.youtube.com/watch?v=sVFMt5t9U9Y>

<sup>5</sup> <http://www.youtube.com/watch?v=UszNwd5sw8E>

since July, 1999. Myanmar Popipat Company has been producing tin and tungsten from 1999 to the present.

The process of tin production needs a huge amount of water to get usable tin from raw tin. They use water from nearby streams and small rivers and then they release the tailings (waste water from the mining production process) into Heindu stream, Heinda stream and Myaung Pyo stream. The waste affects 10 villages downstream. The waste passes through streams and into the Tanintharyi River and then the Andaman Sea.

According to the Foreign Investment Law (FIL) of 2012<sup>6</sup>, mining production is a limited business type. This means that companies cannot be the only investors. They must be in a joint venture with government departments or businesses. The FIL mentions that mining requires an approval letter from the related environmental department<sup>7</sup>.

The company must follow the existing laws in Myanmar, specifically the Foreign Investment Law 2012 and the Environmental Conservation Law (ECL) 2012. This two laws were enacted in 2012, but the mining production process began before the laws were enacted. The investors have the responsibility to follow these laws now.

The Foreign Investment Law (FIL) of 2012<sup>8</sup> provides a measure for conversation and the presentation of environmental and social impacts, according to the provisions of the relevant existing law. For that point, the company took the Environmental Impact Assignment (EIA) report conducted by Mahidol University. Although the report was in English, it also requested mining production permission from the Myanmar Investment Commission (MIC). The company never released this to local communities in their native language. The local communities never got to see the Environmental Impact Assignment (EIA) report, as required under free, prior, informed consent (FPIC) standards. The affected villagers said that, "we did not get any information from the company about extending the life of the 5 year permit."<sup>9</sup>

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<sup>6</sup> Section 4 of Foreign Investment Law 2012

<sup>7</sup> Department of Forest and Environmental Conservation

<sup>8</sup> Section 22 (p) foreign investment law 2012

<sup>9</sup> Interviews note with Myaung Pyo and Kyaut Me Taung' villagers

We can see that the company had no plans to dispose of the contaminated waste water safely. The company broke the Foreign Investment Law of 2012, Section 22<sup>10</sup> and Section 22 (p) provisions. The Foreign Investment Law provides that the investor shall follow the provisions of the Environmental Conservation Law of 2012 which also references the Environmental Impact Assessment Law. In Myanmar, the EIA law is just a draft law. This demonstrates the weakness of the environmental law implementation process. From my understanding, if we have no EIA law, the enacted law cannot be binding for foreign investments.

The Foreign Investment Law of 2012 states that power must be given to the Myanmar Investment Commission (MIC). So, the MIC has become powerful with all foreign investors because they must have permission from the MIC to operate their businesses. If they want a MIC permit, they must send a business proposal including (1) recommendation letter from Department of Environment, Conservation and Forest (2) environmental impact assignment report (EIA report), social impact assignment (SIA report) (3) approval letter from divisional government body, the pre-minister of Tanintharyi division. The Myanmar Investment Commission (MIC) receives the proposal from the investor and they wait fifteen days for any complaint letter or objection from local communities. Here, I found that there were complaints in the local communities, but the MIC and the company never announced a grievance procedure to anyone. So the communities did not know about this. The company violated the community member's rights. In my opinion, the MIC should have officially announced this procedure to the communities.

At the Heinda Mine, there are many environmental problems, so if the community members wrote a complaint letter to the Myanmar Investment Commission (MIC), the MIC would have to investigate the problem. The foreign investment law section 42 provides that if the investigation committee finds out there is an absence in environment management, the MIC may impose the following penalties;

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<sup>10</sup> Section 22 sub-section (p) provided that measure for conversation and presentation plan for the environmental and social impacts according to the provisions of the relevant existing law.

- a) Censure
- b) Temporary suspension of tax exemption and relief
- c) Revocation of the permit
- d) Black list with no further issuance of any permit in the future

Now I would like to demonstrate how the foreign investors passed their project proposal under the Foreign Investment Law of 2012. The following point is a step in the permit process in accordance with the law<sup>11</sup>. The investor submits their business proposal to the MIC, but before they submit their project proposal to the MIC<sup>12</sup>, the investor passes documents to ten departments according to the Foreign Investment Law 2012. They are (1) Directorate of Investment and Company Administrative (2) Custom Department (3) Internal Revenue Department (4) Directorate of Labor (5) Relevant Department under the Ministry of Electric Power (6) Department of Human Settlement and Housing Development (7) Department of Industrial Supervision and Inspection (8) Directorate of Trade (9) Project Appraisal and Progress Reporting Department and (10) Department of Environment Conservation. The last one, the Department of Environment Conservation, is the most important for this case. This department has the responsibility to give recommendation letters on the business proposal. The Heinda Mine Project is not disciplined in waste management, so the question is how they passed this department to get the recommendation letter.

The villagers could not drink water from their wells because after the 2008 floods they lost the Myaung Pyo stream and their well water produced a very bad smell. One of the villagers said, "we got bad smells and saw oil on the water's surface then people from Germany came with Thant Zin (DDA), checked the well water and told us not to drink this water."<sup>13</sup>

According to a survey (BRIDGE and reported by AvG, Netherlands-Report version 28 November 2013), it was easy to see that the Heindu stream was filled with sediment. The report mentioned that, "concentrations of arsenic and lead are very high in the surface water after mining

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<sup>11</sup> Foreign Investment Law of 2012

<sup>12</sup> Foreign Investment Commission in Myanmar

<sup>13</sup> Interview with Myaung Pyo villager

discharges. They raise up to 10-190 times the World Health Organization (WHO) limits.”

This fact is important for the local community member’s health in relation to their drinking water because almost all of the people who live near the mining area are using this water for drinking.

I would like to mention about Section 55(a) of the 2012 Foreign Investment Law and Rule provision that mentions that the investor shall abide by the Environmental Conservation Law for environment conservation activities with regards to business. We can see serious environmental problems, and it can be said that the investment company did not follow the provisions of the FIL 2012. The law of Foreign Investment 2012 and the law of Environmental Conservation 2012 both relate to this. The investor must follow the provisions of the Environmental Conservation Law. If the investor breaks the above laws, they cannot get a permit for their business.

After the floods, the villagers demanded compensation for their destroyed plantations and buildings from the mining company, however, the company did not respond. After that, the villagers sent complaint letters to government authorities. They sent an investigation team made up of government officers. This investigation team released the investigation results but the community members said it was different from reality and did not show how the water was destroying their plantations. The villagers said that «the investigation team did not work very well. We showed them our destroyed trees, but they did not count them.»

Now the communities have three demands: (1) environmental restitution, including rivers and streams, (2) compensation for damage, (3) an environmental management plan for future investments. The villagers sued the Myanmar Popipat Mining Company through a civil tort case.

## Conclusion

During an interview with a Department of Mining officer, he mentioned the regulations of their department and they included the Environmental Maintaining Agreement. The contract between Myanmar Popipat Mining Company and the Ministry of Mine did not include this agreement. The Heinda Mine is the largest mine in Myanmar and the contract is also important for other small mining companies contracts. The MIC invited foreign companies to invest in Myanmar. The government should try to improve laws, rules and regulations related to investments and mines. If the investors only take benefits and does not care about our country's existing laws, our country will suffer a lot of consequences from these projects.

*“The mining process involves digging the soil and taking out the tin. There will be negative impacts. How can the mining produce no environmental impacts?”<sup>14</sup>*

*“If they want to exploit our natural resources, they must recover our people's livelihoods and our environment and they must seriously respect our country's law, rules and regulations.”<sup>15</sup>*

## Recommendations

Laws related to the environment and foreign investment must be given the highest power. The President<sup>16</sup> said, “Destroying the environment is the same as destroying the country” The villagers brought the law suit against the investors and the mining department, however, normal operations of the business have not stopped. Actually, in Myanmar, the state adopted laws for foreign investment and to protect the environment, however the implementation of these laws is so weak. There is minimal space for public participation. The community members did not

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<sup>14</sup> voice the interview with Department of Mine (Tanintharyi Divisional Office)

<sup>15</sup> voice Civil Society Activates in Tanintharyi Division

<sup>16</sup> The president statement in June, 2014 (Statement in World Environmental Day, June-2014)



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participate in the processes and they should submit a complaint letter to the Myanmar Investment Commission (MIC). The community should discuss with a public interest lawyer who works for community rights. The lawyer will mention the weak points of the investment company. Here is an important point for the complaint letter: *"Why did the investor not get a mining permit?"*



Destroyed plantations photos taken by a Toung Thone Lone villager



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# Livelihood and Environmental Impacts from the Shwe Gas Pipeline in Nga Phe Township, Magway

.....  
Khaing Mi Phue Aung  
.....

## Summary

The Shwe Oil and Gas pipeline connects Kyauk Phyu, Rakhine State, Myanmar to Kunming, Yunnan State, China. It crosses Rakhine State, Magway Division, Mandalay Division and Shan State. In Magway Division, it crosses six townships; Nga Phe Township, Minbu Township, Saku Township, Pwint Phyu Township, Yananchaung Township and Chauk Township. I focused my study on Goatt Gyi village and Zin Pyune village in Nga Phe Township, Minbu District, Magway Division. These areas are among the most affected areas in Magway Division. They are on the border of Magway Division and Rakhine State. I interviewed twenty villagers/farmers of Goatt Gyi village and seven villagers of Zin Pyune village, and also I interviewed five villagers about the drain.

The Shwe oil and gas pipeline has caused negative impacts due to land grabbing, which means that the company and government continue to confiscate land along the pipeline route. Local people are losing their lands. Most of the land confiscated was given as gifts to crony businessmen and relatives of military officials, later to be sold at a mark-

up to the investing companies. In addition, some farmers got a lot of compensation because some of the landowners and land surveyors were corrupt together. So, the villagers are suffering unfair compensation. Farmers were most affected after losing their land, crops and small nurseries. They now suffer an economic crisis, because without land they cannot do other occupations. Farmlands are still being wrongfully acquired; new land management laws have enshrined the power of the government to reclaim lands at their discretion. Much recent attention to the issue of involuntary land grabs has led to more careful approaches by the perpetrators, but the compensation guidelines are fundamentally flawed and recourse procedures are wholly inadequate. The Shwe oil and gas pipeline is causing a livelihood crisis, including, conflict concern with unfair compensation, environmental erosion and changes and the violation of safe guarding policies of villagers in affected areas of the Shwe gas and oil pipeline route. Local farmlands were confiscated for the Shwe oil and gas pipeline route. This was done without public consultation or community decision-making. Local people lost their land and their livelihoods since the land grabbing for the Shwe oil and gas project started in November, 2012. Some of Zin Pyune villagers are suffering hunger because they lost their farmland and lost their irrigation systems for the farmland. So, they can't cultivate crops. Because they don't have other job opportunities, they have no income. Villagers have not received full compensation for their grievances. Government authorities and project staff threaten villagers who don't agree with their compensation. The affected villagers suffer loss of land, environmental changes and damages, and also violation to human rights such as right to life, right of freedom of speech, right to access information, right to participation and right to survival. The villagers also worry about potential explosions from the gas pipeline, and they guess the villages will be lost within the next thirty years because the gas pipeline is near the peoples' houses, and they destroyed their natural forest. On the other hand, the hill-side is not safe because the pipeline crosses their ridges. So, this mountain may collapse any time.

This report shows the impact of the Shwe gas project. I will show and compare three stages (before, during, and after - the projects commencement) of livelihoods and the environment in Goatt Gyi village and Zin Pyune village. And I will show the attitude of the villagers towards this project.

## Methodology

I collected data from the project area and conducted extensive interviews with local farmers and community leaders in the affected area of Nga Phe Township, Magway Division. My research is based on observations, focus group discussions, and one on one interviews by note taking and recording quotes and photos). My interviewees are farmers, cultivators, social activists, female leaders, and social workers. In this research not only did I interview to get information but I also observed the affected area and the pipeline route through Nga Phe Township. My secondary information came from other research groups, and from online news. This report is based on those interviews, as well as complaint letters, records from local activist groups, and additional information from the company website, relevant previous studies, and other reports.

## Introduction

My research emphasizes local communities' loss of livelihoods and damage to the natural environment by the Shwe oil and gas project. In my research report, I describe which people are most affected by the Shwe gas project. I got local voices, their attitudes, and their local knowledge on this project. The Shwe Oil and Gas Pipe Line are causing negative impacts on six townships in Magaway Division. The impacts include land grabbing, unfair compensation, loss of livelihood and environmental damage, including deforestation and soil erosion.

The project developers grabbed local land and 'heir loom' hillside cultivated lands and paddy fields. They did not pay compensation immediately, and also did not pay fair compensation for local grievances. Their decisions are unjust because government officials are corrupt, and cooperate with crony business-men and other owners. In Nga Phe Township, fifteen villages are affected by the Shwe gas pipeline route. These affected villages are Yin Shal village, Sarapku village, Padam village, Sone Kone village, Tharyar Kone village, Pyan Kyi village, Zin Pyune village, Magyi Kone village, Myay Latt village, Bone Baw village, Goatt Gyi village, Son tip village, Lin tae village, Ma Htone village and Kone Gyi village. These villagers are suffering negative impacts of the

Shwe gas project until now. They have especially suffered with a loss of their land, natural resources and their livelihood.

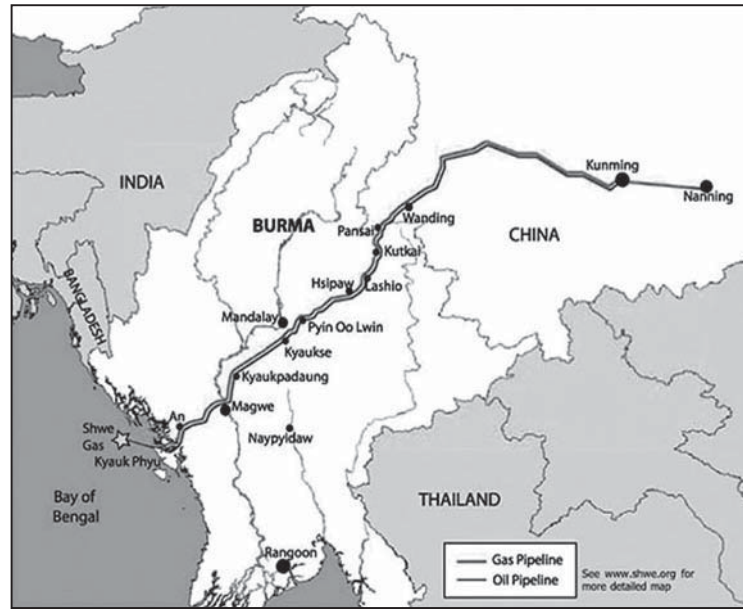
## **Background**

The Shwe gas pipeline is the largest project in Myanmar. The length of the pipeline is 2,800 kilometres. The benefit of the Shwe gas project is not felt within local communities. Funding is supported by the World Bank (WB) and the International Finance Corporation (IFC), with loans from The China National Petroleum Corporation (CNPC), The Bank of China, Bank of Communication China, China Construction Bank and China Development Bank. This oil and gas sector includes China National Petroleum Corporation (CNPC), Myanmar Oil and Gas Enterprise (MOGE), Gas Authority Idea Limit (GAIL) and Daewoo International Limited of South Korea. These companies are taking tremendous risks with their reputations and investments. In August 2000 MOGE and Daewoo signed on to the contract. In 2004, they announced the route of the pipeline. In 2008, MOGE and CNPC signed on the production specifics. Construction of the Burma-China Oil and Gas Pipeline began in June 2010 in Burma and in September 2010 in China, and is now operational. This project directly benefits the government in Myanmar.

A consortium of four Indian and south Korean companies led by Korea's Daewoo International are teaming up to exploit natural gas from blocks A-1 and A-3 in the Bay of Bengal. The project will be comprised of an offshore production platform, an underwater pipeline and an onshore gas terminal in Kyauk Phyu Township, on the Rakhine coast, which will cost an estimated US \$3.73 billion to develop. The consortium expects to extract 500 million cubic feet of natural gas per day<sup>1</sup>.

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<sup>1</sup> Shwe-gas-and-nes-projects.pdf



The project developer did not share with local communities their Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA). But Nga Phe communities have done an Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA) by themselves<sup>2</sup>.

My research area in Nga Phe is located in the Rakhine Yoma Mountains and about 53 miles from Magway city. This area also borders the Magway Division and Rakhine State. Most of the people who live in this area belong to the Chin ethnic group, and some are Burman. They are of Buddhist and Christian faiths and they depend on traditional agriculture for their living. Goatt Gyi village has two hundred households and one hundred and eighty dwellings. This village depends on agriculture as well. They plant long-term plants, especially coffee bean, lime, lemon, and orange and they also cultivate hillside paddy fields. There are 1654 houses in Zin Pyune village. This village also depends on agriculture, planting paddies and other seasonal vegetables.

<sup>2</sup> www.banktrack.org



## **Research Findings**

The pipeline crosses numerous areas and companies and government authorities took over 100 acres in Kwine Lal. These were paddy field areas between Zin Pyune village and Satsi village and owned by Sone Kone, Zin Pyune, Bone Baw, Satsi, and Goatt Gyi villages. On this land the villagers planted for their livelihoods. In addition to losing their farmland, the villagers also lost land meant for their housing. In Sone Kone village they lost the land for 18 houses. Project developers paid US \$800 for 0.01 acre, but this compensation was inadequate. Therefore, the villagers are suffering negative impacts on their livelihoods as well as environment problems. Local people worry about the loss of their villages after thirty years because of pipeline explosions and environmental impacts.

## **Land Grabbing and Unfair Compensation**

There were two types of land confiscations in the Shwe gas project. The first type was confiscated for thirty years, and the second was for 3-5 years. They pay US \$2,200 in compensation for 30 years and crop compensation for 3 or 5 years. Government land surveyors and some land owners cooperate together to cheat others. This colluding together contributed to unfair compensation. Some people got crop compensation for 5 years, however most of the people got crop compensation for only 3 years.

In Myanmar, the public is suffering with the loss of land by the cronies, who are authorized by the government and military to maximize their profits. The communities can't demand compensation.

## **Land Confiscation for Pipeline Route**

In my research area, Goatt Gyi village, Zin Pyune village, and Sone Kone village are dependent on agriculture, especially long-term plants and paddy fields. So, their land is really valuable to them. But Shwe gas project developers are confiscating land, compensating them unfairly, and threatening local people who challenge their decisions. The local



people sent complaint letters to the government authorities regarding their grievances. But the government authorities have not taken action.

## Table of Land Grabbing and Compensation

### Goatt Gyi village

No	Type of land	Extent	Rate of compensation for 1 acre (for Land)	Rate of Compensation for 1 acre (for crops)	Total Compensation for Lands	Total Compensation for crops (for 3 years)
1	Garden	35 arces	US \$ 2,200	1plant* US \$ 50	US \$ 77,000	1plant US\$*50 3 years= US \$ 150
2	Landslide	-	-		-	-

*“We got compensation for land but we didn’t receive compensation for crops. They didn’t pay for our destroyed crops as they should under the law. In the beginning, they promised US \$30 for one coffee plant, but they paid just US \$19.20 per coffee plant. So, forty owners have refused to accept the compensation.”*

*Local villager, Goatt Gyi village*

*“Now, our lands are having landslides. So, our garden land is nearly 25” to 30” higher than the original land because of the pipeline route.”*

*Local villager, Goatt Gyi village*

*“The project developers wrote the contract papers in English. So, I can’t read these papers and also they don’t give us copies of the contract papers.”*

*Local villager, Goatt Gyi village*

*“We refuse to accept compensation for the landslides that affected our land because they gave just US \$199.30. This amount is not enough for us.”*

*Local villager, Goatt Gyi village*

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*“The project developers only pays compensation for affected farmland areas along the pipeline route. They pay US \$8 per 0.01 acre. They don't pay compensation for house land. Local villagers don't dare to live near the pipeline route. So, they have to move at their own expense and live at their relative's homes.”*

*Member of AWDO, Sone Kone*

The Kwine Lal area is owned by eighty villagers of Goatt Gyi village, Zin Pyune village, Bone Baw village, and Satsi village. I interviewed 11 villagers about the drains. These drains provide water to paddy fields in the Kwine Lal area. The Shwe gas project destroyed 7 main drains and they didn't repair them well. Although the company paid US \$16,800 to repair the drains, the irrigation canal officer used this money corruptly and made low-quality drains. The farmers helped as volunteers to make new drains.



Original local drain



photo of useless new drain



photo of new drain made by irrigation officer

## Loss of Livelihood

The paddy farms and gardens are important for the villagers survival. Over the past 10 years, they have been planting long-term plants like lime, lemon, kabalar, coffee beans, and bananas. Besides that, they plant bamboo and other seasonal vegetables sold in the forest market. Now this income system and forest market is lost. Thus their income is low and they are suffering an economic crisis.

### Comparative Impacts on Goatt Gyi Village

#### ***Before the Pipeline Project Started***

They planted long-term plants and other seasonal vegetables on this land. Their land was very good for plants. They improved their education, health care, and other problems by the way of traditional livelihoods. Agriculture was the life blood for them. Their average income was at least US \$3,500 per year.

#### ***During the Pipeline Construction***

While finding a pipeline route, the Shwe gas project destroyed land, including crops and fruits, but they did not pay compensation for that. It was also very noisy during the pipeline construction period.

#### ***After Pipeline Completion***

Local lands are damaged and original lands are raised by about 25" to 30". This land is not good for planting. With a low income, it now means villagers cannot support their children.

*"I have three children. I can't continue to support my elder daughter's education because I haven't money to survive and pay for her education. My elder daughter now helps to work for our survival."*

*Local villager, Goatt Gyi village*

### Zin Pyune Village

#### ***Before the Pipeline Project Started***

Before the Shwe gas pipeline started, the Kwine Lal area was very beautiful and green. Paddy plants were planted two times per year. These paddy plants were very fertile, and villagers got a lot of income.

After the rice were harvested, they planted other seasonal vegetables like peanuts, sunflowers, and sesame on this land. Their income was high and economic conditions were comfortable. They didn't need to worry about medical charges and education, including social facilities.

***During the Pipeline Construction***

The company didn't announce their project and the terms of land confiscation and compensation. The company used their power with government authorities. The foreign company destroyed their top-soil by digging to sink gas and oil pipelines. After that, their heavy machines compressed paddy land, crops, and small plants.

***After Pipeline Completion***

After the Shwe gas pipeline project was completed, the Sone Kone villagers, Zin Pyune villagers, Goatt Gyi villagers, Bone Baw villagers and Satsi villagers are suffering a loss of land and livelihood. They can't survive and most farmers are hungry. Now farmers who own Kwine Lal paddy fields survive by doing odd jobs, such as gathering firewood to sell, and the cultivation of hillside land.

**Kwine Lal Area (Paddy fields)**

***Before the Pipeline Project Started***

The Kwine Lal area has seven main drains. These drains channel water from Nat Yay Kan Lake. Water from Nat Yay Kan Lake flows to Yay Phyu stream, Goatt Gyi stream, Pasi stream, Yay yo stream and Goatt Chaung stream. These 5 streams flowed to 7 drains and supplied water to Kwine Lal paddy field.

***During the Pipeline Construction***

During the pipeline and new drain construction, villagers could not plant any crops.

***After Pipeline Completion***

After the pipeline project, the company made new drains of poor quality. Now the local farmers find it very difficult to plant in the paddy fields because water can't be supplied to the farmlands. So, they don't have work and income.

*“The company offered US \$168,000 in compensation to build new drains but irrigation officers used this money for corrupt activities. We are working for approximately 180 kyat (US \$ 0.16) per day to build new drains, and the officers refuse to pay us more than that. We pay to repair the machines and pay the machine drivers.”*

*“I have stayed on this land until now because I have no money. If there is a pipeline explosion, I am ready to die.”*  
Local villager, Sone Kone village

### **Environmental Impacts**

These twin pipelines destroyed villagers’ farmland and soil. Digging to sink these pipelines caused soil erosion and damaged the road and surrounding land.

#### ***Before the Pipeline Project Started***

About 10 years ago, my research area in Goatt Gyi village was a green and lush area. The weather was good, the air was fresh, and the mountain was beautiful.

#### ***During the Pipeline Construction***

The company destroyed natural forests and big trees. The local people lost their natural resources.

#### ***After Pipeline Completion***

Their region is suffering due to climate change, which affects the seasons. Water resources are lost because the water flow system has been changed, and also they also lost their natural fertilizer and now have more air pollution. And then, their mountain has been destroyed.

### **Stake Holder Analysis<sup>3</sup>**

The Shwe gas pipeline contraction project started in 2012 in the Goatt Gyi village area and they did not announce their project to the local farmers.

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<sup>3</sup> [www.banktrack.org](http://www.banktrack.org)  
Page 5 of 5: Dodgy Deal Shwe gas and pipeline projects Myanmar

*“Although they wrote it in Burmese language, we had no chance to read the contract and they don't give us a copy of the contract and they have no transparency.”*

*Local villager and land owner*

***Myanmar Oil and Gas Enterprise (MOGE)***

Myanmar is the richest country in natural resources in Southeast Asia and China has the most investment in Myanmar. But the Myanmar government doesn't use these natural resources for our country's development; they sell it to foreign companies for their personal benefits. China uses a lot of natural resources from our country. The Myanmar government benefits directly from the Shwe gas project by the revenues it generates. Myanmar is rich in natural oil and gas, and this is the second largest foreign investment.

***China National Petroleum Corporation (CNPC)***

CNPC, the developer of the dual pipelines and sole purchaser of Shwe natural gas, is a wholly state-owned company in China. However, its subsidiary CNPC Hong Kong Ltd. is listed on the Hong Kong Stock Exchange. CNPC is also the parent company in which several financial institutions hold shares, including Aberdeen Asset Management, Barclays, Barings, Fidelity International, Hang Seng Bank, HSBC, Templeton Asset Management, and Capital Group. CNPC and Petro China's principal bankers include: Agricultural Bank of China, Bank of China, Bank of Communications, China Construction Bank, China Development Bank, CITIC Industrial Bank, Citigroup, DBS Bank, German Bank for Reconstruction and Development, Deutsche Bank, Goldman Sachs, HSBC, Industrial and Commercial Bank of China, Morgan Stanley and UBS.

CNPC is the main buyer of the Shwe gas Project. CNPC's main responsibility is the operation and management of the oil and gas pipeline project.

***Daewoo International Corporation (South Korea)<sup>4</sup>***

Daewoo International is a Korean trade and overseas investment corporation. Its businesses include trade, manufacturing, sales, distribution and resource development. Daewoo operates more than

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<sup>4</sup> Daewoo International, Corridor of power by Shwe Gas Movement

60 representative offices and 25 subsidiaries and has about 6,000 clients all over the world.

South Korea is a member of OECD (Organization for Economic Co-operation and Development). DAEWOO International is a large export trading company in South Korea and the government provided them a 70 million dollar loan for the exploration stage of the Shwe gas project.

***Gas Authority of India Limited (GAIL)***

GAIL is a major Indian natural gas company, integrating all aspects of the natural gas value chain including exploration and production, processing, transmission, distribution and marketing, and related services. GAIL is also a shareholder in the Shwe gas and oil project. They sell the oil to the Chinese company.

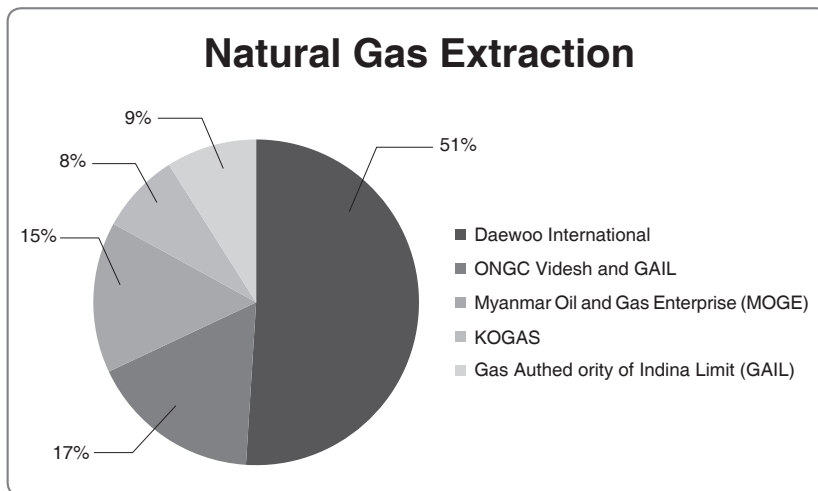
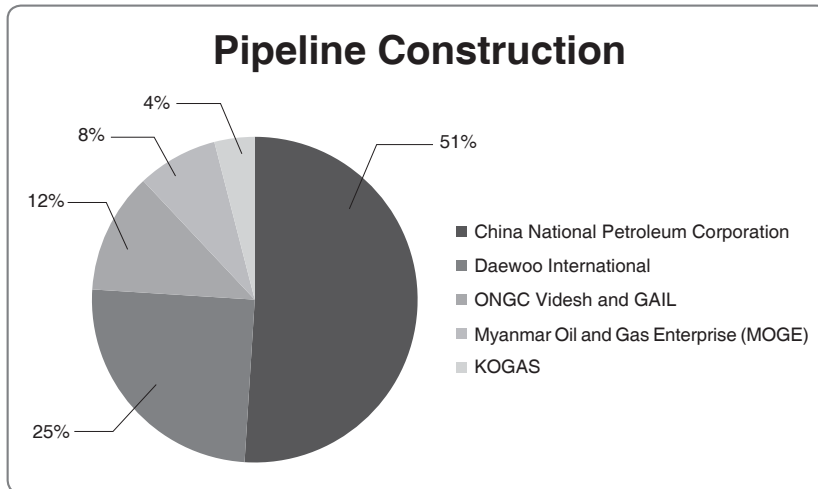
***Korea Gas Corporation (KOGAS, South Korea)***

KOGAS is Korea's state-owned gas provider and the country's sole importer of liquefied natural gas (LNG). It produces and supplies natural gas, purifies and sells gas-related by-products, builds and operates production facilities and distribution networks, and imports and exports natural gas for domestic and overseas markets.

***ONGC Videsh Limited (OVL) India***

OVL is a wholly owned subsidiary of Oil and Natural Gas Corporation Limited (ONGC), the flagship National Oil Company of India. The primary business of OVL is to prospect for oil and gas acreages abroad, including acquisition of oil and gas fields, exploration, development, production, transportation and the export of oil and gas. As of September 2008, OVL had a presence in 37 Exploration & Production projects in 18 countries

### Chart of Pipeline Construction and Natural Gas Extraction





### **National Law and International Law<sup>5</sup>**

Burma has no effective law to protect human rights or the environment. Its army, which clears and provides security for the pipelines, repeatedly acts with impunity. Human rights and environmental rights are covered by national and international law, but the companies and government use their power to abuse these laws. The company and government are doing environmental impact assessments (EIAs) and social impact assessments (SIAs), but they don't share information with affected communities, and they lack transparency and accountability.

While debating what inalienable rights are, the connection with the issue of sovereign immunity is unavoidable. The PSC, after all, is with MOGE and not with the Union of Myanmar represented by the Ministry of Energy. Under the State-Owned Economic Enterprises Act, state owned enterprises usually have their own juristic personality, distinct from the Union, and are capable of being sued in that capacity. How a contract between MOGE and an operator would be affected when the Union would invoke its permanent sovereignty over its resources is, formally speaking, a matter of three parties, not two.

The Environmental approval system, is the required approval from the MECF. In accordance with the Environmental Conservation Law of 2012 (ECL), the MECF regulates the environmental aspects of investment projects, and effectively has the power to veto a project. The MECF has created a committee for the evaluation of the environmental impact of business activities, but the rules of that committee have yet to be finalized. The ECL awaits implementation through detailed rules and regulations, many of which have been circulating as drafts for a while. What we say below is largely based on those drafts.

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<sup>5</sup> [www.banktrack.org](http://www.banktrack.org)  
[www.myanmaroilandgasenterprise2014.com](http://www.myanmaroilandgasenterprise2014.com)  
what-is-next-for-the-offshore-operators\_VDB-L / MOGE have sovereign immunity?

## **Conclusion**

My research briefly describes the overall Shwe gas pipeline project and focuses on Nga Phe Township. The villagers from this affected area are disadvantaged by this project. The villagers do not have access to relevant information, and they also didn't receive adequate compensation for their loss of land and rights. The companies and government are abusing their rights to access information, rights to public participation and rights to express freedom.

Through my observation and interviews, I learned that the villagers don't know their exact farmland acreage and they also don't know the project goals. They have also not had a chance to see any data in the contract for their compensation. The Shwe gas project has created many problems, such as the loss of land and livelihoods, deforestation and soil erosion, and social conflicts.

Now, the villagers' lives are not safe because the pipeline route is near their villages and near their houses. So, some people migrate to other places to live. Almost all people continue live on the land near the pipeline route because they haven't gotten new land for their house and farmlands. They don't have enough money to buy new land on their own. This research report highlights the impacts of the Shwe gas project, including human rights abuses and environmental abuses. We need to find a solution and have an action plan for this issue.

## **Recommendations**

### **To the affected communities:**

- Seek awareness raising on environmental law and human rights
- Try to get legal land certificates
- Keep your land documents safely
- Do campaign activities to connect each township in Magway Division, and every township along the pipeline route.

**To the Myanmar government:**

- Respect the right to public participation
- Share clear information about projects before they start
- Be transparent about project goals, who it will benefit and the project contract
- Respect and obey the law and the rights of citizens
- Practice FPIC (free, prior, informed consent) on any investment

**To Investing Companies:**

- Respect international and national laws
- Provide fair compensation for losses
- Be transparent in all dealings with affected communities

**To Local CSOs and NGOs:**

- Provide information and communication support to the local peoples
- Provide awareness raising about laws and rights
- Support community campaign activities





# The Hatgyi Dam Project and Potential Human Rights Violations in Karen State

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Saw Lay Ka Paw  
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Electricity is one of the essential needs of a country. In Myanmar, during a time of a new controversially elected government, a lot of countries are interested to invest because of the lifting of economic sanctions by the US and other important economic countries. As investors are coming in the government is now trying to fulfill the electricity needs since electricity is the key obstacle to Myanmar's development for new infrastructures support. The government's major plan to produce electricity is from hydropower dams because there is an abundance of water resources available to produce electricity and it is the cheapest method to produce electricity in Myanmar.

The Hatgyi Dam is one of the proposed hydropower dams as part of the government's plan to try to solve the energy needs of the country. The location of the dam site is on the Salween River, in Karen State in an area controlled by the Karen National Union (KNU) an armed opposition group. The proposed dam capacity is 1,200 MW and the government plans to sell it to Thailand which has raised suspicions on the government's strategic plan for electrical supply to support its own infrastructures.

The dam site is located in a continuous civil war zone, where the Karen Nation armed groups have been fighting against the government for their autonomy for over sixty years. The conflict between armed groups and the military government is getting intense because the peace negotiation process with the armed groups is still on the table. Meanwhile, the government is engaged in a lot of dam projects in Karen State without providing any information to the local people and armed groups. During the civil war, a lot of human rights violations were committed by the Burmese military in the conflict areas. A lot of Karen people were victims of violence including; torture, forced labor, murder, and rape by the Burmese soldiers. As a result, Karen people are afraid to live in their villages. Currently, more than one hundred thousand Karen people are internally displaced and have fled to Thailand as refugees.

As the dam was proposed by the military regime, prior consultation was not done with the local people. The risk of human rights abuses is very high because the potential risk for the dam impacts is very high. The government should implement a real peace process with the armed groups and review their energy development plan for the country's development and avoid armed conflicts and human rights violations in order to realize peace and development for the nation.

## **Introduction**

The purpose of this research is to point out the loopholes in the government's development strategy. Many development projects that involve national and international organizations have resulted in forced relocation and other human rights violations. Mostly, the victims from these development projects are local people and government sectors don't take full responsibility for their actions. Also, the potential human rights violations to the Karen people are very high as many Karen people have suffered and continue to suffer from the civil war and ongoing conflict.

Moreover, the intense conflict between armed groups and the military is likely to reignite the civil war in Karen State again. As an example, from 1994 to 2011 the government made peace with the Kachin Independence Army (KIA) for the state peace and development. Within

seventy years of the peace process, a lot of investment came into the Kachin State and these investments caused environmental destruction, human rights violations and conflicts, while the military and business interests gained a lot of advantages. As a result of the broken down peace process, the civil war resumed.

## Background

The Salween River, also called Gyalmo Ngulchu (Tibetan); Nu Jiang (Chinese); Thanlwin (Burmese); Salawin (Thai), flows from Himalaya Plateau in the Tibet Range into the Andaman Sea in Myanmar with a 2815 Km (1749 mile) long course. The Salween River is one of the world's longest free flowing rivers. "In the Salween River watershed, there are about 7000 species of trees, 140 species of fish and 140 species of turtles living there. In 2003, UNESCO recognized the Salween as a world heritage place."<sup>1</sup> Also, the Salween River is the refuge for the people who live along the river side and includes about seven million people's livelihoods, social cultural and economic trade are dependent upon it. Among them, the Karen people are one of the ethnic groups who are totally dependent on the Salween River.

Since the late 20<sup>th</sup> century, the situation of the Salween has been getting worse because of illegal logging along the Salween River causing soil erosion, a decrease in water levels, and flooding in the raining season. Due to these problems, local people have started protesting against damming the Salween River. "In the early 20<sup>th</sup> century, the Chinese government began building 13 dams inside China on the Salween River in order to supply electricity needs for the country. But, the number was reduced to four because the Ministry of Environment opposed the plan."<sup>2</sup> Also, the Thai government negotiated with the Myanmar government to develop four hydropower dam projects inside Myanmar in order to meet Thailand's electricity demands.

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<sup>1</sup> [http://en.wikipedia.org/wiki/Salween\\_River](http://en.wikipedia.org/wiki/Salween_River)

<sup>2</sup> [http://en.wikipedia.org/wiki/Salween\\_River](http://en.wikipedia.org/wiki/Salween_River)

In May 2005, the Myanmar Department of Hydropower and the Electricity Generating Authority of Thailand (EGAT) signed a Memorandum of Agreement to develop a hydropower project called the Hatgyi Hydropower Dam. Other stake holders involved in the dam are Sinohydro Corporation and other possible stakeholders from China. The proposed dam will produce 1,200 MW with an estimated cost of one billion \$US dollars. The dam site is located near Myaing Gyi Ngu district, in Karen State. "The pervious feasibility study by a Japanese development consultant for the dam is only 300 MW and the plan was revised by EGAT to produce 1,200 MW. Most of the electricity produced will be sold to Thailand."<sup>3</sup>

Politically, the proposed dam is situated within a critical civil war zone near an armed group's settlement. The Karen National Union (KNU) has been fighting against the military since early 1948 for their state's independence. The longcivil war has resulted in a lot of human rights violations by the notorious Myanmar dictatorship. Since the military caused dissension within the KNU, the KNU has split into different groups and the relationship between these armed groups is unstable.

## **Chronology of the Hatgyi Dam**

The controversial Hatgyi Dam is now getting more attention by the international community due to the armed conflicts and potential human rights violations.

- In May 2005, the Ministry of Energy, Thailand and The Department of Hydro Power, Myanmar signed a Memorandum of Agreement to develop a hydropower project on the Salween River. The Hatgyi Dam project has an estimated capacity of 1,200 MW.<sup>4</sup>

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<sup>3</sup> [http://www.salweenwatch.org/index.php?option=com\\_content&view=article&id=51&Itemid=60](http://www.salweenwatch.org/index.php?option=com_content&view=article&id=51&Itemid=60)

<sup>4</sup> Environmental Research Institute Chulalongkorn University, "Introduction", chapter 1, Environmental Impact Assessment of THE HUTGYI HYDROPOWER PROJECT, July 2008.



- The feasibility study for the proposed dam was halted in September 2007 due to the death of one worker from Electricity Generating Authority of Thailand (EGAT) who was killed in the armed conflict area.<sup>5</sup>
- In 2008, EGAT resumed the feasibility study at the project area by negotiating with both sides of stakeholders in order to develop a good reputation.<sup>6</sup>
- In July 2008, the Environment Research Institute from Chulalongkorn University finalized an EIA report for the Hatgyi Dam project.<sup>7</sup>
- In January 2012 at Myaing Gyi Ngu, the project stakeholders from Myanmar side negotiated with the Border Guard Force for security to redo a feasibility study for the dam project and invite villagers from the proposed dam site to a consultation meeting.<sup>8</sup>

As the peace process in Karen State is weak, this development project in Karen state is threatening the fragile cease fire and intensifying the armed conflict. At the same time, the increasing militarization in Karen state near the proposed dam site creates suspicion among the armed groups, who doubt the peace process.

## The Government's Flawed Development Strategy

During the period of President Thein Sein in The Republic of the Union of Myanmar, a lot of changes occurred in Myanmar. The new government that transformed the military is trying to promote a democracy process in the county by releasing political prisoners, removing media sanctions, allowing the public to organize freely, promoting human rights and opening economic sectors in order to develop the country under the new constitution. These changes have led to the international community

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<sup>5</sup> <http://www.burmariversnetwork.org/burmese/2008-09-23-12-55-12/2008-09-24-16-03-28/2008-09-24-16-26-58.html>

<sup>6</sup> <http://www.burmariversnetwork.org/burmese/2008-09-23-12-55-12/2008-09-24-16-03-28/2008-09-24-16-26-58.html>

<sup>7</sup> Environmental Research Institute Chulalongkorn University, "Introduction", chapter 1, Environmental Impact Assessment of THE HUTGY IHYDROPOWER PROJECT, July 2008.

<sup>8</sup> Public Consultation Meeting, HATGYI HYDROPOWER PROJECT, Myaing Gyi Ngu District, 26 January, 2012.

becoming interested in the Myanmar political system and economic issues. Releasing the National League for Democracy leader Aung San Suu Kyi and allowing her to participate in the political process is the most recognizable act that the new government has performed.

Many countries that imposed sanctions on the infamous dictatorship have re-engaged with the new government to restore their relations. The Myanmar government is also welcoming foreign direct investment into the country. Currently, several mega development projects are being considered by national and international investors. Due to the lack of transparency, corruption, and abuse of power characteristic in most of these development projects, the local people suffer many human rights violations. The conflicts in Kachin State are a good example of how the government has problems implementing development. Media has exposed much corruption and bias. Civil rights are routinely violated by the impacts of foreign direct investment because the law inside the country is not strong enough to protect its people. A 17 year peace agreement with the Kachin Independent Army (KIA) was broken as a result of the Myit Sone Dam project because the project does not respect the local people's rights and violates their culture, social wellbeing, environment, religion and economy. The renewed civil war has become more intense and a lot of human rights violations are being committed by the military in conflict areas. The new government reforms are very slow and continue to delay the reconciliation process with the ongoing conflicts; the public grows more suspicious about the new government's activities. Several human rights groups are critical of the new government's performance.

## **A Fragile Cease Fire with Karen Armed Groups**

Since 1949, the Karen National Union (KNU) has been the strongest armed ethnic group opposing the central government. The armed conflicts have badly harmed the Karen people during sixty years of fighting the brutally offensive attacks by the military government. In 1994, unfortunately, the Buddhist Karen National Liberation Army (KNLA) accused the Christian leadership of discrimination and established the Democratic Karen Buddhist Army (DKBA) with a Karen Buddhist majority. That new Karen armed group signed a cease fire with the

military in order to attain business opportunities in their area. The relationship between these armed groups is getting worse and sometimes they fight each other. After the KNU general secretary Pa Do Mah Sha was assassinated, the KNU continued to fight the military because of mistrust of the DKBA, who have a good relationship with the Burmese military. On the other hand, the KNU tried to gain peace with the State Peace and Development council during the conflict but those efforts failed because of the ethnic cleansing strategy of military junta. Since the KNU headquarters at Mar Neh Plaw fell, the armed group have become less united and has split apart into many different groups. Most of the armed groups signed a cease fire with the military regime to improve their relationship with the Burmese military and some groups have laid down their arms. It is a chaotic time for the Karen armed groups and a lot of Karen people face human rights violations.

In 2011, a new government headed by President Thein Sein began an ethnic reconciliation process with the ethnic armed groups. As the Karen were recognized as a major source of rebellion in the country, the government agreed on a preliminary cease fire and set up a plan for peace talks with the KNU in order to discuss the peace process. During the peace talk process, militarization increased in Karen State, especially in the development areas under the KUN control. This caused the KNU to become suspicious about the peace talks. After three different peace talks, hope for peace in Karen State is still dim.

### **Local People's Concerns about the Dam Project**

Large scale development projects for Karen sound awful because Karen people have suffered a lot of forced labor and forced relocation at the hands of Burmese soldiers during the military regime. As development occurs, more and more military camps are established near the project sites. The military are hired by investors to protect their projects from attacks by armed groups. The Burmese military use the villagers as porters to clear landmines, and also put the villagers on a front line as cover to protect the development projects. So, most of the Karen people are afraid of the Burmese soldiers as they have endured trauma from the development projects and civil war. For the local people, it is hopeless to talk about their concerns about the project. Meanwhile, their main

concern is for their personal security, and for this reason they have become internally displaced people (IDP) and others have fled to the Thai side of the border as refugees. As the bad image of the development projects implement by the support of dictatorship rule continues, a lot of Karen people were victims of forced labor to support the project and hundreds of them were persecuted and murdered by the Burmese soldiers.

The proposed Hatgyi Dam project is also a controversial issue because the initial agreement process never considered the concerns of the local people. The agreement process never included the public voice and also, it was decided during the infamous military regime. While international communities are concerned about the potential negative impacts on the environment and human rights violations, the projects planning continues to be implemented secretly. It is obvious to the people that the number of military camps is increasing within the project area. As people are suffering trauma from the civil war, this situation continues to threaten the safety of the local people. Most of the people are afraid of the lack of security and have already left the area. One of the villagers from the area said, "previously in our village we had more than one hundred households living peacefully, but currently only twenty households remain in our village and we are now worrying about our future because of the Hatgyi Dam project."<sup>9</sup>

## **Findings on Potential Human Rights Abuses**

### **Forced Labor**

Forced labor is the most serious issue under the Military Junta. Since militarization started, a lot of military forces have been expanding throughout the country in large numbers, especially in the areas under armed control. The military tries to control, capture, and eliminate all of the nationalist ethnic armed groups. As Myanmar has complicated geography, the strategy of the military offensive was not very successful. Most of the ethnic armed group's bases are located on mountain sites which are heavily armed and in strategic zones. As the military forces lost many soldiers, they changed their strategy by forcing local villagers

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<sup>9</sup> Interview with villager from research field, 27/9/2012.

to work as guides and they put the villagers on the front lines as mine sweepers. Wherever they are on a front line, Burmese soldiers force villagers to build their military defense camps, work as porters and often they are executed by the Burmese soldiers. One of the former soldiers said, "The Burmese military are trained to treat anyone on the front lines as the enemy; in order to achieve the mission, you have to eliminate all the thorns along the way."<sup>10</sup>

The villagers in the area said, "The brutality of the Burmese soldiers is insane. They go into the village, call the entire community together for a meeting, then order the villagers to guide the soldiers as guides and porters. One of my friends got sick on the way as a porter. The Burmese soldier killed him and left his body in the forest. We are unable to do anything."<sup>11</sup> The activities of the Burmese military's violation of human rights in the armed conflict areas continue till now. They still force the villagers to support them with whatever they need. Under these conditions, human rights violations are happening every minute in the civil war areas, and the government is unable to control it even now. Moreover, the current peace process with the KNU armed group is still unclear and this peace negotiation created an internal conflict between Karen armed groups because during the process a vast number of military forces are camping in the development area. Local people are worrying about this peace process because these make a lot of changes to our community. The conflict within the Karen armed groups is getting intense as Burmese militarization increases in Karen State.

### **Forced Relocation**

"In Myanmar at least 500,000 people from the armed conflict areas have become internally displaced or forced to relocate. More than two hundred thousand villagers have to live under areas ruled by non-state armed groups (NSAGs). More than 125,000 villagers have had to resettle to relocation village in government controlled areas, and the remaining IDPs are still hiding in the conflict areas or have disappeared."<sup>12</sup> These vast numbers of IDPs are evidence of Burmese Military militarization in

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<sup>10</sup> Burma Soldier documentary film.

<sup>11</sup> Interview with villager from armed conflict area, Myaing Gyi Ngu district, 28/9/2012.

<sup>12</sup> [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/7E38BA7B2364451AC12578C4005318B8?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/7E38BA7B2364451AC12578C4005318B8?OpenDocument)

the ethnic areas and the international investment that uses the Burmese military to protect their business interests.

A female villager near dam site said, "I have faced lots of displacement in my life. I am still afraid of the Burmese military. I moved to a lot of places because when we got information about the fighting we had to leave our villages. When we came back everything was ruined and sometimes we returned to a burned village."<sup>13</sup> Many local villagers have suffered trauma from the war and from development plans in Karen State and they are afraid of every single Burmese who come to their area.

A villager from the proposed dam site said, "I don't want to see any development projects. I don't have any capacity to benefit from development, even though the developer of the dam said the project will bring a lot of benefits to our community. I don't believe anyone and I know this project will definitely harm our community."<sup>14</sup> As Karen villagers experience the impacts of forced relocation, they believe if the military and armed groups remain around our community our situation will still be hopeless.

## **Conclusion**

On the way to democracy in Myanmar, "development" is the most popular word that the new government likes to use. There are lots of mega projects running and lots of investors from Western and neighboring countries are eager to invest more and more. On the other hand, the consequences of these projects are seriously harmful to the local community because of the rules and regulations in Myanmar cannot protect its civil society well. Furthermore, due to the influence of the military junta in the government sectors, corruption, human rights violations, and brutal actions continue to occur.

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<sup>13</sup> Interview with a women villager at Pa-pon district., 30/9/1012.

<sup>14</sup> Interview with villager in research field at Hpa-an district, 2/10/2012.

Moreover, as the Hatgyi Dam project is in the active armed conflict area there where a lot of human rights violations have been inflicted upon the local people for over 60 years. This project agreement was signed by a notorious military junta without any consent from the local people and armed groups. This condition is currently threatening the local villagers and intensifying the armed conflicts as the project implementer continues to move forward with the Hatgyi dam project. On the other hand, armed groups are cooperating with the peace process in order to avoid further human rights violations to their people. Even on a third round of peace talks, the result for the peace process between the KNU and military is still invisible.

In addition, as the public are very vulnerable to human rights violations caused by conflicts from development projects and the civil war. It is certain that if the Hatgyi Dam project continues in an area of sensitive armed groups with the current dim peace process, human rights violations will continue against the Karen people.

## **Recommendations**

### **Government**

The government should draw up a fair law to protect its people and apply it without any bias. The government should have a good governance system and get away from the top-down system in order to respect democracy. The government should review this the Hat Gyi Dam project because this project was agreed upon upon during the infamous military regime. The government should openly proclaim potential impacts about the whole development process to the public without any deception and practice free and prior informed consent (FPIC). Any development project in armed conflict areas should be halted until the government can build a real peace process with the armed groups. Also, these development projects should be put on hold until the local people recover from the trauma caused by the civil war.

### **Investors**

A Conflict Impact Assessment (CIA) should be conducted to avoid human rights violations against local people as the Hat Gyi Dam project is in a civil war zone. An independent environmental impact assessment should come out without any problems. Public consultation should be done in accordance with internationally accepted standards. Benefits and impacts should be clearly released to the public. All of the possible relocation, environmental, culture, social, livelihoods and business impacts solutions should be shared with the public.

### **Armed Groups**

To complete the peace process, unity among Karen armed groups is very crucial. Reconciliation among armed groups is the main point to achieve unity and is way forward for peace. Conflict should never occur internally and between different Karen armed groups as protectors of the Karen state federation.

### **Villagers**

Local people should engage with stakeholders and demand their right to FPIC. Collaboration and networking among potential impacted villages should be strongly built. Coordinate with the independent consultant, non-government organizations and project implementers in order to get clear information and discuss it. Local communities should do active research themselves in order to understand the real concerns and to have voices in the project.

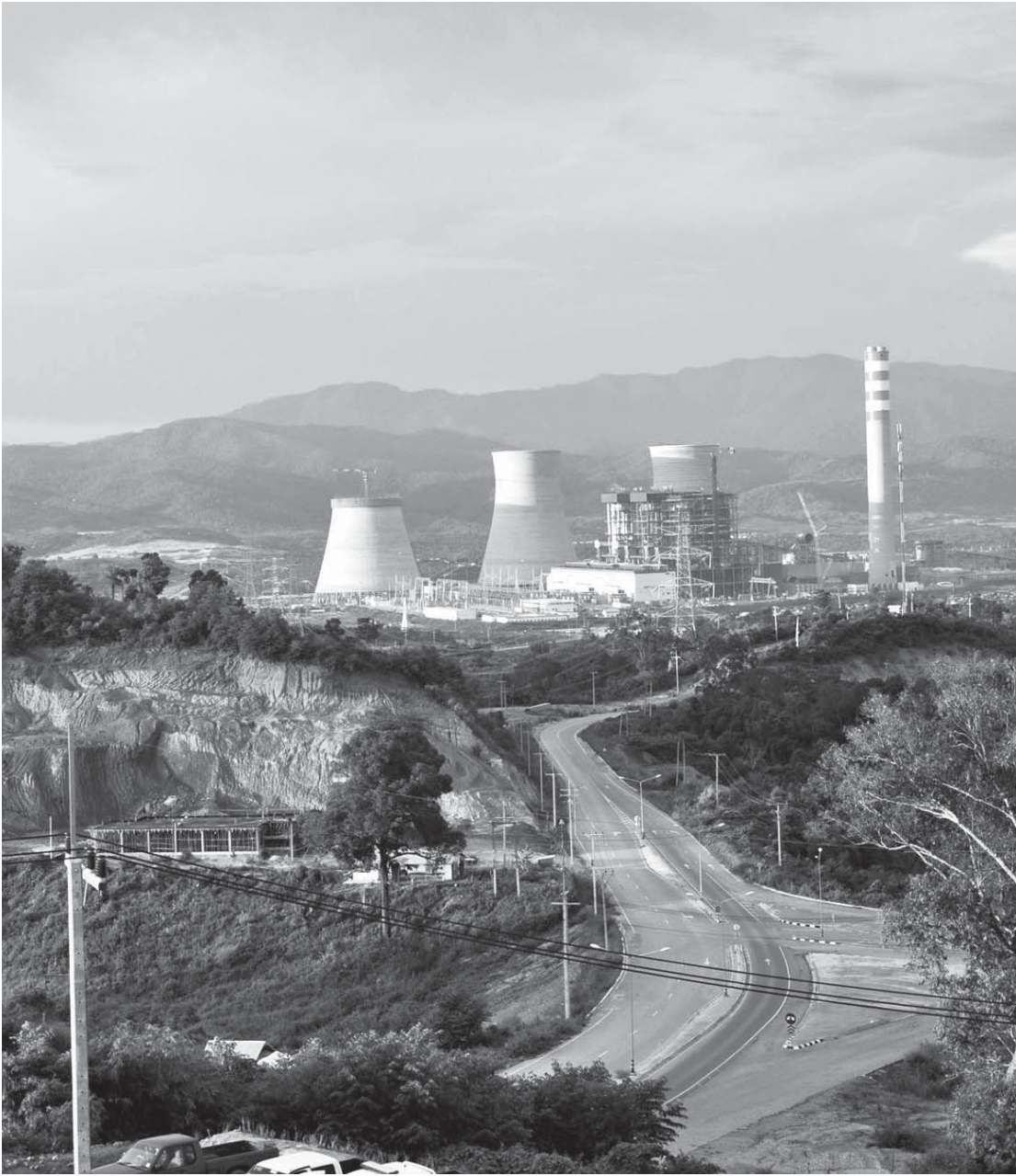
### **NGOs**

NGOs should promote awareness and strengthen the communities that will be affected by the Hat Gyi Dam. NGOs should also promote the role of the local CBOs that are working on these issues in order to get support in the movement. NGOs should not only work from outside of the country, but they also should come inside country and develop partnerships with all of the stakeholders closely in order to promote the better situation.



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# Comparative Analysis of EIA Quality for Thai Overseas Investment Projects: Dawei Special Economic Zone and Hongsa Coal Power Plant

Ashijya Otwong

Environmental Impact Assessment (EIA) law in Thailand has been developed for more than 20 years, and Thailand is considered a leader in EIA law in the Mekong region. However, as Thailand has gone through rapid industrial development, public involvement and the technical quality of EIA content are still problematic. Unfortunately, instead of strengthening policies, EIA laws and mechanisms, the government and project developers tend to shift their investment to neighboring countries, where EIA law is much less developed, in order to take advantage of weaker legal protections and more restricted political space<sup>1</sup>. Some EIAs for Thai overseas investment projects have been criticized by civil society for failing to meet Thai standards and for their poor technical quality. One of the key players directly responsible for EIA quality is the EIA consultant. Ironically, under the current system, EIA consultants are not held accountable for their performance.

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<sup>1</sup> "Inside the Electricity Generating Authority of Thailand (EGAT): Where few have gone before", <https://riversolitaire.wordpress.com/2014/12/18/inside-the-electricity-generating-authority-of-thailand-egat-where-few-have-gone-before/>

This research aims to study the differences in the EIA process relating to public participation, information accessibility and impact assessment quality of two huge Thai overseas investment projects, namely the Hongsa coal power plant (Laos) and the Dawei Special Economic Zone (Myanmar). The research question is whether or not Thai EIA consultants follow Thai standards according to the Environmental Health Impact Assessment (EHIA) law and the minimum technical standard requirements when conducting EIAs in different countries.

## **Background**

### **EIA Systems in Three Countries**

#### **Thailand**

Since the EIA system was integrated into Thailand's legal system in 1975, Thai citizens have been increasingly concerned about the health impacts posed by industrial projects. Consequently, the EHIA (environment health impact assessment) system was officially enshrined in the 2007 Thai Constitution. It states that any project or activity which may seriously affect the quality of the environment, natural resources or health must be studied and evaluated for its environmental and health impacts.

The project cycle of the EHIA is similar to the EIA system. According to the 1992 National Environmental Quality Act (NEQA), the EHIA report should be prepared at the same stage as the feasibility study, required in the government's list that specifies which stage of each project should conduct the report. The cycle starts with the project developer who must directly hire a government-certified EIA consultant to conduct the EHIA report. Then, the consultant is required to assess the impact according to the issues and process specified in the EHIA law, namely the notification of Ministry of Environmental and Natural Resources (MENR) on the EHIA process (2009). Once this process is complete, the final report is evaluated by the Expert Review Committee (ERC) and the Independent Commission on Environment and Health (ICEH).

Thai law divides the EHIA process into three steps. The first step is called "Public Scoping" and is the process when the consultant would conduct a public hearing for the potentially-affected people to openly

voice their concerns about the future adverse impacts caused by the project. After the consultant has considered the issues to assess according to the laws and the first public hearing, the consultant can proceed to the second step called "Appraisal". This step requires gathering additional information through different means, such as creating a focus group and interviewing the potentially-affected people. Subsequently, the consultant must analyze all the gathered information and create a drafted report. The last step is called "Public Review". The consultant must conduct a second public hearing to allow the public an opportunity to review the report before a final version is submitted to the responsible government, namely the Office of Natural Resources and Environment Policy and Planning (ONEP). In each step, the consultant must notify public and publish basic information prior to conducting any public hearings or meeting.

As for the technical contents, in addition to studying the issues that arise in the first public hearing as well as those that are specified in the EIA law—including physical resources, biological resources, human use value and quality of life value—the consultant should study the potential health impacts including physical, mental, spiritual and social health aspects according to the 2009 EHIA law. A final report will be considered by expert committees including an Expert Review Committee (ERC), and the Independent Commission on Environment and Health (ICEH).

The qualifications of EIA consultants were set up by the NEQA. It states that EIA reports are required to be prepared or certified by a person, company or university licensed as a specialist according to the ONEP's list. Additionally, there is a ministerial regulation that requires the consultant to include correct information in the report. If they break this law, they will be punished by cancelling or suspending their license. Although there are still some problems, the Thai EIA system is one of the most progressive systems in the region.

### **Lao PRD**

The key Lao legislation related to environmental assessments is the 1999 Environmental Protection Law (EPL), which stipulates that each government sector has the duty to determine which projects require an EIA report. If a project meets the screening criteria, the project developers can prepare the report by themselves or hire an EIA consultant. In

regards to the right to participation in Laos, according to the 2003 Lao Constitution, Lao people have the right to freedom of speech, press and assembly and the right to stage demonstrations. Moreover, Chapter 2, Article 8 of the EPL also states that an “EIA must include the participation of the local administration, mass organizations and populations likely to be affected by the respective development project or activity”. In 2013, the government created a new law, named the Agreement on Public Participation in EIA Process, No.707, to provide clarification on public participation in the EIA process.

Lao PDR’s Social and Environmental Impact Assessment Department within Water Resources and Environment Administration (WREA) has direct responsibilities to oversee the implementation of the EIA process, to undertake public consultation during the EIA process, and to review and approve the EIA report. For the format of a full scale EIA and an Environmental Management Plan (EMP), the project developer must follow the details stated in the 2010 EIA Decree, No. 112/PM.

At present, there is no certification system to screen the EIA consultant and there is no law to hold a consultant accountability for failing to abide by Lao EIA law, including producing a false or low quality EIA report. These are the main flaws of the Lao EIA system that open the gates for Thai overseas investment to exploit this inadequacy.

### **Myanmar**

According to Article 8 of Myanmar’s 2012 Environmental Conservative Law, the Ministry of Environmental Conservation and Forestry has direct responsibility to carry out Environmental Impact Assessments (EIAs) and Social Impact Assessments (SIAs). However, there is still no particular EIA law that describes the EIA process and technical content in detail. Therefore, a project developer is not obliged by law to produce an EIA report before the start of a project. Further, even though a project developer hires an EIA consultant to conduct the EIA, there is no obligation to submit the report to the government and have it published. It is, therefore, extremely difficult for civil society in Myanmar to access information related to any industrial project. This inadequate legal system allows Thai project developers to start their projects in Myanmar without serious implementation of the EIA process to prevent negative impacts. This context is totally different from Thailand.

## The Background of Case Studies

### Hongsa Coal Fired Power Plant

A 1,878 MW lignite mine and power plant, the Hongsa power plant is located in Ban-Han district, Sayabouri province, Laos. It is being developed by Hongsa Power Company, a consortium comprised of the Thai company Ratchaburi Electricity Generating Holding Public Company (RATCH), Banpu Power (a subsidiary of the Thai coal-mining company Banpu) and Lao Holding State Enterprise (LHSE). Under the terms of a May 2009 agreement, approximately 80% of the entire capacity (1,473 MW) will be exported to the Electricity Generating Authority of Thailand (EGAT), with only 5-10% (100 MW) for domestic Lao consumption. The Lao government approved the EIA and Environmental Management Plan (EMP) for the project, conducted by TEAM consulting Engineering and Management Company, a Thai EIA consultant company, in November 2007. Construction started amid criticism from civil society on the lack of public participation, information accessibility and concerns over the technical quality of the EIA, as well as potential negative impacts such as acid rain, groundwater contamination and runoff, and soil contamination.

### Dawei Special Economic Zone (DSEZ) – Road and Rail Link

The DSEZ is a bilateral economic cooperation project between the governments of Thailand and Myanmar, initiated in 2008. In 2010, the Myanmar government awarded a 60-year concession to the Thai company Italian-Thai Development Plc. (ITD) to develop the DSEZ, including a deep seaport, industrial estate and transport links. However, after starting construction of the road link connecting the Dawei deep seaport to Thailand, many conflicts in the area emerged. ITD also experienced financial problems that resulted in its concession being withdrawn in 2012. Both national governments nevertheless still aimed at pushing the project forward, thereby creating a new type of company referred to as a Special Purpose Vehicle (SPV) to organize the project. In the beginning of January 2015, the Thai and Myanmar government signed a Memorandum of Understanding (MOU) to move forward with the DSEZ,<sup>2</sup> starting with the 27-sq.km. initial phase. Only two Thai

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<sup>2</sup> Satawasin Staporncharnchai, "Thailand, Burma to revive Multi-Billion-Dollar Dawei Zone in 2015", The Irrawaddy, December 4, 2015.



companies, ITD and Rojana Industrial Park Plc., have proposed developing the highway linking Thailand and Dawei as well as an industrial estate.<sup>3</sup> There are several Thai EIA consultants, including TEAM Consulting who is conducting an EIA for the Dawei Deep Seaport and Industrial Estate, Chulalongkorn University (CU) who is conducting the report for the Road and Rail Link, and Panya Consulting who is conducting the EIA for the Dam. As of December 2014, CU completed its EIA report, however the status of the EIAs by Panya Consulting and TEAM Consulting is unclear.

## **Findings**

### **Hongsa Coal Fired Power Plant**

#### **Public Participation and Information Accessibility**

According to research,<sup>4</sup> the local people in Hongsa district and adjacent areas are not very aware of the project; what little they have learned about the progress of the project, they have learned by themselves. A villager said in an interview in 2013 that after noticing the activities of a Thai survey team in 2002, he began to believe that the project would begin shortly. He also began to notice many Thai people in his village in 2013.

As for project information provided by the company and the local government, villagers only received information about positive benefits from the project through the newspaper, and also news of project developer's activities supporting the community's development on public notice boards. The villager expressed that,

*"I think it is good for local people. When the company comes, we will get jobs and more income. They (the company) will donate (their money) to build a new public health care and primary school."*

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<sup>3</sup> Achara Deboonme, "Bumpy road to Dawei", The Nation, December 15, 2014.

<sup>4</sup> "The potential Impacts of Lignite Mining on the Environment and Local Livelihood in Hongsa District, Sayabouli province, Lao PDR", <http://www.laolandissues.org/wp-content/uploads/2012/01/Case-Lignite-in-Hongsa-Impacts-on-environment-and-livelihoods.pdf>



Other disclosed information relates to the relocation of villagers staying close to the project area. Prior to starting construction, the company explained in a meeting that the power plant would release smoke and hot weather, so that villagers would have to move to new houses at a resettlement site, and would get fair compensation.

Moreover, even though the company has hired some local people to work for them, they trained workers to answer strangers' questions in proper ways. When the researcher surveyed the area, she tried to interview a male worker but a woman standing beside him interrupted him, and reminded him to respond as their boss had ordered.

All in all, that shows that potentially affected people rarely have the opportunity to participate in the EIA process. They face very limited access to information, especially information related to environmental and health risks caused by the project. Despite understanding Thai EIA standards, the Thai EIA consultant neither conducted meaningful public hearings nor published important project information.

#### **Impact Assessment**

According to the report of scientists from Environmental Law Alliance Worldwide U.S., there are several flaws in the impact assessment (IA) in the EIA and Environmental Management Plan (EMP). For instance, Hongsa project fails to prevent massive amounts of contaminated runoff from being released from the proposed waste dumps; the report does not disclose the negative impacts to agricultural soil fertility; and it does not show negative impacts to fisheries from cooling water intakes.

Among all problems above, Dr. Tanapon Phenrat pointed out that there are three main problems that *if this were an EIA in Thailand, it would have failed*. Firstly, concentrations of NO, NO<sub>2</sub>, SO, SO<sub>2</sub> that will be released from the power plant are exceeding the acceptable level in Thailand. Secondly, there is no clear protective measure for the potential Acid Mine Drainage. The last one is that there is no assessment of cumulative impacts of mining and power plant. It means that this EIA report does not meet even Thai standard.

### **Dawei Special Economic Zone (DSEZ)**

Among all projects developed in DSEZ, Dawei people are aware of EIA movement only on the Road and Rail Link project. Dr. Kallaya Suntornvongsagul, professor of Chulalongkorn University and the head of consulting team, explained in the public hearing organized by Thai National Human Rights Committee (NHRC) that due to lack of EIA law in Myanmar her team decided to follow World Bank's EIA standard that is more stringent than the Thai standard. However, the Thai consultant started conducting EIA *after* construction began. This means that if they conducted this report in Thailand, they would have violated the Thai EIA law, which stipulates that the consultant must conduct EIA prior to starting construction. She alleges that she just knew this fact after surveying the area in 2011, and decided to continue the EIA report in order to document all existing impacts caused by the construction.

### **Public Participation**

According to local research conducted by Dawei citizens, it appears that community meetings related to the DSEZ were held in all villages. Nevertheless, only a quarter of 1,583 interviewed households attended a community meeting about the DSEZ project. An elderly woman farmer and salt-maker in Htein Gyi village complained that,

*“Only people useful to them were invited. We could not get involved.”<sup>5</sup>*

80 percent of people who attended a community meeting did not participate in the discussion because they did not understand the purpose of the meeting due to the inadequate information provided prior to the meeting. Other reasons were that there was no chance for questions, the villagers were afraid, and they could not overcome language barriers.

For the Road and Rail Link project, Saw Frankie, working for local NGO named TRIP-NET, clarified that there were public hearing three times in different places. In the first meeting conducted in Thapulchaung village, big conflicts happened between villagers whose livelihood was affected by road construction and project developer. Affected people

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<sup>5</sup> Dawei Development Association (DDA), *Voices from the Ground: Concerns Over the Dawei Special Economic Zone and Related Projects*, September, 2014, 37.

required fair compensation and effective solution as the company promised, but the company asked for their ID cards before providing compensation. Consequently, the villagers decided to walk out. At that meeting, the consultant noticed that a group called Community Sustainable Livelihood Development strongly opposed them, so they tried to avoid inviting this group to the next public hearing.

The second meeting was conducted in Nabule village. Unfortunately, the consultant invited residents of only 4 out of 12 villages. The villagers believe that the consulting team aimed to solely select people who agree with the project, and to disintegrate their unity. In addition, due to an abundance of technical terms, the villagers could not understand and voice their opinions. Saw Frankie criticized that it was a one-way consultation.

After the failure of the two previous meeting, however, the consultant still proceeded to the last public hearing. They organized it in the Karen village where the locals can speak Thai, so the different languages were not an obstacle to this meeting. There were not many conflicts.

#### **Information Accessibility**

As shown in the local research,<sup>6</sup> because of limited and ineffective consultations, affected people rarely had access to information related to DSEZ. Information about activities conducted by the company and government have not reached the majority of affected people. Most affected people are aware of DSEZ through informal channels such as word of mouth and local media. A few people had been notified about the project by the government authorities. Only one third of surveyed households received written information from the government or company. Two fifths of them, however, commented that the information revealed only benefits of the project. The remainder were informed of some of the potential negative impacts.

The huge majority of affected people did not receive any official project information such as printed materials and documentation from the company and government. Less than ten percent received it, and half of them could not understand it.

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<sup>6</sup> Dawei Development Association, 33-35.

As information disclosure appears to be ineffective, it is really difficult for the villagers and civil society to understand the whole scope and nature of DSEZ. Even though Dawei civil society is strong and active, they do not know how to gain more information from the Myanmar government. The main obstacle is insufficient public laws, especially EIA law and information laws that grant the public the right to know. For the Road and Rail Link project, despite the fact that the EIA report is already finished, affected people cannot access the information because they cannot identify responsible government agencies. For the Thai company, Dr. Kallaya replied that the consulting team already sent the final draft report to the project developer, so it should be the company, instead of the consultant, to present the report to the villagers. Recently, after the Thai National Human Right Committee asked for the report from the project developer, the company refused to disclose it.

#### **Impact Assessment**

As explained above, the public still cannot access the EIA report for the Road and Rail Link project. Therefore, it is impossible to monitor and evaluate the quality of its technical content. The only source of the information is the consultant's word. In the NHRC's public hearing, the head of the consulting team roughly explained that her team assessed environmental impacts in four main groups—physical resources, biological resources, human used value and quality of life value—based on Thai standards, together with documenting every existing and potential negative impact in each group.<sup>7</sup> However, when this information is confidential, the question is how civil society or independent experts can evaluate whether the report is comprehensive or not. More importantly, for prevention and mitigation measures, Dr. Kallaya conversely pointed out that it depends on the Thai company's engineering team to create proper measures. It could be implied that the consultant analyzed only negative impacts but did not include prevention and mitigation measures in the report. This might not comply with Thai EIA law<sup>8</sup> and the ONEP's guidelines.

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<sup>7</sup> For example, in the section of quality of life, the consultant analyzed that the new four-lane road would divide the area in two sides, and block the local road that the villagers utilize for traveling and transporting their products.

<sup>8</sup> The notification of MENR on Type and Size of Project or Activity Required to Submit Environment Assessment Report; And Criteria, Procedure, Regulation and Guideline to Prepare includes environmental impact reduction and preventive measure as the main criteria of the EIA report.

## Conclusions

For public participation, there is no evidence that the Thai EIA consultant conducted a real meaningful public involvement according to Thai standards. For the Hongsa case, it is obvious that there was no public hearing or any meeting open to potentially affected people to raise their concerns and update progress on the project. On the other hand, even though there is no EIA law, public hearings were organized at least three times. Dawei people, however, who joined the public hearings faced language barriers and ineffective organizing. Lack of understanding of local cultures and properly solving existing problems created conflicts between the locals and the Thai consulting team.

Similarly, information accessibility is also problematic. It is difficult for Hongsa people to access comprehensive information. Only one source of information came from the government and the consulting firm; they disclosed partial information only on positive impacts. In comparison with Hongsa, Dawei people experienced difficulties. Without an EIA law there is no clear responsible government body and mechanism to request the EIA report. Also, the EIA consulting team and Thai project developer denied report disclosure. Therefore, Dawei civil society cannot monitor the quality of the report.

For the Impact assessment, the quality of the technical contents in the Hongsa EIA report is lower than the Thai standard. According to the Thai expert's experiences, the expert committees would most likely have rejected the report if it was conducted in Thailand. Unfortunately, since the Dawei public cannot access the DSEZ's EIA report, it cannot be evaluated by civil society.

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# Potential Impacts on Women's Livelihoods from the Don Sahong Dam in Khong District, Champassak Province, Lao PDR

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Dokkeo Sykham  
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## Summary

This research study utilized information from secondary and primary data to show how the Don Sahong Dam will potentially affect local people. This research will focus on food security and social impacts, which are major concerns for Lao women in rural communities. The results of data analyzed show that most of the women in the research study area (Don Sahong, Hua Sadam and Hang Sadam Villages) are concerned about losing their livelihoods from fisheries. Even worse, they are worried that the jobs dam developers promise to provide them will be inadequate to feed their families.

Women here are involved in every stage of food production. Even though there is a gender-based division of labor, women in these areas tend to carry the larger share than men. In addition to food production activities, women here bear the main responsibility of preparing and processing food as well as caring for children and other members of the household. As they face losing their main source of food as a result of the Don Sahong Dam, this not only affects women, but also the children



and other members of the family. Moreover, they are concerned that their social lives will significantly decline which will lead to the loss of their traditional way of life.

Women are concerned that a loss of livelihood will force their husbands to go to other places to find new jobs in the city, and then they will be forced to look after the family alone and face a breakup of the family. If the situation becomes more difficult it could force the younger women to seek work outside the community and could lead to the trafficking of women into Thailand. This dam project will also cause conflicts in the community due to relocation and unfair compensation. It is very difficult for women to adapt their lives to new locations. Worst of all, the lack of participation by women from decision making about the Don Sahong Dam project development could lead to a significant risk of inequality in sharing benefits between men and women.

The study finds that the project developer has not paid adequate attention to the gender context in the communities who would be affected by the Don Sahong Dam Project, which will lead to significant impacts on women's lives and unequal benefits as a result. The fact that impacts on men and women are different as a result of gender roles and other factors must be recognized by stakeholders. Weaknesses in the assessment of these gendered impacts require future investigation by the project developers, who must ensure that this dam will not result in the further disenfranchisement of women in these communities.

Recommendations discussed include:

- Consider more policy, regulation and international laws related to women who will be affected from dam projects and revise laws to protect women's rights in the context of impacts from the dam.
- Provide training about women's rights
- Find appropriate ways to empower women to become more involved in decision making on development issues.

Because of the limited time for doing this research, the information which is presented in this research might not be complete. It was found that the opinions of some villagers tend to be covered by authorities, which caused difficulties in collecting credible data. Another limitation of this research is that no documents regarding the dam were made available from the dam developers.

## **Methodology**

I chose to conduct my research on Don Sahong and Don Sadam because these two islands are based very close to the dam site and the Hou (channel) Sahong which is the only channel that fish can migrate from Cambodia to Laos and back in dry season. All of Laos, along with Cambodia, Thailand and Vietnam rely on fish and agriculture along the Mekong River, and will face significant food insecurity if Don Sahong Dam is built. Over 80% of the Lao population depends on fisheries and other natural resources to sustain their livelihoods.

These two islands (including 3 villages: Don Sahong, Hua Sadam, and Hang Sadam) are based in the Siphandone (4,000 islands) area of Champassak province, southern Laos. For about 241 families living in these three villages comprising 1,398 people, 681 are women who will be potentially affected if the Don Sahong Dam becomes operational. Most of these affected people are farmers and fishermen/fisherwomen. I interviewed 15 villagers (two men and 13 women) and also organized two group discussions in three villages: Dong Sahong, Hua Sadam and Hang Sadam.

## **Background of Don Sahong Dam**

The small country of Laos is undergoing some big changes. As it tries to become the “battery of Southeast Asia,” Laos’ hydropower industry is booming. Since Laos opened the door to foreign investment with several hydroelectric dams, it seems the benefit is not for domestic use; rather electricity is to be exported to neighbouring countries such as Thailand, Vietnam and Cambodia, a move that will threaten communities and the environment. The government has promoted electricity as its number one foreign export to raise revenues to develop the country. The increasing power demand from neighbouring countries and new investors from Thailand, China, Russia, Vietnam and Malaysia are driving this expansion.<sup>1</sup>

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<sup>1</sup> International Rivers, Power Surge, The impacts of Rapid Dam Development in Laos, September, 2008, p.3

Nine dams are officially proposed to be built in Laos along the mainstream Mekong River, and the Don Sahong Dam is one of those planned. The approximately US\$ 700 million Don Sahong hydroelectric project is the second dam (after Xayaburi Dam) on the mainstream Mekong River. It is financed by Mega First Corporation, a Berhad-Malaysian company. Hou Sahong Channel, Siphandone Area (4000 islands), Champasak Province, southern Laos, is planned to operate in May 2018.<sup>2</sup> It is located less than two kilometers upstream from the Lao – Cambodian border. The planned Don Sahong Dam spells disaster for Mekong fish. Located in the Siphandone (Khone Falls) area, less than two kilometers upstream of the Laos-Cambodia border, the dam would block the main channel passable year-round by fish migrating between Cambodia, Laos and Thailand, threatening vital subsistence and commercial fisheries in the Lower Mekong Basin. At Siphandone, the Mekong River drops some 20 to 30 meters through a maze of narrow channels and rapids that weave amongst the area's many islands.<sup>3</sup>

The Mekong River Commission (MRC) is the only inter-governmental agency that works directly with the governments of Cambodia, Lao PDR, Thailand and Viet Nam on the management of shared water resources and sustainable development of the Mekong River. During a special meeting of the MRC Joint Committee in January 2014, Lao PDR said the Notification is the appropriate process to inform the other countries about the Don Sahong Dam project, which it said is neither a tributary nor a mainstream dam. It also said the project would use only 15% of the Mekong's flow and thus would not have significant impacts. In contrast, many sources of information from NGOs, INGOs, civil society, and several researchers that studied this case showed great harm to fish, people and the environment in the lower Mekong basin.<sup>4</sup>

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<sup>2</sup> The letter from Lao Government of Notification of Dong Sahong Dam to MRC, 2014

<sup>3</sup> International Rivers, Power Surge, The impacts of Rapid Dam Development in Laos, Case Study: Don Sahong Dam Hydropower project by Carl Middleton and Nok Khamin, September, 2008.

<sup>4</sup> Mekong River Commission (MRC) : "Don Sahong Hydropower project", Last modified August 20, 2014. <http://www.mrcmekong.org/highlights/don-sahong-hydropower-project/>.

Local people have received misleading and incomplete information about the likely impacts of the dam from the project's developers, Mega First Corporation Berhad of Malaysia. People downstream in Cambodia have received even less information about the project. Justification for the Don Sahong Dam is unreasonable, considering it would at most only provide 260 MW of electricity for export to Thailand or Cambodia, but would certainly threaten vital Mekong River fisheries and the area's biological wealth, and would undermine food security and the region's fishery and tourism-based economy".<sup>5</sup> The local people have received misleading and incomplete information about the likely impacts of the dam from the project's developers, Mega First Corporation Berhad of Malaysia. People downstream in Cambodia have received even less information about the project.

In Lao PDR, women play important roles in agriculture, small-scale businesses, manufacturing (especially the garment sector) and provision of basic services (especially education and health), which will be significantly affected. According to the Mekong River Commission,

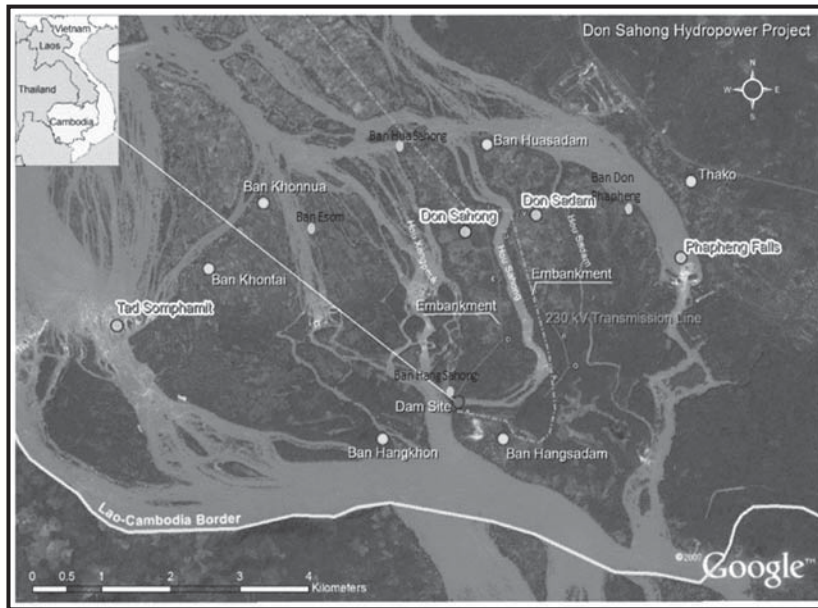
*"Women in urban areas are also finding opportunities in information technology, tourism, and business services. Lao women are also primarily responsible for maintaining their families' food security and health. Their equal participation in economic, social, and political life is supported by the 1991 Lao Constitution and various national laws and policies. Despite these national commitments, gender disparities persist in a number of areas. These gaps are especially pronounced in rural areas and among some ethnic groups."*<sup>6</sup>

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<sup>5</sup> International Rivers, "Don Sahong dam", Last modified August 20, 2014. <http://www.internationalrivers.org/campaigns/don-sahong-dam>

<sup>6</sup> Mekong River Commission, "SIA of Don Sahong dam", Last modified August 20, 2014. <http://www.mrcmekong.org/assets/Other-Documents/Don-Sahong/DSHPP-SIA-FINAL-2013.pdf>.

The Don Sahong Dam has the potential to exacerbate these gaps and further threaten local women's participation in economic, social and cultural lives in the Siphandone Area. The project would have serious repercussions for food security and women's roles, also for the country's economy and related social problems. Furthermore, by risking the last remaining population of Irrawaddy Dolphins in Laos and diverting water from the spectacular Khone Phapheng Waterfall, the Don Sahong Dam could undermine the increasing popularity of the Khone Falls area as an international tourist destination<sup>7</sup>, which people in this area benefit from (See map1 below, the red point is the proposed dam site).



**Map 1.** The map shows the proposed construction site for Don Sahong Dam in Siphandon, Champasak Province, Laos.

<sup>7</sup> Mekong River Commission: “*Don Sahong Hydropower project*”, Last modified August 20, 2014. <http://www.mrcmekong.org/highlights/don-sahong-hydropower-project/>.

## Introduction

As was detailed in the previous section, the Don Sahong Dam will block fish migration from downstream to upstream and threaten the disappearance of important fish species. As fish is the most important source of protein to feed the people in the Siphandone area, this would seriously affect the whole population whose lives depend on fisheries. Importantly, there are specific concerns about the dam's impacts on women because of the indivisible connection between fisheries, food security and women's role in the community and culture.

Most of the women's livelihoods in the Siphandone community are closely linked to food production and they are very skilled in this regard. Women know well how to manage food including making sure there is enough food for the family according to the seasons. It is women who are very skilled in food processing, especially fish. Women also maintain the food that can be preserved for long periods of time, for example, dry fish, *padaek* (fermented fish) and pickled fish. The women in the Siphandone area play a great role in many cultural practices, but especially, techniques in fisheries. This is a very special role for women in this community and one they have held for a long time. In addition to food processing activities, women are also the main fish sellers in the market, their predominant economic livelihood. As a result of both this division of roles, it is also usually the women who manage the family money. Communities therefore risk facing threats to their food security and women risk losing the significant role they play in the family and within the culture if the Don Sahong Dam is built.

These impacts would not only change what they eat, but also their way of life. It would affect the associations between the people who live in that area. Fish is central to many activities in the community which shows the true wealth of fish in the Siphandone area. Women would have little time to talk together because they would no longer see each other if they had to go to work in the city to provide for their families. It would lead to the loss of relationships and the cultural lives of women individually and for the community as a whole. Furthermore, the Don Sahong Dam would require the involuntary resettlement of households and communities, which would bring great social and psychological upheaval to individuals and to communities as a whole. These impacts often tear apart community structure and way of life.

The health and nutrition aspects are very important to consider, especially for women in terms of guaranteeing they can access health care and nutritious food for them to consume that is the same or better than their current diet of protein from fish. All in all, if Don Sahong Dam is built, it will have significant negative impacts on women in the Siphandone area including their livelihoods, their role in ensuring food security, cultural practices, family and community relationships, and health and nutrition, and the challenges that would be posed by relocation. These women have been denied the opportunity to participate in any decision-making regarding the dam, thus therefore the voice of the Siphandone women whose lives depend on fish that would disappear, have remained unheard. Their voices will be shared in this report.

## Research Findings

### 1. Impact on fisheries and food security on women

Don Sahong Dam will threaten food security which local women are seriously concerned about. Three villages in the Siphandone area: Dong Sahong, Hua Sadam and Hang Sadam villages are the areas that will experience the most significant impacts caused by the Don Sahong Dam, which is believed to be under construction on Hou Sahong channel. The Don Sahong Dam could affect hundreds of thousands of people living along the Mekong River. There are 241 families and 1,398 people, including 681 women in these three villages. The villagers in these communities mentioned that fish are and have been their main food and income for many generations and all the people are very skilled in catching fish. The Khone Falls is renowned for its rich fisheries, with at least 201 species present in the area recognized for their high commercial value. Besides, they stated that they have their own rice paddy fields and plant vegetables to earn their livelihood. All the rice they get from field and vegetables from small home gardens are sufficient to feed them. So they do not have to buy these kinds of food, or fish. However the villagers living there said that something will happen and threaten their lives and they could not satisfy their livelihoods in the future if MFCB builds the dam. All the villagers indicated that in the past, they could catch more than enough fish easily, but for the past few years it has been different. It is very difficult to catch a lot of fish like in the past. As one woman villager in Hang Sadam village said,

*“From a few years ago until now, our lives are more difficult and everything seems harder. Now we can catch not so much fish and I assume that if they build the dam, it will be more difficult or we will no longer be able to catch fish.”<sup>8</sup>*

Hou Sahong is the main channel and they can catch fish all throughout the year and catch as much as they need. They have fish traps called *li* on this channel because this channel is in good condition to use fish traps. There are many families in the Siphandone area that come and also use fish traps on the Hon Sahong channel, especially after authorities stopped allowing fish traps to be used on Hou Sadam and Hou Xangpheaung due to the construction of the Don Sahong Dam. The villagers said that they will not be allowed to make fish traps and every family who has fish traps must stop using them and that made all the villagers upset, and they feel powerless to do anything.

The big problem is the people in these three villages will soon face losing their source of income and the Don Sahong Dam will threaten their livelihoods, especially the women who play an important role in food security. The women's role in food security is very important and their main task in the household. As one woman in Don Sahong village stated,

*“I am a wife and mother, and my main concern is our family's stability. I must make sure that we have enough food to eat each day. I cannot imagine no longer being able to catch fish. I cannot imagine how we could lose catching fish. Then what will we do to feed ourselves because we were born as fisherman, it is very hard for us to do another job.”<sup>9</sup>*

Women here are very skilled in processing food from fish such as fermented fish (*padaek*), and dried fish which they sell in the market. Importantly, women are the ones who maintain the food security because they are able to preserve fish which can be consumed over a long period of time, for example dried fish, *padaek*, and pickled fish. It can be proven

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<sup>8</sup> Interviewee, 45 years old, Hang Sadam Village, female, September, 2014

<sup>9</sup> Interviewee, 36 years old, Don Sahong Village, female, September, 2014



that fish is the main source of their food and income for many generations. It is difficult to imagine how many benefits the women and local people here will lose if the dam is built. It would certainly affect the food security in long term which will increase the risks of other impacts.

It is essential to measure the impact of food security and monitor the different levels clearly: global, national, regional, community, household and individual levels. While it often makes sense to measure food security at the household level, intra-household dynamics are also important; particularly women and children food security and these dynamics can require measurement at an individual level. It seems the women in affected areas are worried a lot about their future and their children. As the ones who bear the main burden of food for the family and look after children, it will threaten their role in the family or in the community if they lose their source of food.<sup>10</sup>

Most people do fish processing at different scales. Some of them do it on a small scale, just for food at a household level. But most of them do fish processing to make an income and to sell it in the market and in nearby villages. Fish processing includes dried fish (*pakatao*, *pakatae*) and different kinds of fermented fish (*padaek* and *pasom*). Women do these processing activities, and with the loss of traditional food, this dam will seriously violate the role of women in the family and the community.

## **2. Social impacts to women's roles**

Don Sahong Dam will potentially harm the livelihoods of affected villages and lead to gender abuse. Women in affected communities mentioned that both women and men share rice and livestock production responsibilities. However, usually the women and girls play a significant role in the livelihood system. They do almost all household tasks including cooking, looking after children and the elderly, and collect water and food. In addition, the women are also involved in home gardening, collection of non timber forest products (NTFPs such as bamboo, mushrooms, herbs, wild fruits and vegetables), raising buffalos, cows and pigs. Also, the women take responsibility for raising small animals such as ducks, geese and chickens. Furthermore, women in

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<sup>10</sup> Regional Scoping Workshop on Gender and Sustainable Hydropower, MRC and GIZ, Bangkok, Thailand, 20-21 June, 2013

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the Mekong's Greatest Challenge

these villages make baskets and some fishing tools to use in households and sell some to other households. It seems that the women in the community attend to work longer than men. Both men and women in the Siphandone area make their livelihoods based on fishing and farming. Usually, they share and help each other. Especially when it is the time for catching fish, most women go to help their husbands catch fish. Normally, from March to April and from November to December, women are very active in catching small fish with their husbands. For men, they go to find big fish.

In these communities, clearly men and women have different tasks and everything they do is for their family's benefit. Having different perspectives, they will value the things they do in different ways. The villagers said that they have made their livelihoods based on catching fish and cultivating rice for many generations. These are not just for food consumption, but also for income, especially catching fish because villagers here were born as fishermen and fisherwomen. In addition, the women in affected villagers reported that Don Sahong Dam will significantly threaten their livelihoods because they are fishermen/fisherwomen and Hou Sahong Channel is not the only channel that fish can immigrant in year round, but it is also the channel that provides the most suitable condition to catch all kinds of fish, especially big fish. The important point is that in others channels they can no longer catch fish in rainy season, the Hou Sahong is the only channel where villages can catch fish effectively both in the dry season and rainy season. Thus, if they build a dam on the Hou Sahong Channel, all the villagers will lose their important source of income. Worse, losing jobs as fishermen or fisherwomen will lead to social problems. They will not only face losing their main income, but they might be forced to go to the city to find jobs. When a husband as the head of household goes to the city to find a job, it will be very difficult for the women to adapt because women will be forced to take responsibility for all work in the household and it is very hard for women to do that. As one woman in Don Sahong village stated,

*"If my husband was forced to work in the city, how could I stay home and look after the children alone and how can I take responsibility for all the household work? It is too hard for me to do that."*<sup>11</sup>

Women in the affected villages said that companies will provide them new jobs, such as raising animals (ducks, chickens, buffalos and cows) and will provide new schools, health care centres and local markets in the village to compensate for the things that the villagers will lose, but the problem is they are not actually sure how these activities can replace their fishing jobs and be enough to feed their families.

The women in affected areas reported that building Don Sahong Dam will cause their villages to be flooded, especially agriculture land (rice paddy fields), which will impact women the most. The villagers said that there are many families who will lose their rice paddy land, particularly the agriculture lands south of Don Sahong village which will be lost due to project development. They will build an access road for dam construction and concrete banks of the dam, causing agricultural lands in Hang Sahong village to be lost. People in the village will face poverty and related problems. It will be very hard for women to adapt because they might not be able to make their livelihoods as their parents did. One woman in Hang Sahong village said,

*"I only have six rai of rice paddy, so if my farm land is lost where I can get rice to feed my family? And if they do compensate me for it, I do not know how long they will compensate us."*<sup>12</sup>

In addition, the villagers have family graves in the rice paddy fields. If their rice paddy fields are flooded, it means community graves will also be flooded.

Flooding caused by the dam will have disastrous impacts on the rice paddy fields which the women depend on for their food security. Women in affected areas claimed that flooding will destroy their livelihoods and food source, and losing their farm lands will lead to poverty: no rice,

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<sup>11</sup> Interviewee, 23 years old, Don Sahong Village, female, September, 2014

<sup>12</sup> Interviewee, 40 years old, Don Sahong Village (Ban Hang), female, 2014

no food. One woman in Hang Sadam Village explained that,

*“A project developer told us that our village will not be flooded and no big problems will occur, but I believe that my home will be flooded because our village is surround by the river and very close to the planned reservoir. If the river rises irregularly, my home will be completely flooded. In contrast, if the river level goes down irregularly, we also face difficulty in making a living.”<sup>13</sup>*

Don Sahong Dam will force local women to face negative social impacts which might cause significant upheaval to individuals and to communities on a whole. Across all this change, in most cases, it is women who are at greatest risk of losing their livelihoods.

### **3. The loss of traditional ways of life**

One of the most serious concerns surrounding impacts from Don Sahong Dam on local women is the cultural impact. Building Don Sahong Dam will cause the loss of traditional ways of life which they have practiced for many generations. Respect, helping and sharing has been their way of life for a long time and might be damaged by this project. Moreover, the relationships between husband and wife at home might be broken down because when they face big problems like no job and no money, poverty will cause the husband to go to work in the city far away from home. And then women will have to look after their family alone and work harder than before, and husbands will chase other girls and will not send money to their family. As one woman working on legal education in Laos pointed out,

*“In all bad situations it is the women who suffer most through violation of women’s rights. From my experience working on women’s rights, especially in the economic development field, I see that it is very hard for women. Sometimes if the problems seem very difficult, men are likely to use violence towards women [wives] and then their good relationship in the family will come to an end.”<sup>14</sup>*

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<sup>13</sup> Interviewee, 33 years old, Hang Sadam Village, female, September, 2014

<sup>14</sup> Interviewee, Vientiane Capital, female, 2014



Besides the household level, the community level will be affected too. In the past, the villagers said that they were very kind to each other, sharing food and helping each other, but now the people in the village have started to change. The people do not talk to each other openly like in the past and greed is a problem in society. This began happening when the project developer came to the village and talked about benefits to villagers that they will have after building the dam. These problems will cause conflicts in the villages and then harmony and respect will be damaged.

The people in these villages claimed that they are happy with what they have now, beautiful nature, good atmosphere, wealthy food sources (NTFPs, rice fields), and having fish as their main food and income.

Living in a community without any damaged aspects will maintain the balance of gender roles and also the traditional way of life. The villagers in affected areas mentioned that their lives are sufficient now. They have enough food to eat, people respect each other and have enough money to use for supporting their families, thus meaning they are happy. As one women in Hang Sadam village said,

*"I think that material development sometimes brings happiness to people, but it's temporary. Moral development or the civilization of morality is essential. It is real and permanent happiness. If this dam leads to unhappiness and disaster, I think there is no need to build this dam in our community."<sup>15</sup>*

Furthermore, an old women in Hua Sadam Village strongly claimed,

*"I feel disappointed. Why is our country [Laos] building dams, but all the benefits will go to other countries like Thailand and Cambodia. Instead we should also gain benefits such as cheap electricity, but the price is going up year by year. Some areas have to use electricity from neighbouring countries like Thailand and Vietnam."<sup>16</sup>*

It is very important to think about who loses and who gains benefits from development. Is it actually for the community or for personal benefit?

From these points, we can see that building Don Shong Dam violates human rights because all people have the right to enjoy living in their community. Building this dam risks losing this. In addition, Don Sahong Dam will not only destroy rich natural food resources, but will also lead to community conflicts, household conflicts between husband and wife, and finally the people in these communities will have unhappy lives.

## **Compensation and Relocation Problems**

Don Sahong Dam will require involuntary resettlement of households and communities including all households in Hang Sadam and some households in Hang Sadam and Hua Sadam villages. The result will be great social and psychological upheaval to individuals and to communities as a whole. According to one expert,

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<sup>15</sup> Interviewee, 33 years old, Hang Sadam Village, female, 2014

<sup>16</sup> Interviewee, 58 years old, Hua Sadam Village, female, September, 2014

*“These impacts are experienced by men and women, girls and boys, the young and the elderly, and those with disabilities. The impacts often tear apart community structures and ways of life. Communities and households operate with defined gender roles and responsibilities—these are all affected, especially for displaced people and women.”<sup>17</sup>*

The women in Hang Sahong reported that they are not happy about being forced to move to another place since they have lived in this village for many generations. They claimed they do not want to lose their homes and their lands because their home is close to good fishing areas with easy access to food resources.

The women in affected areas reported that the company, as the dam developer, will provide very little money [compensation] for them (only three million kip per family) to find other work. This causes villagers to become nervous and dissatisfied, as the damage they will suffer is on the order of many millions of kip. They said that they feel the company and the government has not taken sufficient action to solve the problems that will happen because of the dam. A women in Hang Sadam village said,

*“I heard that the company will provide money only one time (three million kip), so how can I make my livelihood with such little compensation? I can earn ten times more than that per month from catching fish using fish traps and other fishing gear. I have three children, and I planned to decorate my house, so how can this money be enough for my family and how about my children, what will they eat?”<sup>18</sup>*

Relocation to another place is very hard for local people to accept, both men and women. Because of the essential role that women play in food security, relocation is even more difficult for them. Women are seriously affected because they take the responsibility to look after the family and go to find food for family other members. If the new location has no

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<sup>17</sup> Michael Simon, *Balancing The Scales: Using Gender Impact Assessment In Hydropower Development* (OXFAM : Australia, 2013), 7.

<sup>18</sup> Interviewee, 33 years old, Hang Sadam Village, female, September, 2014

abundance of food like the old place, their livelihoods will break down and bring a lot of problems to the household and at community levels. In addition, receiving unsuitable and inadequate compensation will bring serious conflicts to the family and community. Although the project developer provides work opportunities for the people in the village during the dam construction, they only provide jobs for men, not for women. Since the project developer does not consider and has overlooked this issue, it will cause inequality between women and men and is a violation of women's rights. One women working on legal education in Laos added,

*“If the dam is built, the project developer will have to make sure about gender equality in benefit sharing. To show equality, the project developer must promote women and provide jobs for them to do.”<sup>19</sup>*

Although the project developer mentioned mitigation measures in the Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA), the project developer failed to identify the period of time to compensate for the villagers who will be affected by this dam, and the EIA did not specify clearly the source of food to if they lose it.<sup>20</sup> As for the SIA, even though it mentions women's concerns about their livelihood after the dam is built, the SIA did not identify what an equivalent compensation would be to replace their lost livelihoods.<sup>21</sup> The villagers said that the project developer will promote the local people, especially women in affected areas to do other jobs such as feeding animals and planting vegetables that they can sell, but the problem is where can they sell them? The soil in these islands is unsuitable for that, and how can this activity replace their jobs because comparing the selling of fish and vegetables, the income is totally different.

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<sup>19</sup> Interviewee, Vientiane Capital, female, 2014

<sup>20</sup> WWF's scientific review on Don Sahong EIA/SIA Final, February, 2014

<sup>21</sup> WWF's scientific review on Don Sahong EIA/SIA Final, February, 2014



With the uncertainty about the relocation area and the time frame, it is very difficult for affected people to imagine what the new place will look like. This is a big concern for women with regard to their future livelihoods after relocation. As one expert stated,

*“In many societies, it is women who bear the burden of responsibility for the home and for the family, as well as a variety of roles and tasks within communities. For communities with strong social, cultural and economic connections to land, river, and place; the changes brought about by hydropower dams can be very traumatic. Resettlement, in particular, is considered impoverishing as it takes away economic, social and cultural resources simultaneously (Koenig 2002 cited in Scudder 2005). Across all this dam-induced change, in most cases, it is women who are more adversely impacted.”<sup>22</sup>*

One family in Hang Sahong village reported they are not happy to move from their land since it was their parents' and grandparents' for many generations. They said the project developer announced that all households (a total of 11 households) in Hang Sahong village must resettle to live in the middle of the village, close to Hua Sahong village. To be relocated, everything will be more difficult than now, one couple added. They also said that land in the relocation site is very limited; the families who are relocated will face crowded living conditions and no land for a home garden. Everything looks worse than their former situation and many claimed the model of houses the company showed them were very small and too close together. One women working on Legal Education in Laos indicated that:

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<sup>22</sup> Michael Simon, *Balancing The Scales: Using Gender Impact Assessment In Hydropower Development* (OXFAM : Australia, 2013), 7.

*“When relocation is required, compensation must be given with equality. Compensation must also be based on disaggregated gender roles because the husband and wife have different roles in the family and different perspectives on using resources. The project developer must divide it in different aspects, but the value must be equal. In particular, for women, the project developer has to provide jobs and training for women. If the project developer fails to address gender issues, women will be forced to go out to work in the city, which will create dangerous risks for women such as human trafficking, as often occurs when women face no other livelihood choices.”<sup>23</sup>*

The Resettlement Action Plan (RAP) showed that there were only eleven households in Hang Sahong village, and only one household in Hang Sadam village facing resettlement.<sup>24</sup> It also showed that Don Sahong and Don Sadam will not be flooded. However, the villagers in the Hang Sadam and Hua Sadam villages pointed out that their homes will in fact be flooded and some households in Hua Sadam village will face resettlement. Even though they [project developers] announced that there were no more households to be resettled, the villagers are afraid and do not believe them. An old woman in Hua Sadam village said,

*“Last time they came to my home and took a picture of my house. I asked them what will happen and they said there’s nothing to worry about, but what I felt inside at that time is that I fear resettlement.”<sup>25</sup>*

There were two women, one from Hang Sadam village and the other from Hua Sahong village, who shared lessons from another case that they saw on television about the effects from dams to people who live in reservoir areas and downstream. They said that they were very concerned and feared their homes will also be flooded like they saw on TV. The old woman in Hua Sahong village had the chance to go to the Nam Theun 2 Dam (reservoir area). She said,

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<sup>23</sup> Interviewee, Vientiane Capital, female, 2014

<sup>24</sup> Resettlement Action Plan (RAP) Final, January 2013, p.6

<sup>25</sup> Interviewee, 58 years old, Hua Sadam Village, female, September, 2014

*“When I saw the situation of the villages by the Nam Thuen 2 Dam, I was surprised; all the villages were seriously flooded. The flooding was like the huge lake, and homes and trees become very small things. Then I returned and thought to myself that if Don Sahong Dam is built, I am sure that my home will be flooded like the villages in the Nam Thuen 2 Dam area. The villagers there were very frightened. I saw some of them cried. They said to me that their lives are 100 times more difficult compared to the past. Many things that never happened to the community in the past are now happening.”<sup>26</sup>*

The women in Hang Sahong village said they have no reason to believe the project developers. They are worried that they will not have enough food, the new place will not be as convenient as the old place, and there will not be enough land to do rice paddy fields. To move to another place it is very hard for them to accept, and for women they will find it very difficult to look after their families and find food for family members. Government officials came to visit Hang Sahong village five or six times to talk with the villagers about compensation. They said that the project developers would provide rice to eat to replace the rice paddies that they will lose. But there was no announcement about how long the project developer would provide this support to them. They are worried that they will receive unfair compensation and with little or no freedom of expression to complain to the authorities, this will lead the community to fall down. The villagers seem to no longer trust the high authorities.

*“Normally, we use water from here for cooking, drinking, bathing and watering the garden. If they build Don Sahong Dam, the water that we have used for many generations will become low quality, and no longer usable. Therefore, when they start to construct the dam, I am going to stop using water from here.”<sup>27</sup>*

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<sup>26</sup> Interviewee, 58 years old, Hua Sadam Village, female, September, 2014

<sup>27</sup> Interviewee, 40 years old, Hua Sadam village, female, September, 2014

## Impacts on Health and Nutrition

The people who have lived in Don Sahong, Hang Sadam and Hua Sadam villages for many generations have never faced serious illnesses. But now they are uncertain about what will happen to them. Women there are afraid that Don Sahong Dam will bring health problems. They assume that the water in the reservoir will be very low quality and if it floods it will be difficult to survive. Worse, they fear that the dam will cause a lot of illnesses such as diarrhoea and malaria and the company never talked about this.

Even though the company stated that it will provide wells for villagers, the problem is how can wells be constructed on the island? The head of Don Sahong village said that one time the company came to conduct health checks for villagers in affected areas and they focused on women. One woman in Hua Sadam village reported that the company came to conduct health checks for women, but they chose only the women and children who were ill at that time and chose only women who have congenital diseases for the health checks. In addition, the project developer got most information about health from provincial and district levels. One woman commented,

*“If the central government agrees, the provincial level agrees, and the district level agrees, how can small villages disagree?”<sup>28</sup>*

As fish is the most important source of protein for people here, most of them consume fish everyday and fish has become an essential part of their lives. It is very difficult to think about what they will face when they lose their most important source of protein. Don Sahong Dam will definitely block the fish pathway and then people there will begin lacking nutrition which will cause health problems and food insecurity.

The villagers there are “innocent,” especially the women because they rely on nature and the river to find food for their families. They have the right to life and the right to health and the right to a clean and healthy environment. It is essential for all local people to have the right to an adequate standard of living.

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<sup>28</sup> Interviewee, 33 years old, Hang Sadam village, female, September, 2014

## Lack of Information and Public Participation

Public participation development No. 707/MONRE, Decree 435/PM on November 28, 2011, regarding public involvement in the construction and operation process and access to information,

*“The project developer must ensure that affected people or vulnerable groups (women, children, ethnic groups and disabled people) are able to access all information about environmental and social reports and another related reports.”<sup>29</sup>*

In contrast, the villagers have experienced a lack of access to information, especially women, who face very serious problems from lack of public participation. The information about the dam construction provided to the affected community was unclear.

Women, in particular, lack opportunities to participate in decision making, even at the household levels and community levels. Women say that when there is a meeting about Don Sahong Dam the project developer asks for representatives to participate in the meeting, and it is usually always men. Once, there was a time that the project developer held a meeting for women to ask about their livelihoods, and their lives in the affected area. But the problem is they did not really understand. It was very difficult to access information about the dam. Worse, there was no information provided to women or villagers in the affected area. They want to know details about the dam, how it will be built, what will happen after construction, and when they are affected by the dam, what kind of help they will receive. Moreover, villagers said that they did not really understand the process of the dam construction and they did not know about the EIA and SIA. The villagers indicated that they have known about the project for five to six years from the heads of the villages. “This dam will be built at the end of this year. Now they are waiting for the government to sign the document to start the project”. This is the only thing they know about the company and the dam construction process.

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<sup>29</sup> Public participation development, No. 707/MONRE, Decree 435/PM, Public involvement, November 28, 2011, p.15

*"I am a woman, so I also want to participate in decision making. I have a lot of tasks to do each day, thus I have to know about the process in order to prepare for what will happen. I do not even know when they will actually build the dam. If they would announce the exact day, we might be able to find a way to face the situation. But from the beginning until now, they did not tell us exact things. Therefore, I have lost faith in the company and the high authorities."<sup>30</sup>*

To not involve women in decision making will bring a lot of problems at both the community and national levels. For this project, an invitation to all levels of people to participate would be very effective. The project developers did not clearly specify about women's issues in public participation and they seemed to overlook this issue from the start. For affected communities, when there is a dam, the people in the community face poverty and serious problems and conflicts. The woman working on Legal Education in Laos said,

*"To empower women in decision making is very effective. Women know well all the aspects in households and the components of their communities. I suggest that the project developer have reports about gender such as a gender impact assessment. Decision making must be balanced and equal. If the project developer rejects this idea, there will be lots of problems and long term impacts that not only affect women, but all levels of the community."<sup>31</sup>*

For the government, even though they have policies regarding women equality, in practice, they do not have strong mechanisms to measure the real situation. This affects women who face difficulties exercising their rights, especially women in rural areas. This is also one reason why women have less chance to share their opinions and less self determination to make decisions on the impacts from the dam on their lives.

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<sup>30</sup> Interviewee, 37 years old, Hua Sadam Village, female, September, 2014

<sup>31</sup> Interviewee, Vientiane Capital, female, 2014

Women and men in rural communities play different roles in guaranteeing food security for households and communities. Women are usually responsible for growing and preparing most of the food consumed in the home and raising small livestock, which provides protein. In addition, women carry out most home food processing, providing marketable products and spend their incomes on family and children's needs and the mother controls the household budget. Therefore, women play a decisive role in food security and looking after people in the family. A women's role in the development of a community can be the key to reducing gender inequality, providing for the needs of women and families. Therefore, the way women participate and process information may be highly beneficial to a community, which the developer must consider about women's participation and the important role of women in the household and community.

## Policy and Legal Frameworks

### 1. National laws and policies

According to industry standards, it is very important to consider how women will be impacted from the building of a dam. It is very important to have guidelines and laws for the dam builders and government to follow and ensure the women's rights under hydropower development. Involving women in the decision-making process helps to ensure women's equality and to avoid violating women's rights.

This report shows that the developers from both the governmental side and company's side have not followed the laws and the policies about women under hydropower development, which threatens human rights, and specifically women's rights.

Equality in Lao PDR is promoted through laws and programs. Article 13 of National Constitution (2003) stipulates, "*Citizens of both genders enjoy equal rights in the political, economic, cultural and social fields and family affairs*". But in reality gender equality is overlooked, especially public participation in decision making. Also, article 35 of the amended 2003 Constitution of the Lao PDR guarantees the principle of gender equality. Article 29 (new) specifies women have the right to attend meetings about implementing development policies and the state should

support the progress of women and protecting the legal rights and benefits of women. Article 3 of 2004 Law on the Development and Protection of Women indicates that,

*“The state has policies for the development and advancement of women, protection of the legal rights and interests of women by creating every condition to ensure that women have good health, knowledge, capabilities, revolutionary ethic, employment and equal rights with men without any discrimination based on political, economic, social, culture, and family status.”<sup>32</sup>*

The Lao National Commission for Advancement of Women was established in 2003. Moreover, “the National Strategy for the Advancement of Women (2011-2015) overall goals are to increase understanding of gender equality, enable more women to join decision-making positions; promote wider participation of women in economic activities and social services.”<sup>33</sup> As the only institution in Laos that is formally recognized as having responsibility for advocating for women’s rights and gender concerns, the Lao Women’s Union has a unique opportunity to influence policies, plans and practices of both government and non-government organizations with respect to the needs and status of women in Lao PDR.<sup>34</sup>

The country’s Seventh National Socio-Economic Development Plan (2011-2015), which includes hydropower as a development priority, identifies a range of actions related to the capacity building of women to participate in political debate and economic development; increasing women’s participation in provincial and sector planning and the integration of gender considerations into such and ensuring that women can access their rights.<sup>35</sup>

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<sup>32</sup> Virginia Simon and Michael Simon, Gender and Hydropower: “National Policy Assessment Lao PDR” (OXFAM: Australia, 2013), 4.

<sup>33</sup> Virginia Simon and Michael Simon, Gender and Hydropower: “National Policy Assessment Lao PDR” (OXFAM: Australia, 2013), 5.

<sup>34</sup> Lao Women Union, Last modified August 27, 2014. <http://www.humantrafficking.org/organizations/151>

<sup>35</sup> Virginia Simon and Michael Simon, Gender and Hydropower: “National Policy Assessment Lao PDR” (OXFAM: Australia, 2013), 5



In addition, the law on water and water resources (1996) asserts that water project developers must help resettle displaced communities, but makes no special provisions addressing women. On this point, it is very important to concerns about gender with respect to gender justice in hydropower in different perspectives and needs of men/women (gender) in relocation areas. Thus, to ensure justice, this law must include gender issues and address women's access to natural resources. This is especially important in the context of a hydropower project's appropriation of community land.

Laos has several policies on women that are included in development plans, but in reality they are very weak, with no effective mechanisms to deal with problems.

## 2. International standards

There are many treaties that Laos has already ratified, and that it is legally obligated to carry out. Most notably for the focus of this research project, Lao PDR ratified the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 1981. While upheld in the constitution, and while none of the laws or policies identified in this report has been actively discriminatory, active pursuit of gender equality is required to achieve it in reality.

An Article 5 (a) indicates that,

*“States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>36</sup>*

This means that the government must change stereotyped ideas about men and women that have negative impacts (men usually make a decision and women are passive) because several gender policies exist but are often overlooked by developers. Thus the government must take

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<sup>36</sup> United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Article 5 (a).

responsibility to encourage women as the leaders and representatives in the family and community so they can participate fully in decision making processes. Also, article 14 of CEDAW stipulates,

*“Women have the right to full participation in development, especially the particular issues faced by rural women and the significant roles which rural women play in the economic survival of their families. Importantly, women have rights to enjoy adequate living conditions, particularly in relation to housing, electricity and communication.”<sup>37</sup>*

In addition, the International Covenant on Civil and Political Rights (ICCPR) guarantees in Article 3 that advancement and development of women is to be a priority.<sup>38</sup> Article 25 states that all (women and men) should have equal access to participation in public affairs and access to public services.<sup>39</sup>

The Mekong River Commission (MRC) Gender Policy states that it is a priority to address gender issues in water and related resources development in the lower Mekong Basin. Men and women often play different roles in development, and accordingly, have different needs, interests, access to, and control of resources. A gender perspective is required to ensure that the specific needs of men and women, vulnerabilities and capacities are properly recognized and addressed which it can contribute to reduce gender disparities in development efforts for a sustainable utilization of water and other resources.<sup>40</sup>

To take responsibility on gender in the context of the Don Sahong Dam, Laos and investors must consider the regional and international legal obligations to ensure that the process of development respects and protects gender equality.

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<sup>37</sup> Michael Simon, *Balancing The Scales: Using Gender Impact Assessment In Hydropower Development* (OXFAM : Australia, 2013), an article 14 of CEDAW, 15.

<sup>38</sup> International Covenant on Civil and Political Rights (ICCPR), Article 3

<sup>39</sup> International Covenant on Civil and Political Rights (ICCPR), Article 25

<sup>40</sup> MRC, *Commitment on Gender Mainstreaming in Water Resources Development in the Lower Mekong Basin for Sustainable development*, 2013

## Conclusion

This research was conducted to show how Don Sahong Dam may impact women in Don Sahong, and Don Sadam villages. I found that most of the women I interviewed deep in their hearts do not want this dam to be built. The women are very concerned about their lives after the dam, how can they survive from losing their source of food, how can they live with big concerns about flooding their homes and agricultural land, and how can they learn about dam building process when they lack public participation. I wonder why the authorities just focus on economic growth and reject people's basic needs.

For the people in Siphandone, fisheries and agriculture are essential to local livelihoods and food security in which women play vital role. Local people there want to see development that improves their lives, not creating more poverty. The Don Sahong Dam will dramatically change their lives and it will be difficult for them to adapt. The impacts are not the same for women and men. Specifically, women are more critically affected than men when social relations and kinship structures are disordered due to resettlement. Also, hydropower development has different impacts on the health status of women, men, girls and boys including accidents during construction, HIV/AIDS, stress and mental health, diseases and illness due to noise, poor water and sanitation and insufficient food and nutrition. Rapidly changing livelihoods will threaten women's roles in the family and also in the community.

Lack of participation in decision making is a big problem, especially women's participation. For the women, a priority is to reach the goal of sustainable development, therefore, women's participation in decision making of development projects is essential. Women should be educated more about the law and human rights to protect their rights. Having space for people to choose their lives is one of the targets that the government has to consider.

The people that I interviewed said that fishing is an extremely important for a part of their lives. It seems that the people in Don Sahong and Don Sadam know more the impacts from dams than previously, but the biggest difficulty is that community members do not have the right to say what they feel and do not know how to communicate their concerns

to outsiders. Some of them seem to want to express what they are thinking, but the political system forces them not to speak.

## **Recommendations**

The Lao government should revise and/or adopt laws and policies to support gender equality in the context of hydropower dam development. Also, the Lao government should have the obligation to force the investors to do Gender Impact Assessments. The Lao Women's Union as a government's body should empower women to participate in decision making processes and in the village levels, the Lao Women union should empower women to participate in meetings. The government should create space for CSOs and NGOs to work in affected areas. It should provide information to villagers on both positive and negative impacts of dams and ensure meaningful participation of all affected community members. The Lao government must ensure that its people enjoy freedom of expression without discrimination.

Considering the geography of the Siphandone area, it would be better to focus on fisheries and tourism, which make high income for country. If the Don Sahong Dam is built, it will adversely impact the economies of local communities. Finally, the government must ensure dam developers study trans-boundary impacts, as this project is on the Mekong mainstream.

The Mega First Corporation must provide accurate information to the community about the dam project in every step of the process; before, during and after construction. The company should conduct frequent consultations with community members, including women, and take responsibility regarding gender issues. The company must give suitable compensation to affected people to make sure their lives will be better than where they live now. Both the EIA and SIA must include community perspectives, and if there are trans-boundary impacts, the company has to take responsibility according to national laws and international laws.

The Mekong River Commission (MRC) must seek real Prior Consultation for all government members: Laos, Vietnam, Thailand and Cambodia to make sure the 1995 Mekong Agreement is a real agreement. As it is the agency for four country government members, the MRC must ensure

Trans-boundary Impact Assessments are conducted. The MRC must pay attention to women's perspectives on hydropower development, and as gender is a significant issue, the MRC must adopt a Gender Impact Assessment to be one of the priority issues in Mekong River development.

CSOs, NGOs and researchers should provide legal trainings for women in the villages, especially on gender equality. They should empower women from affected communities to gather data and conduct community-based research on local knowledge, specifically women's knowledge, and share this information will all affected areas.





# Potential Impacts of the Nam Ou 2 Dam on Local Livelihoods in Luang Prabang, Lao PDR

Luuk Nam Ou

## Introduction

This research focuses on the potential impacts of Nam Ou 2 Dam on the economic activities of the people who live in Pak Bak, Nong Kiew and Ban Sop Hun villages along the Ou River. The Ou River is the livelihood of the local people. There would be unprecedented changes should the cascade of seven proposed dams be built on the Ou River. Of these seven proposed dams, Nam Ou 2 Dam is the first one to be under construction.

I conducted research in three villages: Pak Bak, Nong Kiew and Sop Hun along the Ou River in Ngoi District. In my report, I will discuss the local people's income-generating activities, recent changes on the Ou River, possible impacts from the dam project, local people's perspectives on the dam, and recommendations for stakeholders to take responsibility for the dam.

## **Background**

Lao PDR is a mountainous country, especially northern Laos, where there are 14 tributaries of the Mekong River. The Ou River is the longest Mekong tributary in Laos. It flows from northern Phongsaly province to Luang Prabang province and then converges into the Mekong mainstream. The Lao government proposed to build seven dams on the river in the beginning of 2011. There are 34 villages and four ethnic groups living along the Ou River including Lao-tai, Khmu, Hmong and lowland Lao. They mainly rely on food from the Ou River and surrounding forests.

The dam site is proposed at a location 53 km from the mouth of the Ou River, measuring 49m high and 300m long. The dam site will span 16 square km. The installed capacity of the Nam Ou 2 Dam will be 120 MW, with an estimated annual energy output of 546 KWH. On October 2007, the Lao government and the Chinese company Sinohydro signed the Project Development Agreement (PDA). The company received a permission letter on December 23th, 2010 from the Energy Department Promotion, Ministry of Energy and Mining, after which, construction began. It is expected to take four years and eight months to finish. This project is a joint venture between the state-owned Electricity Du Laos and Sinohydro. Earth System Lao conducted the Environment Impact Assessment (EIA) for this project on behalf of the Lao government and Sinohydro Company.

According to the Lao government, the dam project is expected to benefit people in the Northern provinces by supplying electricity to households for further development, with initial benefits of improved health, education, social services, transportation, water and electricity supply for the Lao people

## **Methodology**

For my research, I focused on the local economic activities of the people who would be affected by the dam project, located in Pak Bak, Nong Kiew and Sop Hun villages, upstream of the Ou River in Ngoi district, Luang Prabang province. I conducted qualitative research, with data



and information based on interviews with the affected communities and face-to-face interviews (interactions) with local governors. Secondary data was collected from a report from the INGO International Rivers, the EIA report, and the Ministry of Energy and Mines' Power Development Plan document. I also had the opportunity to attend a Policy Dialogue on Power Sector Development on September 4<sup>th</sup>, 2012 in Lao PDR, organized by the Department of Policy and Planning of the Ministry of Energy and Mines and HELVETAS Swiss.

I contacted Earth System Lao to request the EIA but their staff refused to provide me the official document. However, International Rivers staff assisted me in researching the EIA report.

The EIA states that in the resettlement plan there are 24 villages that would be affected by this project. Of these, only three villages that are within the project construction site would have to relocate. The remaining 21 villages would have their farmland impacted only. The EIA also mentioned that the Nam Ou 2 project construction and operation has the potential to contribute to the improvement of local livelihoods and income and it is likely to increase economic opportunities for local communities directly and indirectly through unskilled jobs that will provide poor households with the means to escape poverty.

## Results

Through investigation it was found that the affected people had many different concerns related to the potential impacts of the dam project. The following information summarizes the key concerns they identified.

### 1. Local people's economic activities and their income in three villages

- **Pak Bak village:** There are 742 people and 126 households in Park Pak village. The people in this village are Khmu and Lao lowland ethnic groups and are dependent on river bank agriculture planting and fishing. They mainly earn income for their households from selling fish and annual crops from their gardens such as corn, rice and vegetables. They use these products for their families as well as for income generation, of which almost 80% of the sales

go to middle men in Luang Prabang city. Seven families in this village will have to relocate as a result of the dam.

- **Nong Kiew village:** There are 2,143 people and 499 households in Nong Kiew village. 70% of the people are government officers and 30% are farmers and laborers such as boat drivers, construction workers, etc. There is only one primary school and one high school in Nong Kiew, which both receive children from other communities nearby. There is only one local market in Nong Kiew where farmers and fishermen sell their products every evening and early morning.
- **Ban Sop Hun:** There are 474 people and 90 households in Ban Sop Hun. In this village, there is a boat pier for local communities and transportation that allows locals to maintain communication with other communities and for tourists to see the area's natural environment and historical places. 55% of the population is involved in boat transportation and tourism businesses such as restaurants, guest houses, and tour guide services. Another 45% are engaged in farming, collecting edible riverweeds, and panning for gold. The people do these activities in the dry season and earn enough income for their families.

## **2. Concerns around possible impacts to affected communities**

The following are direct quotes I obtained during my research from the local villagers explaining their concerns about the potential impacts of the dam project.

### **2.1 Perspective on the loss of food sources**

- **Loss of farmland**

A female Sop Hun farmer explained to me that she “fears the impacts the dam project would have on my livelihood.” She further explained:

I have lived here for many generations and this land was the inheritance from my parents. Whenever I visit other places I miss my hometown because it is easy to find food here. I already have everything I need around me in the forest and in the Ou River. We hardly ever buy food and we do not have to buy rice. Every year, we earn money by selling our crops from our river bank garden and farmland. We use this for our

family. We use money to buy necessary things that we cannot find from the forest and the Ou River such as seasonings, soap, and hospital and school fees. I still do not know what will happen after the dam is built but I heard that the company will take responsibility if my farmland is flooded.

- **Loss of water resources**

There are many unique resources in the Ou River which are not found in other rivers such as: gold, riverweed, and big shrimp. However, local people say that currently fish are at risk of extinction and that they have seen a decline in the number of fish in the Ou River.

A male Pak Bak fisherman told me that he has observed fish depletion in the Ou River. "I used to catch many big fish over 50 kilograms, especially *pla keung* and very big *pla fa lai* as well as tiger fish. But now I hardly ever find them."

## 2.2 Perspectives on the loss of income

The affected communities undertake many activities to gain their daily income such as selling fish and agricultural products, providing boat transportation, and operating guest house services, restaurants, and tour guide businesses.

- **Loss of transportation and tourism**

An Environmental and Water Resource Department officer, Meung Gnoy, discussed the value of the natural view along the Ou River in Ngoy District. He said, "In the past, the Ou River was free-flowing in its confluence with the Mekong River. Local people and tourists could take a boat directly from Luang Prabang district to Nong Kiew and from Nong Kiew to other villages upstream of the Ou River. If the dam project is completed, I think the dam will surely separate the river into two parts. Local people will face difficulties because of these changes and there will be fewer tourists."

A local Sop Hun-guest house owner added, "Ngoi district is the second most popular tourist destination after the world heritage district in Luang Prabang. The tourists like to take boats more than cars or vans because they love to see the

wonderful scenery and free-flowing river. They like to stay along the river when they arrive here and just hang out at night. I am afraid that there may not be many tourists in the future.”

These are the concerns of the local people, not only farmers and fishermen, but business people and government officers as well.

- **Loss of jobs**

A female Pak Bak farmer expressed her concern about the dam's potential impact on her livelihood. She said, “My main job is farming. Every day, I go into the forest to collect firewood, wild vegetables, edible insects, and animals for cooking and to sell. Once, the company came to meet us and measured the water level and told us that after the dam was built our farmland may be flooded. I think I would have to change from being a farmer to another job, and I do not know what I would do in the future.”

A male Nong Kiew villager who was also worried about his future livelihood said, “I heard that during the dam construction, the company promised to hire only Lao workers and not to bring workers from outside. But when I went to visit my relatives in Hat Khip village, I saw many Chinese workers at the construction site.”

The villagers are worried about their lives and whether they will be worse off after the construction of this project.

### **3. Project Process and Compensation**

#### **Project Process**

At the beginning of 2011, the Electricity Du Laos collaborated with district agriculture and land officers as well as village leaders to conduct a survey and mark the area that would be affected by the project.

- **Access to Information**

The following details are based on information I obtained from discussions with the villagers and from an interview with an officer from the Department of Environmental and Water Resources about the Nam Ou 2 project:

- On March 28, 2012, a meeting was held in Luang Prabang province regarding the nomination of a coordination and environmental and social impact committee for the Nam Ou 2 hydropower project.
- In March 2011, the Earth System Lao staff gave a presentation on the Social Impact Assessment in Luang Prabang province to participants including provincial governors, district governors, local village authorities and five representatives from affected villagers.
- In November 2011, the Earth System Lao staff gave a presentation on the Environmental, Social Management and Monitoring Plan in Vientiane, to an audience of government counterparts and 24 heads of households from an affected village. One of the affected villagers raised concern for their future lives after the dam is built by questioning: After the dam is in operation, will electricity be provided to our affected households?
- On May 12, 2012, Earth System Lao delivered a presentation about the resettlement plan for those in the project construction area who would be displaced. During the presentation, the representative from the affected villagers raised the following question: How much compensation will the affected communities receive and what will happen when our homeland and farmland are flooded?

**Compensation**

Compensation is to be provided for two groups: for agricultural products and for resettlement. The following table shows the compensation scheme for people affected people by the Nam Ou 2 project, provided for by the Decree on Compensation and Resettlement of Affected People by Development projects No.192/Prime (the "Compensation Decree").

Type of compensation	Amount of compensation
<b>Resettlement</b>	
Land for housing	300 m <sup>2</sup> /household
Garden Land	32000 kip/m <sup>2</sup> (US\$4/m <sup>2</sup> )
<b>Agriculture products</b>	
Rice	9.500.000 kip/ha/year (US\$1,187.50)
<b>Industrial trees</b>	
Teak tree	8000 kip/tree/year (US\$1)
Rubber trees	22000 kip/tree/year (US\$2.75)
Eucalyptus trees	5000 kip/year/tree (US\$0.62)
<b>Fruit trees</b>	
Orange trees	300.000 kip/year/tree (US\$37.5)
Longgan trees	150.000 kip/year/tree (US\$18.75)
Coconut trees	80.000 kip/year/tree (US\$10)

According to Article 6 of the Compensation Decree, “any development project must take responsibility for every affected community to have the same livelihood they had before the project.” The compensation for rice is dependent on estimating the quantities and market prices. Compensation for industrial trees is determined by the number of years that people grew the trees. For example, if a farmer has been growing teak tree for five years, they will receive five years of compensation from the company.

According to a government officer and the company’s Compensation and Resettlement Plan, compensation for land and housing is strictly limited to 300 m<sup>2</sup> per affected household, regardless of whether a family has occupied land that is larger than the new land.

Currently, compensation has not yet been provided to the affected people. The company and local officers have only collected data to calculate the amount of potential impacts from the project, such as on rice paddy fields, farmland, houses, etc.

Based on my research, it is evident that the compensation plan is inadequate and the company violated international legal standards and World Commission on Dam standards by violating local people's housing rights. The company also violated National Law as the Decree on Compensation and Resettlement of affected People by Development Projects No. 192. Part III: Compensation, Principle 6, No. 10, stipulates: ***"People who are affected from development project must receive full compensation, resettlement implementation or maintain their lives before initiate the project."*** This article is especially relevant for the situation of the affected communities, and should provide impetus for them to receive fair compensation.

#### **4. People's Responses**

##### **People's perspective on compensation**

During an interview with an officer at the District Environment and Water Resources, I was informed that some affected people in Had Khip village have already accepted compensation and that those who have not accepted compensation are not satisfied with the amount being offered because it is not equal to their loss. The officer explained one case where a villager was paid inadequately for his land and as a result, he filed a lawsuit for unfair land compensation. This case went to the provincial court many times but he is still waiting for a decision.

##### **People's opinions on the effects of the project on their lives**

Affected people in three villages expressed their opinions during interviews as follows:

*"In the past, there was no dam on the Ou River. This year, there will be many changes along the Ou River. I agree with the government's plan to develop the country and eradicate poverty so that poor people's lives will be better. But on the other hand, I still worry about the dam's gate. If it breaks, I am afraid that our homeland will be flooded."*

*-Pak Bak village father*

*"I do not think the Nam Ou 2 Dam is necessary for us because we already have sufficient electricity and I think the electricity transmitted from Nam Ngum Dam is sufficient for our communities. I do not understand why the government needs to build more dams."*

*-Restaurant owner, Ban Sop Hun*

*"I am glad to see that our communities will have enough electricity to use. I am very old. I do not object to the government's policy to develop the country."*

*-Nong Kiew Grandmother*

*"Regarding the Nam Ou 2 Dam, I worry that the company will not keep its promise to take responsibility for us if our farmland and homes are flooded in the next 10 years. If that happens, I think they are not human beings."*

*-Ngoi District Officer*

*"Actually, I personally do not want a dam on the Ou River, but I cannot reject the orders of the central government. I have to follow their commands. I saw a bad example from the Nam Kan Dam on the Kan River in Luang Prabang district. Regarding relocation, I feel worried that the new site will not be as good as the old area and that the people will have to start their lives over again."*

*-District Environment and Water Resources Officer*

## **Conclusions**

This research focused on the potential impacts of the Nam Ou 2 hydropower project on the local economies upstream along the Ou River. The area of study was based in Sop Hun, Nong Kiew, and Pak Bak villages in Ngoi District, Luang Prabang Province, Lao PDR. The Nam Ou 2 hydropower project is expected to generate electricity to benefit people in the Northern provinces by supplying electricity to households for future development. Many people interviewed, however, feel they will lose more than they will gain from the project.



The Nam Ou 2 dam project on the Ou River will cause huge impacts on the livelihoods of local communities who live and rely on river bank gardens and food sources from the Ou River. This will eventually lead to social problems. In particular, there will be negative impacts on the economic activities of Pak Bak and Sop Hun villagers. Many villagers feel worried about their lives and future generations because most of their income is gained from activities on the Ou River. People rely on fishing, growing vegetables along the riverbanks, riverweed collection, boat driving, and tourism. This project has failed to provide information to the public, there is unclear information about the project planning process, and there has been little public participation.

This research also found that the dam project has not disclosed transparent information to the public and there is a lack of local participation at all levels. However, many households at the project site are still fighting for their right to receive fair compensation and adequate housing from the project.

## **Recommendations**

### **Recommendation for Lao government and companies**

The Lao government and the company must provide the people their full rights to all information regarding the negative impacts of the dam. There must be full, clear and open public participation in all level of the decision-making process. The government and companies must be more transparent and disclose information related to the project through the media, meetings and public forums.

### **Recommendation for Lao civil society organizations (CSOs)**

Lao CSOs working on environmental issues should build networks to work or create activities on dam issues. In particular, organizations whose work relates to dam issues, social-environmental development, and human rights issues should help local people access information and demand transparency.

**Recommendation for community members**

The affected communities should mobilize members and organize an information center to share and discuss issues related to the dam project in order to increase understanding among people in these communities. Local people should build networks to share, learn and discuss the dam project with other communities, especially those with experience with large dam projects. Local people should also organize to monitor the dam project and the involvement of the Lao government.





# Implications of the Anti-Dam Campaign and Eco-tourism Initiative in the Araeng Valley, Central Cardamom Protected Area, Cambodia

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Ham Oudom  
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## **Abstract**

The Araeng Valley in Koh Kong Province of Southwestern Cambodia has recently become very well-known for the first time for protesting against the Araeng Valley hydro-power dam led by Chinese developers and initially supported by the royal government of Cambodia. Since the beginning of 2013, the Araeng Valley campaign has been driven by public interest and braveness to prevent the proposed Chinese dam that could be harmful to the unique fauna and flora of the valley, especially the Cardamom Mountain landscape and the critical endangered species, Siamese crocodiles and Arowana/dragon fish. The campaigners' serious concerns and deep love for the natural resources of Araeng Valley have made them feel fearless about any pressure and threats made by local and national government authorities. Repeated calls to stop the dam on the part of the local community, activist groups and parliamentarians of the opposition party have made the Prime Minister decide against pushing the project forward in the current government period, which is due to end in 2018.

## Overview of Araeng Valley and the Dam Project

The Araeng Valley of the Central Cardamom Protected Area is considered one of the most beautiful forested areas in Cambodia, and is inhabited by endangered species such as Siamese crocodiles, Arowana (Dragon Fish), white-winged ducks and Asian elephants. Although it is very isolated-without electricity, phone network coverage and with bad road conditions-more and more people are coming to the area to see its beauty. The Central Cardamom Protected Area has been a protected area since 2002 and is monitored by the NGO Conservation International (CI).

The term 'Araeng' is a local name for the area used by people in Thmor Bang district of Koh Kong province, so it is not an officially demarcated area. It is named after the Araeng River. The Araeng area contains three communes: Chumnoab, Thmor Dounpov and Pralay with a total population of around 1,500 households (Commune Data Books, 2012). Most of these people are ethnic Chorng or Khmer Doem<sup>1</sup> and have been living for many generations in the area (except during 1975-1995, they were relocated by the soldiers of the current government to live temporarily in Chi Phat, the commune 50 km away, to escape from the Khmer Rouge). Their livelihoods depend heavily on planting rice and crops, raising buffaloes and poultry (initiated by CI), guarding the Siamese crocodile, dragon fish and other wild animals in their community (employed by CI), fishing, collecting non-timber forest products, transporting goods, selling groceries and working for the Tatay hydropower dam (around 40 km away). The Araeng area is about 80 km from the capital of Koh Kong province, which is in Southwest Cambodia. The road is only accessible by bike and it is very difficult during the rainy season. The rain pours almost all year round regardless of the 'dry season'.

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<sup>1</sup> Khmer Doem: Aboriginal people of Cambodian who have been living in Cambodia since unknown times. They still practice traditional livelihoods and speak their own language, which is related to Khmer. The Khmer Doem of Araeng Valley are registered as members of the Chong ethnic group.

In 2007, a 108-megawatt hydropower dam was proposed on the Araeng River. Since then, three Chinese companies have attempted to develop the dam. First was China Southern Power Grid (CSPG), who left in 2010 after they were asked by the Minister of the Ministry of Environment to redo their plans for the dam because the EIA showed that there would be many harmful social and environmental problems. Soon after, China Guodian Corporation (CGC) came and quietly got approval from the Prime Minister of Cambodia, but they later sold out the project to another Chinese company, who has stayed up until recently, known as Sinohydro Resources. They are the one who have confronted the Araeng Valley's anti-dam groups. Several times their staff and/or consultants were prevented from entering the Araeng Valley because the route was blocked by anti-dam watchdogs.

## **The Beginning of the Araeng Valley Campaign**

Between February and March of 2014, with support from the author, Mother Nature, Samreth Law Group, 3SPN and the NGO Forum, twelve Araeng Valley community members participated in an exposure trip to meet with communities affected by the Lower Sesan 2 (LS2) dam in Northeastern Cambodia. During the trip, Araeng Valley representatives attended a prayer ceremony to call for the cancellation of the LS2 dam (a traditional request for help from the "Ko La Kann Spirit"<sup>2</sup>). The LS2 community members told the Araeng Valley representatives how they suffered from floods and shortages of fish because of the Yali Falls Dam upstream in Vietnam, and the lack of transparency and accountability of the LS2 dam project currently under construction. Soon after coming back from the exposure visit, the Araeng Valley community organized to block the dam company's access to the community.<sup>3</sup>

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<sup>2</sup> <http://www.piggy.blogspot.com/search?updated-max=2011-07-12T19:15:00-07:00&max-results=2&start=12&by-date=false>

<sup>3</sup> <https://www.chinadialogue.net/blog/6837-Protests-halt-Chinese-backed-dam-in-Cambodia/en>

The repeated road blocks, which denied access to the Chinese dam company starting from March 15<sup>th</sup> 2014, became very popular among the Facebook users and attracted the media's attention (Radio Free Asia, Voice of America, Phnom Penh Post, Cambodia Daily and even the Chinese media). Since the road blocks began, there has been news almost every week about the Araeng Valley anti-dam campaign. It also gained the attention of the public and youth groups throughout Cambodia. The campaign moved people, especially youth groups and groups monks who mostly gather in Phnom Penh (such as the Natural Monks, Khmer Youth Empire, Khmer Student Intelligence League Association and the Cambodian Youth Network to name a few). Soon, they become interested in donating their energy and personal financial support, and also gained the international community's support. In addition to this, several local and international rights groups and NGOs such as the Samreth Law Group, Adhoc, Licadho, the Community Legal Education Center, International Rivers and the NGOs Forum became interested in supporting the Araeng Valley anti-dam campaign made up of community-based organizations, Mother Nature, and community activists who stood by the community to oppose the proposed dam project.

The road block lasted for about 6 months, with people sleeping under tents in the middle of the central cardamom forest. Sometimes there were crowds and sometimes silence; the sound of the heavy raindrops, thunder and the wild animals sneaking around. Monk activists and youth groups never felt they wanted to give up their campaign. On 15<sup>th</sup> September 2014, unfortunately, their road block was knocked down and some of the activists were detained by the military police backed up by the local authorities.<sup>4</sup> However, this threat did not put their campaign on hold. They immediately ran several press releases in response to the authorities' acts of intimidation and the poor performance of the Chinese dam developers to their peaceful campaign. Since then, setting up road blocks has not been possible anymore. Now group of watchdogs has been set up to keep an eye on any dam company employees who attempt to enter their community.

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<sup>4</sup> <http://www.phnompenhpost.com/national/standoff-arrests-areng>

## Supplementary Advocacy by Rights Groups and Opposition Party Parliamentarians

While the Araeng Valley activist groups were working hard to block the dam company's access to their community, local rights groups and lawyers helped to submit several petition letters to local and national government institutions (district and provincial governors, the Ministry of Environment, the Ministry of Mines and Energy and the parliament) to raise their awareness about the community's concerns and their stance to oppose the dam. Although the petition reached some of them, there was no significant response to the Araeng Valley community. Instead, the authorities used some regulations to accuse them of opposing a government development project. This has never scared people opposed to the project because they are aware of their rights to hold peaceful demonstrations. Their confidence is driven by support from lawyers, rights groups, and several other activist groups. However, after the fall of the road blocks, the activists have become worried as the dam company keeps sending in experts in an attempt to conduct studies around the dam. Fortunately, the Cambodia National Rescue Party, the main opposition party of Cambodia (who also supports the Araeng Valley anti-dam campaign and previously boycotted the parliament for one year because they consider the result of the elections to be not free and fair) have stopped boycotting the parliament, which has led to some significant discussions and debates in the National Assembly over the Araeng Valley hydropower project. As part of this, the 3<sup>rd</sup> committee of the National Assembly made a site visit to Araeng Valley and listened to the real concerns of the local people.<sup>5</sup> This brought some hope to the community and the activist groups. Eventually, the issue also came to the attention of the Prime Minister of Cambodia. After that, he officially announced that the Araeng Dam will not be constructed until at least 2018.<sup>6</sup>

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<sup>5</sup> <https://www.cambodiadaily.com/news/visit-convincing-lawmaker-of-dams-threat-to-areng-valley-72608/>

<sup>6</sup> <http://www.phnompenhpost.com/dam-foes-stay-strong>



## **Political Issues Surrounding the Araeng Hydropower Dam Project**

Based on an analysis of the Araeng Valley's anti-dam campaign, it can be summarized that the campaign has improved the government's performance with respect to human rights and the environment. The issue has become quite politicized, as the two main political parties have different points of view regarding the development of the dam project.

Before the intervention of the Prime Minister, the ruling party pushed the dam project to move forward very hard by citing the need to "produce electricity to grow the country's economy." However, before and after the parliamentary boycott, the opposition party has used scientific evidence provided by CSOs and activist groups to show that the dam cost is higher than that of other dams nearby (Atay and Tatai dams) but will produce less electricity and will seriously impact the traditional livelihoods of the indigenous people (Chorng), threaten the endangered species living in the Araeng River, and irreversibly degrade the central cardamom forest. All of this will lead to serious human rights and environmental violations. However, this could make the ruling party feel that its opponents are supporting the anti-dam movement in an attempt to increase their popularity among CSOs, local communities and the activist groups. It's therefore reasonable that the ruling party may want to give up the dam project to order to win back its popularity in time for the next election.

## **Eco-tourism Initiatives in the Araeng Valley**

After the Cambodian Prime Minister officially announced that the Araeng Dam will not be built during his current term, which ends in 2018, some urban activist groups have left the area and are looking for other advocacy opportunities. On the other hand, community activists have increased their focus on eco-tourism projects because they believe that once the Araeng Valley becomes an eco-tourist area, the Araeng Dam won't be able to go forward.<sup>7</sup> However, besides the logical assumption

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<sup>7</sup> This idea has originally come from Mother Nature and later has quickly spread among urban youth groups

**Land and River Grabbing:**  
the Mekong's Greatest Challenge



Monks walking to the Araeng River to do kayaking



Araeng Valley during Khmer New Year, April 2015

that when the area becomes more and more attractive, there will be a lot of people want to protect it, no clear explanation has been provided about the connection between eco-tourism project and cancellation of the dam.

With the dam postponed, and the media attention it generated, the Araeng Valley has become a very popular tourist area. Youth from all over the country dream about visiting Araeng. Domestic tourists can come through different youth groups. Eco-tourism is not guaranteed though, as some tourists do not act in environmental friendly ways (this might be because there are no clear guiding principles yet on how to act in an environmentally friendly way). In addition, some groups like to gain popularity and economic benefits by mobilizing activities in Araeng without clearly understanding the idea of eco-tourism initiatives as a way to protect the Araeng Valley from the dam project. They have even been politicizing the issue by promoting the political parties they support (the ruling party and the opposition party). All of this has led to a lack of transparency and accountability. Now destructive conflicts are beginning to occur between the community and some urban youth groups who have arranged tourist trips to Araeng Valley.

Be reminded that in the end of 2014 one of the committee members of the National Assembly wrote a letter to the Prime Minister to call for keeping Araeng Valley as a conservation and eco-tourist area instead of building a hydropower dam. Quickly afterwards, the Prime Minister responded that the Cambodian government will try its best to keep a balance between development and conservation. His statement can be interpreted to infer that the dam can be built while also supporting conservation and/or Eco-tourism activities at the same time. On top of that, the Prime Minister also mentioned that the dam will not be built if studies find there are too many harmful impacts. However, so far there have been no independent or reliable impact assessments of this hydro-power dam project. Even when assessments are conducted, such as in the case of the Lower Sesan II Dam, wherein scientists and CSOs have repeatedly criticized the environmental impact assessment, nothing has significantly changed, and communities' repeated calls to halt the project have fallen on deaf ears.

## **Conclusion**

The Araeng Valley anti-dam campaign has become very strong because there are concrete things such as endangered species that can be used to send a straightforward message to the public that they are being threatened by the hydropower dam construction and need to be protected. The message has become so focused and the valuable fauna and flora has become so well-known because there are number of experts in photography and documentary video in the area. And through a very inclusive social media, especially Facebook, anyone, including those who have never been to the Araeng area, can mention on their profile publicly that they love the Araeng Valley and they do not want the dam to be built there. They can even donate financial and technical support to the anti-dam campaign.

When more and more people supporting the Araeng Valley's anti-dam campaign, it has sent a clear message to the Cambodian government that they will lose a lot of popularity if they push to build the dam. Therefore, they have been forced to compromise on this issue. As a result, they decided not to build the dam until at least 2018. However, the story does not end here. After some progress on the anti-dam campaign, conflicts around eco-tourist management have occurred.

## **Recommendations**

It is crucial that the Araeng Valley community conduct their own community-based local knowledge impact assessments. This is especially important because the dam company has continued to push for conducting their study in the area even though the government has officially announced there won't be a decision to build the dam until at least 2018.

Eco-tourism initiatives are a good strategy to protect the Araeng Valley from being dammed. A clear way of doing this has yet to be developed, but the sense of loving and protecting the valley has deeply entered the hearts and souls of many people. However, conflicting interests around eco-tourism management risk breaking up an important solidarity between anti-dam groups and outside supporters. This risks creating a bad public image. This problem requires that the community come up with effective principles and regulations to manage eco-tourism projects in a way that is consistent with the goals of the Araeng Valley anti-dam campaign.





# The Impacts of Dak Mi 4 Hydropower Dam on Downstream Communities: Assessing the Right to Public Participation

Tran Chi Thoi

## Summary

My research on “The Impacts of Dak Mi 4 Dam on Downstream Communities: Assessing the Right to Public Participation” was conducted from August 2014 to October 2014 in Dai Hong Commune, Dai Loc District, Quang Nam Province. The aim of this research is to determine the impacts of the Dak Mi 4 hydropower dam on more than 10,100 Kinh people living downstream on the Vu Gia River in Dai Hong commune.

After three years of operation, the Dak Mi 4 plant has had numerous negative impacts on the local people living downstream, such as soil erosion and sand deposited on farmland along the river. This has resulted in reduced crop yields and increased costs for fertilizer and crop care. The Dak Mi 4 hydropower plant not only affects crop yields but also affects fishery yields. Since the dam has been in operation, many precious fish species have disappeared. The local people cannot catch fish to meet their daily food needs and households who depend on fishing have suffered as a result of their loss of income.



Moreover, the water retention of the Dak Mi 4 hydropower has blocked the flow of the river, making the water shallow and impassable for many boats needing to catch fish and transport crops. The reduced waterlevel has also had significant impacts to well water levels, which the local people depend on as their main water source for daily use. Consequently, there are many families who have had the additional expense of digging new wells.

In addition, the Dak Mi 4 hydropower dam's alternating water retention and flood discharge during the rainy season has caused most local people to experience serious psychological distress. The local people fear that if water is discharged from the dam at the same time as heavy rains, their whole area will be immersed in water.

The impacts of the Dak Mi 4 hydropower project on local people in Dai Hong Commune are becoming increasingly serious. However, the local people do not know how to address their concerns. The local people have neither participated in the process of planning or operation nor do they have adequate information related to this project. They are unaware of the responsible stakeholders who should compensate them for their losses.

This research analyzes issues related to transparency of information in the Dak Mi 4 hydropower project, including the failure to publish and disseminate information to the affected downstream communities in the Dai Hong Commune. This research also reflects on the shortcomings of the law in Vietnam, including enforcement, and seeks to identify measures to help the communities address these issues.

## **Background**

In recent decades, hydropower has been considered a clean energy source to provide power to consumers. In Vietnam, hydropower is the main power source and has lower operating costs than the production of electricity from fossil energy sources. However, the negative impacts of hydropower on the environment and people are increasingly becoming issues needing to be studied sufficiently to determine whether in fact hydropower is a clean energy source or not.



Due to increasing consumption, the energy industry in Vietnam has developed rapidly. Vietnam is continuing to meet the growing demand for electricity by progressively bringing on-line new hydropower production plants. Vietnam is now home to 284 operational hydroelectric projects with a combined capacity of 14,678 MW. The country also has 204 hydropower projects under construction with a total potential capacity of 6,146 MW, which are expected to come into operation by 2017 according to the Ministry of Industry and Trade.<sup>1</sup>

Previously, the Vietnamese Government, in particular Vietnam Electricity (EVN), was the only investor in hydropower dam projects in the country. In 2006 however, the Government issued Decree No.30/2006/QĐ-BCN 3 to adjust the investment rules in independent power projects, including from the private sector. Since then, a growing number of hydropower projects in Vietnam have received investment from private enterprises, although the State remains the largest investor in this field.<sup>2</sup>

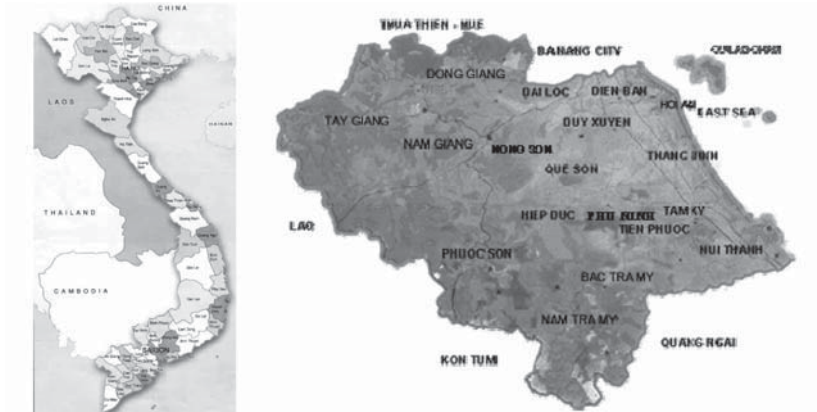
Quang Nam province belongs to the central coastal region of Vietnam; north of Thua Thien-Hue and Da Nang City, south of Quang Ngai and Kon Tum provinces, east of the Sekong province of Laos and west of the East Sea.

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<sup>1</sup> Source: Phan Trang, The solution for the provinces where having hydropower projects, Online newspaper of the Government-VGP News, <http://baodientu.chinhphu.vn/Hoat-dong-Bo-nganh/Go-vuong-cho-cac-tinh-co-du-an-thuy-dien/205633.vgp>

<sup>2</sup> Source: Analysis of environmental and social costs and risks of hydropower dams, with a case study of Song Tranh 2 hydropower plant Report-Green Innovation and Development Centre (Green ID), August 2013

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Map of Quang Nam Province. Photo: Quang Nam Department of Home Affairs

Quang Nam province has a dense river system that includes the Vu Gia River system and the Tam Ky River as well as many small rivers including the Cu De River, the Tuy Loan River and the Lili River. As a result of these river systems, Quang Nam has become the province with the great potential for hydropower plants.

The Vu Gia - Thu Bon River system flows through Quang Nam province and Da Nang City. The Thu Bon River originates in Quang Nam province and flows through Da Nang City before emptying into the East Sea. The Vu Gia River Basin is north of the Thu Bon River Basin. The Vu Gia River merges with Thu Bon River at the confluence of Dai Loc District, forming the large Vu Gia - Thu Bon River system.

The Vu Gia - Thu Bon has eight hydropower plants (A Vuong, Song Bung 2, Song Bung 4, Giang River, Dak Mi 1, Dak Mi 4, Con River 2 and Tranh River 2) that are currently collectively generating a total of about 1,250 MW. The Dak Mi 4 hydropower plant, the particular focus of this research report, was completed in 2012 and generates approximately 190 MW under general operation, providing 752 million kWh/year.<sup>3</sup>

<sup>3</sup> Source: Dak Mi 4 hydropower project, idico – petroleum trading construction investment joint stock company, <http://idico.com.vn/>



Map of hydropower planning in the Vu Gia - Thu Bon River system.  
Source: ICEM - The International Centre for Environmental Management,  
2008 - gislab.hcmuaf.edu.vn

The Dak Mi 4 hydropower plant is located on the Vu Gia River of the Vu Gia - Thu Bon River system, in the area of the Phuoc Hiep, Phuoc Chanh, Phuoc Kim, Phuoc Xuan, Phuoc Nang, and Phuoc Duc Communes, and Kham Duc Town in the Phuoc Son District in Quang Nam Province. The dam is located in areas with steep terrain and significant rainfall all year round, so the Vu Gia River system in general and the Dak Mi River and Thu Bon River in particular have great potential for hydropower development. This system is classified as No. 4 in the national river systems.

From the early 70's (1972), the Dak Mi 4 hydropower project was mentioned in the reporting of the Mekong River National Commission and also in the development strategy of the national electricity grid of EVN. In 2003, the pre-feasibility study of the Dak Mi 4 project was approved and continued its investment implementation.<sup>4</sup>

<sup>4</sup> Source: Report on Environmental Impact Assessment - Vietnam Urban and Industrial Zone Development Investment Corporation (IDICO) under the Ministry of Construction, Ho Chi Minh City, September 2005, 1.



Downstream of the three reservoirs (Dak Mi 4A, B, and C) lies the Dai Hong Commune, with a total population of around 10,100 Kinh people. The people in this area are facing negative impacts as a result of the hydropower plant. The impacts of the hydropower dam on the Vu Gia River are making it more difficult for the local people to keep their traditional livelihood, culture, and food security and they have been excluded from public participation.

The local people are from rural farming communities, traditionally deriving 90% of their income from harvesting rice, beans, corn, melon and pineapple. Additional income has come from fish and other species living in the river. The small river tributaries, which irrigate their farmland changed the flow. In recent years, the volume of water flowing down the main river has dropped since the completion of the construction of the dams on the Vu Gia River. As a result of the Dak Mi 4 hydropower project, the annual flooding of the small tributaries and the large river has ceased. This means that the farmland no longer receives its annual deposit of enriching river silt. In addition, water for the local people's daily needs is now restricted, and even worse, it is completely cut off during the hot summer months. They can no longer use boats on the big river to transport their harvest to markets further downstream, nor can they use their boats to take their harvest to the bank across the river. Using roads and bridges adds greatly to their costs. They also cannot catch fish like before because fish catches have decreased significantly.

The local people living downstream of the Dak Mi 4 hydropower dam have faced many negative consequences as a result of the dam, including loss of farmland due to flooding and erosion and crop destruction due to flooding in the rainy season as a result of the opening of the hydropower gates. Despite these impacts, the downstream communities have been excluded from participating in the project and have not received any compensation from the project developer.

## **Introduction**

The local people living downstream of Dai Hong Commune, Dai Loc District, Quang Nam Province are currently facing many negative impacts as a result of the Dak Mi 4 Hydropower project on the Vu Gia River. These impacts are affecting all aspects of people's lives including cultivation, crop production, drinking water, food security, income and mental health. Especially in recent years, the impacts are even more apparent than they were in 2008.

Community leaders have spoken with the authorities about these issues but have achieved nothing. People are upset, but they do not know what to do to improve their situation.

In addition, people did not have access to information about the Dak Mi 4 project during its construction or operation, including up to the present time. The local people are continuing to suffer from the negative impacts all the while being excluded from receiving any information related to this project except for minimal information they were provided from the Centre for Social Research and Development (CSR/D) - a non-governmental organization (NGO) in Central Vietnam.

Unfortunately, the local people do not have documented evidence of impacts of hydropower on Vu Gia River. Thus, they cannot do complaint to the Government officer or complement authorities to resolve their problems.

My research aims to document the impacts of the Dak Mi 4 Hydropower plant on local people downstream, which could then be used by the community to help them make a complaint to the Vietnamese Government. Through this research I have also focused on how the local people's right to public participation and right to access information have been violated by the hydropower building process.

This research contains two specific focuses:

1. Assessing the impacts of the Dak Mi 4 hydropower dam on local people living downstream on the Vu Gia River in Dai Hong Commune, Dai Loc District, Quang Nam Province in Central Vietnam; and
2. Assessing the local people's participation and access to information surrounding the project's construction and operation process.

## Research Findings

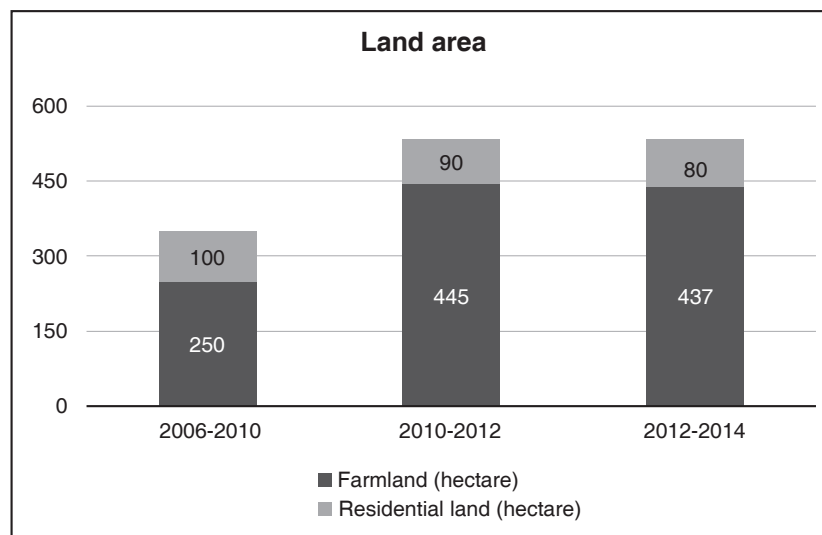
### **1. The negative impacts on local people who are living downstream on the Vu Gia River in Dai Hong Commune, Dai Loc District, Quang Nam Province.**

Most hydropower projects focus on compensation for communities who have been forced to relocate as a result of a project, we call these communities directly affected people. This is justifiable because the communities forced to resettle face significant impacts and are the most directly affected people. Problems related to compensation and resettlement are currently big concerns in Vietnam. However, another major concern is the communities who are *indirectly* affected by hydropower development projects. Indirectly affected people are the people who live in the downstream of the river and they are not involved in the environmental impact assessment (EIA) process of the project. On the other hand, indirectly affected people are not involved in the consultative process before the project start.

In 2007, construction began on the Dak Mi 4 hydropower project on the Vu Gia River. In 2012, the dam began generating electricity to meet domestic electricity needs. After nearly three years in operation, the Dak Mi 4 hydropower plant has had a significant negative impact on the lives of local people downstream in the Dai Hong Commune. These impacts, resulting from the plant's operation, have affected the local people's agriculture, fisheries, river transportation, river water level, well water level as well as mental health.

### i. Impacts on farmland

Duc Tinh Hamlet and Dong Phuoc Hamlet in Dai Hong Commune are known for agricultural production. The farmland area of these two hamlets is located along the two banks of the Vu Gia River and is considered fertile land due to the sediment provided by the Vu Gia River. However, in recent years the phenomenon of erosion and sand cover has become serious, as it has affected the farmland of the local people. From 2006-2010 there was 250 hectares of farmland. In 2010, the local people provided more land by the authority. From 2010 to 2012 there was 445 hectares of land per commune, however the period from 2012 to 2014 saw a reduction to 437 hectares of land per commune.<sup>6</sup>



Source: Focus group discussion in Dai Hong Commune on 15<sup>th</sup> September 2014.

<sup>6</sup> Source: Focus group discussion in Dong Phuoc Hamlet, Dai Hong Commune, 17<sup>th</sup> September 2014.



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From 2006 to 2010, although landslides occurred, they did not yet cover both sides of the river with sand. However, in the period from 2010 to 2012 in Dong Phuoc Hamlet, erosion resulted in the loss of two hectares of residential land. This meant that 30 households living in the area had to relocate.



The width of the river is expanding due to soil erosion



Erosion along the river banks due to a strong river flow in the rainy season

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In addition, approximately 70 hectares of land has been covered with red mud and about 80 households have had their farmland covered by sand.



Farmland covered by sand along the river bank



A corn crop negatively affected by sand

From 2012-2014, the two hamlets continued to suffer because of the sand cover of their farmland. Dong Phuoc Hamlet is about 30 hectares of farmland covered by sand, affecting to crop of 40 households.<sup>7</sup> Meanwhile in Duc Tinh Hamlet from 2012-2014, sand has covered about 30 hectares of farmland, causing damage to about 40 households.

Pham Thi Thanh Nga, a farmer from the Dai Hong Commune, remarked, "I have 2.6 acres of farmland where I used to plant peanuts, but now it is entirely covered by sand and I just see white color."<sup>8</sup> Although planting peanuts was her main source of income, Pham Thi Thanh Nga has not received any other area to continue planting.

The main cause of this farmland destruction this phenomenon is the fact that the Dak Mi 4 hydropower blocks the flow during dry season and flood discharge in the rainy season. Erratic flow and a greater flow rate than normal in the rainy season cause erosion and landslides. At the same time, the sand eroded along two Vu Gia River banks covers up all farmland areas during flooding. Up to the present time, the discharge of reservoir water from the hydropower plant has damaged over 20 hectares of crops for third crop started in September annually, for an estimated damage of over 1.5 billion Vietnam Dong.<sup>9</sup>

#### **ii. Impacts on crop yields**

The Dak Mi 4 Hydropower plant affects farmland as well as crop yields. Previously, the local people planted three crops per year, including the winter-spring crop in January, the spring-summer crop in May and the summer-autumn crop in September. Since 2011, the local people have not been able to plant their annual September crop. Tran Thi Kim Hoa, a hamlet-level women's union leader, points out, "In this season [September] we cannot plant. In this season, we are living without jobs. We harvest beans and corn in May and June, however after that we

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<sup>7</sup> Source: Focus group discussion in Dong Phuoc Hamlet, Dai Hong Commune, 17<sup>th</sup> September 2014.

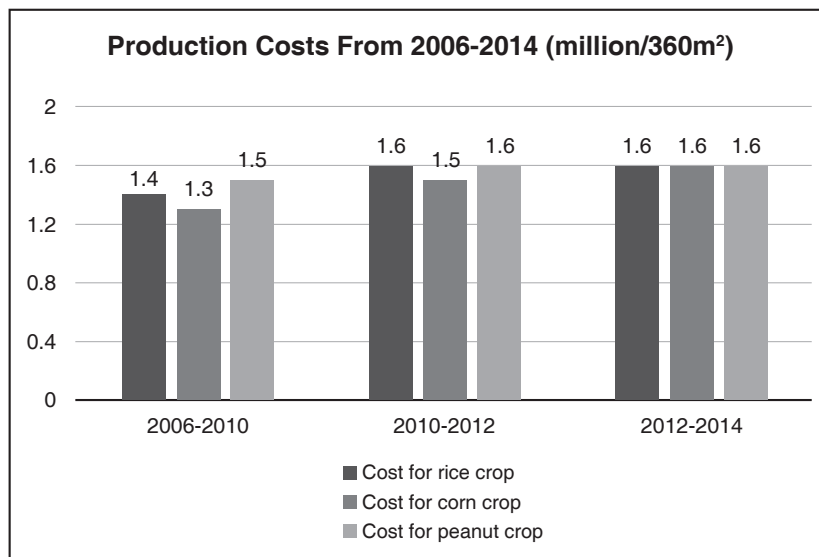
<sup>8</sup> Source: Interview with Pham Thi Thanh Ngain Dong Phuoc Hamlet, Dai Hong Commune, 1<sup>st</sup> October 2014.

<sup>9</sup> Source: Focus group discussion with local people in Dai Hong Commune, 18<sup>th</sup> September 2014.

must stop planting, unlike before, because now we are afraid of flooding suddenly destroying our seeds and fertilizer.”<sup>10</sup>

In addition, the problem of erosion and farmland cover by sand has significantly affected crop yields. Moreover, water shortage has also affected the productivity of planting.

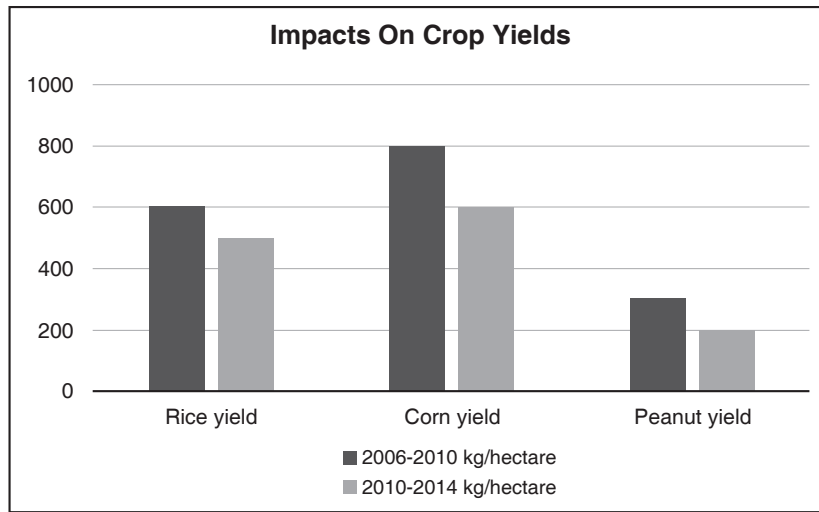
Before 2010, farmers did not need much fertilizer to produce sufficient crops. However, from 2010 onwards, the local people have had to increase the amount of fertilizer and water they use because the water used to irrigate their farmland evaporates more quickly as a result of the sand-cover of their farmland. Therefore, the farmers' production costs increased from 2006 to 2014: 2 million VND/360 m<sup>2</sup> for rice crops, 3 million VND/360 m<sup>2</sup> for corn crops, and 1 million VND/360 m<sup>2</sup> for peanut crops.



Source: Focus group discussion in Dai Hong commune, 18<sup>th</sup> September 2014.

<sup>10</sup> Source: Individual interview in Dong Phuoc Hamlet, Dai Hong Commune, 15<sup>th</sup> September 2014.

In addition to an increase in production costs, since 2010 various types of crop yields have also been seriously affected.



Source: Focus group discussion in Dai Hong commune, 18<sup>th</sup> September 2014.

Rice and peanut yields have dropped by 100kg/hectare, while corn yields were reduced by 200kg/hectare.

According to an interview conducted in October, Pham Thi Thanh Nga, a farmer in Dai Hong commune, complained about the quality of her land in recent years. "Peanuts cannot grow on this land. Just 15-20 days after planting, a plant will be wilted, its leaves will become yellow, and the plant will die. One day I went to harvest crops and when I dug up the first plant I saw many nodules around its stem and roots." Although Pham Thi Thanh Nga is planting on the same 800 m<sup>2</sup> area as she has for many years, her peanut yields have been drastically reduced. "In 2008 my peanut yield was more than 300 kg, but every year since then it has been decreasing. Last year it was 120 kg and my cost for fertilizer was double. Before, I just used 5 kg of fertilizer per 360 m<sup>2</sup>, and now I use more than 10 kg but my yield is still lower".<sup>11</sup>

<sup>11</sup> Source: Individual interview in Dong Phuoc Hamlet, Dai Hong Commune, 1<sup>st</sup> October 2014.

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The increased costs of fertilizer, irrigation and measures to stop third crop influence, have impacted the local people's income, most significantly in the rainy season when some of them do not have jobs.

Now, what they say they need is support from the government: "We need the support of the government regarding the prices of fertilizer, electricity and water for the people."<sup>12</sup>

**iii. Impacts on fisheries and food security**

The Vu Gia - Thu Bon River has seven hydropower dams already in operation to generate electricity. The river section behind the Dak Mi 4 hydropower is dry, the riverbed is only rock, and the river bottom is seen clearly. This has had a serious impact on the ecosystem as well as the habitat and quantity of many kinds of fish in the Vu Gia River.



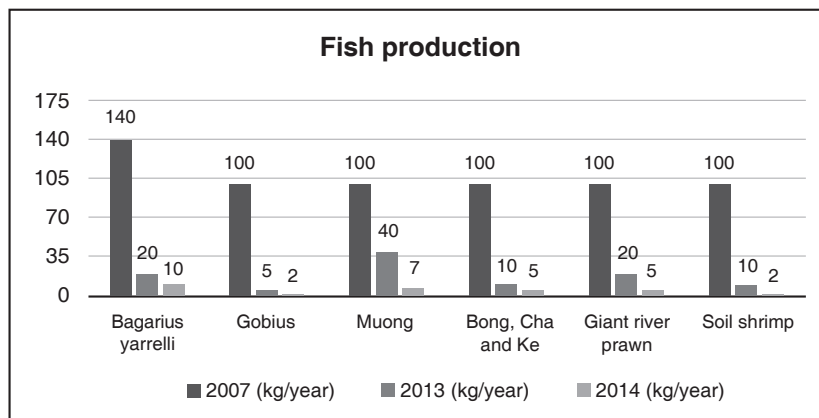
The river water level has dropped.

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<sup>12</sup> Source: Individual interview in Dai Hong Commune, 1<sup>st</sup> October 2014.



According to community research, there has been a reduction in over 37 species of fish in the area. In particular, some species have disappeared, such as **Chinh** (*Anguilla bicolor*) and **Giant Devil Catfish** (*Bagarius yarrelli*). The quantity of most of these fish species has significantly reduced.



Source: Focus group discussion in Dai Hong commune, 18<sup>th</sup> September 2014.

Before the Dak Mi 4 hydropower dam was built, the local people could catch up to 100 kg of fish per year. However, since 2013 fish production has significantly reduced and is now between only 2-5 kg of fish per year. Moreover, “All species of precious fish and big fish are living upstream of the dam.”<sup>13</sup> The local people are facing serious challenges catching fish on the Vu Gia River as well as have a lower income because of the reduction in fish catches.

Pham Thi Yen, who has more than 30 years of experience on the Vu Gia River, estimates that, “In 2007, the average catch of fish was 10 kg per day including all species of big fish, but now they are only 0.5-1 kg per day, with some days without any fish at all.”<sup>14</sup>

<sup>13</sup> Source: Individual interview with Pham Thi Yen in Dong Phuoc Hamlet, Dai Hong Commune, 2<sup>nd</sup> October 2014.

<sup>14</sup> Source: Individual interview with Pham Thi Yen in Dong Phuoc Hamlet, Dai Hong Commune, 2<sup>nd</sup> October 2014.

The main reason for the reduction in the number of fish and shrimp is because the hydropower blocks the water flow, which leads to a changed environment that is affecting fish migration characteristics and reproduction. The **Chinh** (*Anguilla bicolor*) is a clear example. This species of fish lives at depths of 6-7 meters, migrates downstream during flood season, and spawns upstream in September and October. Its preferred environment is clean and fresh water. However, since the dam's construction, the river has a more shallow depth than it previously had, of only 0.5-1 meter. As a result of these changes in the water source and the blocking of water flow, the above species of fish are prevented from migrating downstream. This has reduced their number and explains why they now can no longer be found on the river in Dai Hong commune.<sup>15</sup>

The significant decrease in the number of species of fish and shrimp has negatively impacted the main food source for local families. The local people rely on being able to easily catch fish and shrimp on the Vu Gia River as their main source of protein.

The local people said, "In the past if we just had a simple tool like a small stick we would catch fish by hand and it would be enough food for one day."<sup>16</sup> However, they said that now they can no longer catch fish like that. The cost of a meal has also increased because they must spend money to buy fish for their protein supplement and the price of fish is more expensive than before.

Moreover, some people have to travel far away from home to catch fish, about 50km from the hamlet. These people are facing many difficulties due to regional conflict with indigenous people. Pham Thi Yen adds sadly, "Boats to catch fish went missing and motorbikes were burned by indigenous people. Last year, my brother's motorbike was burned. When I use my boat to travel to another place for catch fish, I have to hire it on mountain, but if someone knows they will steal it immediately. This year, my sister lost her boat. In addition, travel costs like petrol and food are too much. Sometimes we go back [home] without money."<sup>17</sup>

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<sup>15</sup> Source: Focus group discussion in Dai Hong Commune, 18<sup>th</sup> September 2014.

<sup>16</sup> Source: Interview with Tran Thi Kim Hoa in Dong Phuoc Hamlet, Dai Hong Commune, 15<sup>th</sup> September 2014.

<sup>17</sup> Source: Individual interview with Pham Thi Yen in Dong Phuoc Hamlet, Dai Hong Commune, 2<sup>nd</sup> October 2014.



Local people are concerned of the risks of travelling far away to catch fish but they face a dilemma. If they do not go elsewhere to catch fish they have no income, but if they do go to another place then they can face many difficulties. Their ability to meet their food security needs is increasingly difficult, precarious, unstable and high risk.

#### **iv. The impacts on river transportation**

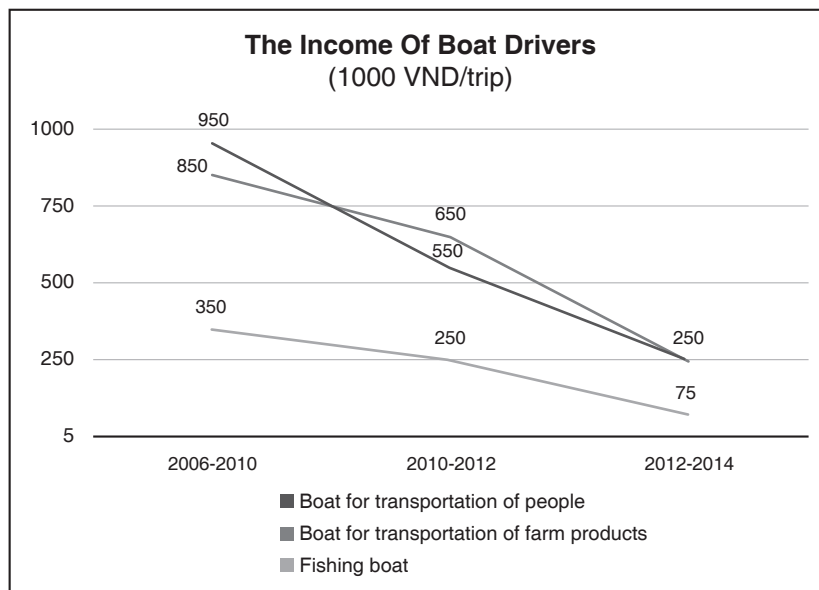
Since riverbank farming is the primary livelihood for local people in Dai Hong commune, river transportation plays an important role in transporting their farm products from the field to home. In addition, for the local people in Dong Phuoc Hamlet and Duc Tinh Hamlet whose secondary job is fishing, transportation by boat has become essential. However, from 2010 onwards the number of boats on the river has decreased considerably, in particular farm boats. The number of farm boats on the river dropped from 40 in the period between 2004-2010 to 12 between 2010-2014, and the number of boats for passenger travel fell from 120 between 2004-2010 to 10 in 2014.



The water level is too shallow for boats to move

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The cause of this decrease in the number of boats on the river is due to the drying of the river, which means the water level is often too shallow for boats to travel across as they did before. Further, since the quantity of fish in the river has reduced, as was detailed above, fishing boats are no longer as active as before. This situation has resulted in a reduction in local people's income, in particular the people whose main livelihood is from fishing.



Source: Focus group discussion in Dai Hong commune on 18<sup>th</sup> September 2014.

For people who used to transfer their farm products by boat, they now have to transfer them by car. This not only increases their transportation costs but it is also a burden because the distance from the field to the car is quite far and tiresome when carrying farm products. In addition, cars can carry a smaller volume of products each trip compared to transportation by boat and therefore require more trips. All of these new difficulties related to transportation have caused additional challenges for local people.

#### **v. Impacts on access to water**

In 2007, construction of the Dak Mi 4 hydropower project started in the Phuoc Son district area, Quang Nam Province. Since then, the water level in the section of the river in Dai Hong commune has become increasingly lower.

According to Tran Ba Quoc, an expert on environmental impact assessments (EIA), “the Dak Mi 4 Hydropower project has seriously impacted the environment and people who live and depend on this river source. It has caused the Dak Mi River to become like a ‘dead river’ and has almost destroyed the ecosystem.”<sup>18</sup>

The local people cannot bring water from the river to their farms alongside the river like they could before. One farmer said, “In the past, I just walked a few steps from my farm to the river to getwater, but now I have to walk until my legs are so tired [to collect water].”<sup>19</sup> Without water, the vegetation has disappeared which has led to the loss of habitat for many aquatic species. Additionally, as mentioned above in the previous section, boats are also now unable to cross the river because of the shallow water level.

The Dak Mi 4 hydropower project has not only affected river water levels but also the levels of well water. This is of concern because well water has been the main water source for the daily lives of the local people in Dai Hong Commune for many many years.

Before 2008, the local people would use the length of rope to draw water from 4-5 meters in the spring season and 7 meters in the dry/summer season. However, in recent years, they have had to use the length of rope to draw more than 8 meters in the spring season.

According to Tran Thi Kim Hoa, the head of the hamlet women’s association, “Many wells in this season are going dry. Many families have to dig another well.”<sup>20</sup>

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<sup>18</sup> Source: Interview with Tran Ba Quoc in Hue City, 14<sup>th</sup> September 2014.

<sup>19</sup> Source: Interview with Pham Thi Nam in Dai Hong Commune, 2<sup>nd</sup> October 2014.

<sup>20</sup> Source: Interview with Tran Thi Kim Hoa in Dong Phuoc Hamlet, Dai Hong Commune, 15<sup>th</sup> September 2014.

Digging a new well costs money, as does buying a new wire to draw water. These are not only additional financial burdens on families as a result of the hydropower project, but could also be a threat to local people's access to clean and safe water.

**vi. Impacts on mental health**

The construction of hydropower projects on the Vu Gia River has had negative impacts on people's mental health, including ever-increasing worry and anxiety in the rainy season.

Before 2008, in the rainy season the local people were willing to adapt because at that time floods came at a slow speed. As a general rule, people knew that flooding usually occurred annually and they could therefore try to assert some control by undertaking preparations. They would move all of their furniture in the house, move their livestock to areas with higher terrain, and would also prepare food for people, livestock and poultry for the days of flooding. Some people went out to find firewood and catch fish on the river. After 2-3 days when the flood water receded, people returned to normal life.

Tran Thi Kim Hoa, who has lived in Dai Hong since she was young, complains, "I am not saying flooding is caused by hydropower alone; the people living here from generation to generation have also suffered from natural flooding impacts. However, flooding in the past was very simple; the rain would come for three days and three nights and the water level would raise slowly. We had time to prepare for that."<sup>21</sup>

However, since 2008, every flood season the local people are anxious and desperate to find exact information about possible flooding. Some people endure high levels of stress, as they do not know how to prepare because they do not know the time or extent of potential flooding. Tran Thi Kim Hoa says, "Now, the water is already in the reservoir and on the river, so it only takes one rainy day and night to cause flooding. The people have no time to prepare and cannot cross the bridge [which connects the main road and hamlets]. If the hydropower plant opens the gate, the water will flow down here and the bridge will be under water. My son almost drowned near the bridge when he was walking

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<sup>21</sup> Source: Interview with Tran Thi Kim Hoa in Dong Phuoc Hamlet, Dai Hong Commune, 15<sup>th</sup> September 2014.

home from school one day. Fortunately, some men were there to save him.”<sup>22</sup>

Many families have lost property due to flooding. This fear also influences people's mental health as it makes them worry and some people have difficulty sleeping in the rainy season as a result. In 2013, several local people who were attending a workshop in Da Nang city had to leave abruptly to return home even though the workshop had not yet finished. It had started raining and they were afraid that the hydropower plant would suddenly open the gates and their family would not be able to move to another place without them.

#### **vii. Basic assessment of EIA law in Vietnam**

The Ministry of Natural Resources and Environment (MONRE) issued its approval of the environmental impact assessment report (EIA) on the Dak Mi 4 hydropower project on 18<sup>th</sup> December 2005.

An environmental impact assessment report (EIA) is the report on the impact on the people will be affected by the project. This report is conducted before a project starts to minimize the negative impacts to environment. The negative impacts mentioned in the EIA report include not only environmental impacts but also social impacts. This is the report on environmental impacts in relation to natural, economic and social aspects. The requirements of the EIA have been legalized and regulated by the Law on Environmental Protection of Vietnam since 1993 and were made more specific in 2005. In addition, according to Circular No.490/1998/TT-BKHCMNT defined in Section II.1, the investment permit application stage must ensure that for projects belonging to type 1 (including hydropower projects), the profile must “have a part or a chapter outlining the potential impacts of the project on the environment.” It is problematic then that the EIA and the field survey research methodology *did not mention the environmental impact on downstream areas* in Dai Hong commune.

According to an expert on EIAs, “The EIA complies with Circular 490/1998 KHCVN-VN in 1998. The EIA was not conducted carefully, as it *did not provide adequate basic data about research areas* such as

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<sup>22</sup> Source: Interview with Tran Thi Kim Hoa in Dong Phuoc Hamlet, Dai Hong Commune, 15<sup>th</sup> September 2014.

numbers of fish and especially bird species. In particular, the EIA did not mention the species of fish listed in the Red Book [*a book listing wild animals and plants in danger of extinction*], but in fact there are two endangered species: eel and *Bagarius yarrelli*.<sup>23</sup> The disappearance of these kinds of fish will affect the resources of both indirectly and directly affected people.

Article 3 of Law No.17/2012/QH13 on Water Resources states that plans, programs and development projects of economic, social, and national defense and security must be linked to the ability of water resources, protection of water natural resources, maintain a minimum flow in the river, not exceed the threshold for exploitation of aquifers, and take measures to ensure people's life. In fact, the operation of the Dak Mi 4 hydropower plant has blocked water on the Dak Mi River has not included any measure to mitigate the impacts on local people downstream in Dai Hong commune.

Another aspect of this article that is not clear is the rule to maintain a minimum flow in the river. This is a gap that the project used to violate the law.

**Assessment of people's participation in the Dak Mi 4 hydropower project based on Vietnam law Decree No. 29 relating to strategic environmental assessments, environmental impact assessment and environmental protection commitments; and the 1992 Rio Declaration on Environment and Development:**

During the planning and construction of the Dak Mi 4 hydropower project, the people living downstream in Dai Hong commune did not receive information until 2009. The local people suffered because of flooding from the A Vuong hydropower plant (one of seven hydro powers on the Vu Gia Thu Bon River system) when it opened its gates to discharge water. That was the first time the local people became aware that there were hydropower dams on the Vu Gia River. Local people in Dai Hong commune had no public participation during the process of planning as well as construction and operation of the Dak Mi 4 hydropower project. According to Pham Thi Nam, a farmer in Dai Hong commune, "if we

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<sup>23</sup> Source: Interview with Tran Ba Quoc in Hue city, 14<sup>th</sup> September 2014.

knew about the Dak Mi 4 hydropower dam plans and had been consulted about it, we surely would have said 'No' to the dam."<sup>24</sup> However, the local people did not have any opportunity to say no.

**Decree No.29/2011/ND-CP** was issued on 18 April 2011 relating to strategic environmental assessments, environmental impact assessments, and environmental protection commitments. Article 14 refers to consultation and states that in the process of conducting an EIA report, the project owners (unless otherwise specified in paragraph 3 of this article) must consult with: a) People's Committees of communes, wards and townships where the project will be implemented; and b) Representatives of communities and organizations **directly affected** by the project.

Article 14 does not mention downstream areas and indirectly affected areas. So if the projects have strong impacts on downstream areas, assessment and consideration of these impacts will be ignored. This is a gap in the law that needs to be addressed.

**The Dak Mi 4 hydropower project violates Principle 10 of the 1992 Rio Declaration on Environment and Development**, which states that: "Environmental issues are best handled with the participation of all concerned citizens, at the relevant levels. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available". In fact, the government did not give information about the Dak Mi 4 hydropower project to the communities downstream on the Vu Gia River. As a result, local people did not have the opportunity to participate in the consultation process of the Dak Mi 4 hydropower project. In short, the government did not ensure its commitment, in particular its commitment to ensure people's right to public participation in this project.

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<sup>24</sup> Source: Interview with Pham Thi Nga in Dai Hong Commune, 2<sup>nd</sup> October 2014.

There are many gaps in the implementation of the laws and policies, particularly related to the environmental impact assessment and the participation of the affected communities. This has had an especially significant impact on communities living downstream, such as the Dai Hong commune, whose members have not been included in the decision making process, even though they are facing many negative impacts as a result of the hydropower project.

## **Conclusions**

The rapid development of the social economy of Vietnam in recent years is impressive and deserves to be recognized. However, in the process of national development the consequences for humans and the environment seem inevitable. The construction of hydropower projects to meet the power needs for economic growth and human consumption has been affecting a significant part of the population in the country, especially riparian communities.

The impacts of hydropower projects touch on all aspects of community life, in particular, farmland, crop production, and fishing. This affects people's income and the mental health of people downstream. These impacts on downstream communities are usually not considered in compensation schemes because they are not considered to be *directly* affected by the construction process. In addition, communities living downstream do not have access to information about the project because of the gaps in the implementation of policies related to information transparency. The Government and local authorities need timely information regarding the impacts of the dam on downstream communities in order to understand the impacts and take immediate remedial measures to resolve these issues.

Lack of information has also led to an increase in other negative impacts on the community. Many hydropower projects will continue to be built on the rivers. As a result, more communities will have to suffer the consequences of development.



Furthermore, the communities living in mountainous areas or areas where it is difficult to access information are also affected by hydropower projects. They also do not know what rights they have in development projects and in particular hydropower projects. They do not know exactly how projects will affect to them. Therefore, they rarely have a chance to voice their opposition to a project before its construction and only do so once the project has already gone into operation and significant impacts are underway.

Vietnam needs to adopt stronger policies on environmental impact assessments and social impact assessments that not only include directly affected areas but also potentially affected areas, for example areas downstream of hydropower projects.

In conclusion, development does not mean that the economy is the top focus; development is the combination of economy, society and environment working in harmony and agreed on by people. The government must minimize the negative impacts and ensure that communities receive the most benefit from their loss for development projects. Sustainable development should not mean taking one person's life for the benefit of others.

## **Recommendations**

To minimize the negative impacts to downstream areas and to contribute to the development of policies related to hydropower development, I would like to recommend the following:

To the Government:

- Inform the public about hydropower projects to ensure communities can access project information. Place special emphasis on communities that may be affected by national projects to ascertain potential impacts and minimize them to the extent possible.
- Enhance community participation in hydropower project development by requiring investors to local communities when conducting EIAs. Place specific emphasis on gender and potential impacts on downstream communities. This needs to be included in policy.

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- Improve the transparency of the projects by requiring investors and project owners to submit sufficient information to project stakeholders so that both directly and indirectly affected communities understand fully the impacts. Protect the community and reduce their risks by providing specific and detailed information prior to conducting the EIA. Ensure that the community can understand and read the language in the EIA. If the majority of community members are illiterate, establish representatives to disseminate information. Community feedback should be fully recorded and reflected in the EIA and SIA.
- Strengthen the accountability of stakeholders by monitoring the construction and operation of hydropower plants, ensuring timely solutions to environmental and social problems.
- In addition to the EIA, social impact assessments should be required for approval of hydropower development projects.
- The government must draft new regulations on opening dam gates for water discharge to prevent damage downstream.

To local people:

- Communities affected by the hydropower projects and those facing potential impacts need to connect and maintain relationships with NGOs in the region. Take advantage of information provided by the media.
- Affected community members should exercise their rights to send petitions requesting information about project investors and all levels of government.
- Communities should carry out local knowledge research before engaging in negotiations with investors so that they have evidence of potential impacts.
- Community researchers should work with experts or NGOs to document the impacts of hydropower on the community.

To NGOs:

- Update potentially affected people by providing relevant information promptly.
- Support community members to collect evidence of impacts from dams on livelihoods and the environment, and ensure that full participation and gender is considered.
- Encourage community members to take their own initiative to conduct all activities with technical support from NGOs where necessary.
- Give local people opportunities to participate in meetings, workshops and to raise their voice at the national level where people have the power to resolve their problems.
- Serve as a bridge between academics, scientists and communities. Translate academic language into local languages and help scientists to collect real evidence from communities.

To project owners:

- Accept complaints from communities downstream. Review and compensate community members for damages.
- Provide measures to ensure the timely opening of dam gates during the dry season.
- Support communities to develop alternative livelihoods
- Provide measures to prevent soil erosion.
- Establish flood warning systems for communities

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# The Social, Health and Environmental Impacts of Limestone Mining in Kien Luong District, Kien Giang Province, Vietnam

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Nguyen Khiem  
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## Summary

The natural characteristics of a karst system include beautiful scenery, gorgeous caves and a diversity of plants and animals. The karst generates income for local people by attracting visitors. This study was conducted from September to mid October 2013 in Kien Luong District, Kien Giang Province, Vietnam. It focuses on the impacts of a mining operation; specifically a limestone quarry of the Holcim Company and the Kien Luong Factory. This mining operation is causing negative impacts to biodiversity, health and livelihoods of the local people in the affected area. The scope of this study is limited to the impacts of the Holcim mining operation because the Holcim Company forbids access inside the quarry. In addition, this study evaluates the short term economic profits of limestone quarrying as opposed to the long term cost of destroying the biodiversity, potentially irreversibly, in the name of industrial development.

Finally, this study aims to perform an Environmental Impact Assessment (EIA) of the mining and cement production-with participation of the local people. This serves three purposes. First, with the evidence gathered in this study, it is to make a strong claim to help local people protect their basic rights. Secondly, the study informs local people about the right to information, participation and decision-making. Furthermore, the author hopes that the data will attract attention from the community and promote sustainable development and protection of the natural environment and human life.

## **Research Objectives**

The aim of this study is to understand how the limestone mining operation impacts the livelihood, health, and culture of local people and the many rare species of plants and animals, and environment in relation to the laws or OECD (Organization for Economic Co-operation and Development) Guidelines. This research has three objectives:

- To understand the environmental, health, and cultural impacts from the limestone quarry operation on the communities living in the affected area
- To understand how the exploitation of raw materials for cement production impacts biodiversity in the affected area
- To see if the company violated any laws or guidelines as a result of the limestone quarry activity

## **Introduction**

The research area is in Kien Luong District in Kien Giang Province in southern Vietnam. Kien Giang Province is one of 12 provinces in the Mekong Delta. The special attractions of Kien Giang Province are the long coastline and rich biodiversity. It is the only province in the Mekong Delta that has islands. There are also a lot of limestone mines, cultural values and tourist attractions. Normally, the mountains and natural landscapes provide many natural products for the local people, who are living around them. But, it is disappearing because of the mining operations of the cement companies. Through the process of the

limestone mining, the cement companies in Kien Luong District, Kien Giang Province have violated the Vietnam laws (environment protection law and mineral law). In addition, the limestone mining operation has caused serious impacts on the biodiversity, health, livelihood and culture of the community. There are six companies that are operating in the area: (1) Ha Tien Company, Vicem Company and Military Company are state owned companies, which have a history of long-term operations, (2) private companies named Phuong Anh Company and Duc Quan Company, which never conducted the Environment Impact Assessment (EIA) for mining operations, and (3) Holcim Company, which is a limited liability company with two members: the Vietnam Cement Corporation and the Holcim Cement Corporation, with a capital ratio of 35% and 65% respectively. Holcim was granted a business license and began operating in 1994. A lot of serious environmental and social impacts have been appearing. Vietnam is being developed to become a rich country by developing industry, using natural resources and increasing GDP (Gross Domestic Product). But, developers often do not think about the quality of the environment, quality of life or people's opinions about the project.

We can summarize that the characteristics of limestone in Ha Tien - Kien Luong are as follows: only found in southern Vietnam, geographically isolated, have unique vegetation, and rich biodiversity. The newly discovered caves, along with spectacular scenery, have high aesthetic and historical value and also archaeological relics from the wartime.

## **Background**

**The limestone mountains in the Mekong Delta in Kien Luong District - Kien Giang Province** have a very rich biodiversity. There are 322 plant species that have been recorded, at least 155 vertebrate species, more than 65 species of terrestrial mollusk, at least 13 amphibian species and others.<sup>1</sup> There are also a lot of mining companies, which are cement companies. Even though those cement companies are classified as a different sector, the impacts of mining operations are

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<sup>1</sup> According to An Introduction to The Karst of Kien Giang report, which is a research of Center for Biodiversity and Development.



similar with each company. There are two Vietnamese companies, and a company that is a joint venture between the Vietnamese Government and a Swiss Company. Topping the list of “mountain destroyers” are the “cement giants” like Holcim Company and Vicem Company. The largest is Holcim Company, which has had licensed operations for the longest time and has the deepest underground mine (100 meters), with a total investment is 495 million USD. And the smaller is Vicem Company, which belongs to the government with the total investment of 441 million USD and has never conducted the EIA.

Therefore, this research explores the impacts of limestone mining activities of the Holcim and Vicem Companies on the environment, people and landscape, and also considers the difficult problem of the destruction of natural resources in exchange for economy growth.

Holcim Company, formerly known as Star Cement Company, was established in February 1994 as a joint venture between Holcim Cement Corporation and Vicem Company, which belongs to the Vietnam Cement Corporation. Holcim Vietnam, with a range of activities that are focused in southern Vietnam, has 1,500 employees working in four production areas, has offices in Ho Chi Minh City and 12 modern concrete mixers. The existing licensed company operates three mountains: Cay Xoai, Khoe La and Bai Voi. Recently they got permission to operate underground and agreed to explode 80-100 meters underground for mining for another 50 years. Holcim’s licensed underground mines could affect the groundwater in the future and then the effects will be more serious.

Vicem Company was established in 1964 with the name Ha Tien I at the beginning. Vicem Company has a capacity of 20 million tons of cement per year, accounting for 34% of market share of cement in Vietnam.

Although the projects have a lot of serious impacts on people and the environment, I can say that it is very hard to do advocacy with those companies because they get support at a national governmental level.

## **Project Analysis**

### **Incompetent Environmental Impact Assessment (EIA)**

According to Vietnam Law, an EIA report is required to be conducted before project construction begins because it is considered as evidence, a database file for any decision that relates to the project. Based on the EIA, decision makers can decide whether the project will be approved or not. Therefore, conducting an EIA is never simple work. It might take several months up to several years with the efforts of many experts and researchers to complete a report.

Holcim Company conducted an EIA on Cay Xoai, Khoe La and Bai Voi Mountains 15 years before operation in the mountains, and every procedure documented is very smooth. In 1997, Holcim exploded one of the three mountains, and they got a permit from the government to do mining in other mountains without an EIA for the new mine.

According to the EIA report of the Holcim Company,<sup>2</sup> the dust and air pollution are not significant. The air pollution in the cement processing and limestone explosions are within levels allowed. It states that the level of biodiversity in those mountains is not rich. In fact, however, the pollution is one of the most serious impacts on the health of local people, and has the richest<sup>3</sup> biodiversity in Mekong Delta. At least the Holcim Company had conducted an EIA, but Vicem Company had been working for a long time in Kien Luong District without EIA.

A staff member of the Department of Nature who really understands and worries for her community said that the activities of cement companies is impacting local people by releasing dust into the environment and is also destroying a lot of natural scenery, which took thousands of years to form.

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<sup>2</sup> <http://doan.edu.vn/do-an/danh-gia-tac-dong-moi-truong-cua-hoat-dong-khai-thac-va-che-bien-khoang-san-tai-nha-may-xi-mang-holcim-de-xuat-cac-giai-19308/>.

<sup>3</sup> According to An Introduction to The Karst of Kien Giang report, this is a research of Center for Biodiversity and Development.

## Research Findings

### 1. The project had no consultation process.

Holcim Company has had very good documentation and procedures for extraction. They conducted assessments almost five years before starting to blast mountains in Kien Luong - Kien Giang, including the environmental impact assessment. But the problem is that most of the people who are living close to the mining area do not know about the negative impacts of the quarry, or the information about the environmental impact assessment. In my opinion, even though the number of people who are living close to the mining area is not high, they must be informed about what will happen to them if the quarrying starts operating. The Khmer people especially must be made aware because most of their livelihoods are based on natural products from the limestone mountains, which are being exploited by Holcim Company.

*"No one had announced to me before they started their construction. I even don't know whether they're blowing the mountain or not. I think only the local authorities may know. I'm just ordinary villager, I am not supposed to know that. They only let me know when they activate the dynamite so that I don't come so close to the mountain."*  
- A local woman<sup>4</sup>

Official in a committee of people of Kien Luong District also shared:

*"Obviously, explosion activities will destroy the landscape and will cause air pollution. Local tourism will be affected severely. Once the license is approved at a higher level, the district government will simply be in charge of supporting those companies' activities without reviewing the project's EIA and SIA."<sup>5</sup>*

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<sup>4</sup> Local woman has been living in the limestone mountain area since she was young. Every day, she grazes her goats in the mountains.

<sup>5</sup> SIA is the abbreviation of Social Impacts Assessment.

He did not know anything even though he is a district staff member, which proved the companies have little participation. In the same situation, another staff member of Kien Luong District does not know much information about the limestone mining. A staff member of People's Committee of Kien Luong District said,

*“The district has about 30 mountains, but until now the district cannot say how many mountains have been blown up. In the area there are dozens of quarrying businesses, but they are provincially licensed operators. The district does not know about them. The mountain is located in the district, which is responsible for the limestone mountains. The District People’s Committee is like a child. Their parents asked them take care of the property on the one hand, and on the other hand, they ask others to come to take the property without informing their child. Dozens of quarry operations are in the district area, but local people do not get any benefits.”*

## **2. The laws were violated**

From all of the comments above, we can conclude that Holcim Company and Vicem Company violated Vietnamese laws, and they do not respect human rights, as well as OECD Guidelines. The laws below were broken by these cement companies:

### **Law No.60/2010/QH12: MINERAL LAW**

- **Article 28.** Areas banned from mineral activities, areas temporarily banned from mineral activities.

The land area is historic - cultural landscapes have been classified or protected under the zoning regulations of the Law on Cultural Heritage.

Initially, the company planned to explode Moso mountains, a historical site, but they stopped mining Moso mountain because of community opposition. But, they still had other mountains nearby to mine, even though they are just located next to Moso.

**Law No.52/2005/QH11: ENVIRONMENT PROTECTION LAW**

- **Article 20.** Report Content Environmental Impact Assessment “Opinion of Commune People’s Committee, presents to community where the project is being conducting; all ideas that approve or not approve the project must be included in EIA report.”
- **Article 44.** Environmental protection in mining activities. Minerals must be stored, transported by specialized equipment and shielded dispersed into the environment.
- **Article 83.** Management and control dust emissions
- **Article 85.** Limiting noise, vibration, light, radiation
  1. Organizations and individuals that cause noise, vibration, light and radiation that exceeds environmental standards should be responsible for controlling and handling environmental standards.
  2. Manufacturing establishments, business and residential services in noise, vibration, light and radiation in excess of the permitted standards to implement restrictive measures, to minimize the influence of activities on the health of communities.
  3. Road density means high in traffic, construction noise, vibration, light, radiation in excess of the permitted standards must take measures to minimize and overcome in order to meet environmental standards school

**Proclamation 08/2006/TT-BTNMT.**

- **Article 2.** Pubic Consultation  
Obviously, all stakeholders must be consulted during the EIA process, including the local government and local people in the project areas, according to this article. Local people interviewed, however, knew nothing about the project. Some local government officials in Kien Luong District also did not know much about the project until it began operating.

**3. The impacts of explosion and production activities**

The problem of environmental pollution in limestone mining operations is unavoidable. In this case, the impacted people are living in a horrible environment, their livelihoods and their health have been affected for many years without any compensation. Moreover, the pollution of dust, water or noise in the extraction process also seriously impacts them and the environment in the area.

### **Pollution**

Air pollution is mainly dust pollution caused during the blasting of the mountains, and the transfer and crushing of the rock. A conveyor system transporting the crushed stone must be covered, which reduces a significant amount of dust released into the air. However, in most other locations the first and last point of the conveyor do not have dust collection systems or a covered bag installed. Especially, if the point of pouring rocks down to dump rock is too high compared with the ground, the cement dust flows easily in the wind and is released into the atmosphere, which causes pollution. The air pollution has been affecting a wide area. The people are living with indignation because of smoke and dust pollution. In fact, the explosion of those companies have released a lot of air pollution around the mining area. Moreover, the air pollution will be more serious in the dry season because the cement dust will be released to other communities by the wind, which means that those affected will be larger. A local man<sup>6</sup> also said,

*“Currently, every night Holcim Company emits a lot of black smoke, unbearable pollution. And, when the truck transports rocks from the limestone mountains to the factory, it makes a lot of dust along the road.”*

The cement companies did a good job in social work; they are upgrading the quality of the old roads and expanding more routes in the area. It helps to make circulation easier, and many people are happy to be able to travel around easier. However, the moving of giant trucks for transporting has caused dust along the route. It also destroyed the roads, the result is that it is easy to get into an accident. The people can only see the short-term benefit, they do not see the negative impacts for the future.

Pollution caused by cement dust emitted from the cement companies makes some people greatly worried about their health. Vicem Company is located beside one local man's house, and it works almost 24 hours/day with very noisy sounds. It disturbs the people who are living around there so they cannot sleep, especially the elderly and the children.

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<sup>6</sup> His family has a small place to sell food for workers of Holcim Company. His house is not to far from the company and it located beside the road.

Furthermore, their houses are covered in cement dust so they have to close all of the doors and windows all day even in the dry season.<sup>7</sup> It makes them feel angry because they feel like they are living in a box that contains a lot of pollution. The remediation system is not thorough, and it has serious negative impacts on their mental and emotional well-being of local people.

The air pollution in the factory area and the life conditions beside it  
Photo: Local people



<sup>7</sup> Dry season: Vietnam only have two seasons in a year which are dry-the weather is very hot, and rainy season-it is rain all the time.

Cement is alkaline because the main material is limestone. Normally, common organisms cannot grow very well in high pH (Alkaline, pH level higher than 7) or low pH (Acid, pH level lower than 7). In the dry season, the cement dust flows and is released easily over a wide area, and it covers the leaves, soil and surfaces of water. In the rainy season, the cement dust will flow from roads and roofs into rivers and ponds. Cement dust will impact plants and aquatic animals and degrade the land in both the dry and rainy seasons by increasing the pH in the water.

*“Holcim clearly has plans for future exploration. Recently, the company deployed equipment for exploratory drilling underground in a part of the mountain that is called the “Cang Sau Project.”<sup>8</sup> They prepared to exploit 100 meters underground even though they did not have a license for exploratory drilling. Finally, they were punished for that behaviour.”*

*- A local official*

### **Livelihood impacts**

There are three groups of people living in Kien Luong District, and the total population is 81,710, including 85% Kinh, 12% Khmer ethnic minority and 3% Hoa people. In fact, the people living around the limestone mountains are almost all Khmer people who are poor and do not have land certification. The characteristics and cultural identity of the Khmer people have close ties to the living area and the natural resources that they are depending on. Most of their incomes are from the forest such as herbal medicines, wild animals, bamboo shoot, etc. These characteristics make the Khmer people susceptible to all kinds of risks and impacts from limestone mining, including losing identity, culture and living traditions. Most of them are living in difficult conditions with no chance to go to school, they are typically the most vulnerable group in comparison. Due to economic, social and legal statuses as such, they often have limited ability to protect their rights and interests related to land, territories and resources or limitations on the ability to participate in and benefit from the development of the whole society.

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<sup>8</sup> Cang Sau Project (roughly translated: Deep Port Project) is the project that exploiting the underground part of the mountain. After finish, the project will leave the very big hold which is really dangerous for the people if they fall down into the hold.



The daily life of this marginalized group was very easy until the cement companies came to do mining. Their life got harder after that. Normally, the people can survive by collecting forest products like geckos or herbs. Most local people are poor, so they try to find ways to increase the income of their family, including the exploitation of natural resources illegally. Due to being extremely poor, many children do not have access to schools, which has also contributed to an “army” of illegal logging. Interview results also show that more children are hunting flying geckos to sell to tourists and collecting firewood and other forest products instead of going to school. The money earned is not much for the rich, but it is essential for the poor. Now, many people have left their homes to industrial zones to become workers, and their culture is disappearing day by day.

In all sectors of the population living in the locality life is dependent on natural resources. Poorer citizens have no working capital, less trade and exchange activity, low levels of education, some do not have arable land, and they particularly do not have stable jobs. Instead of solving the job problem as a way to minimize the dependence of local people on local resources, the cement companies do the opposite by destroying the mountains. This means that the people’s livelihoods are destroyed.

Furthermore, because explosion and production activities release a lot of cement dust and lime in the environment, the soil quality is reduced because cement dust and lime have an alkaline nature. *“Last year, more than 50% of shrimp in my pond died, but no one was responsible for the problem.”* – A local man<sup>9</sup> shared. This problem also related to the high pH, he spoke out in the regretful feeling for his property. In my opinion, the most important to the fruit grower is their fruit, to the farmer is their rice, and to the shrimp farmer is their shrimp. If someone wants to destroy their garden, rice field or shrimp pond, it means that they want to destroy their life.

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<sup>9</sup> A local man is 56 years old, he is Kinh people. His shrimp pond located beside the road, which for transporting limestone from the mountain to the factory.

### **Health impacts**

Generally, local people have high rate of diseases, which is related to dust pollution. There were 4,621 patients<sup>10</sup> who came to a hospital in Kien Luong District over three months from June to September. Twenty four percent of them suffered from upper respiratory problems, 20% from bronchitis, 18% pneumonia and 38% were others diseases. And, 62% of patients' problems were related to dust pollution.

*“Inflammation of the upper respiratory system with most of the children aged 5 years or younger, but for the adults it is strep throat. There are about 35% of kids with inflammation of the upper respiratory caused by the weather, and another reason is that dust, smoke”*

*- A staff member of the hospital shared*

Stone dust in the lungs usually causes mechanical irritation and reactions, fibrosis in the lungs and breathing problems. Larger dust (coarse dust), is heavy and less likely to go into pulmonary alveoli, causing little effect on health. Smaller dust is more dangerous for the respiratory tract. Cement dust is small, so it affects the health of people negatively, especially workers who work directly with cement dust.

### **The potential impacts**

The explosion and production activities have already impacted people and the environment, but they also have a lot of potential impacts.

Oxygen is one of the most important things for humans. It is pumped from the heart into the blood, where it is delivered to every cell in our body. Our body is made of cells, and cells need oxygen to survive. Brain damage can result if one is without oxygen for just 2.5 minutes, and after about 5 minutes, the body starts to die. Normally, the human can stop eating for 7 days and stop drinking for 3 days. But, everyone has to breathe every day. This shows how important oxygen is to humans. Cement dust was released from the factory or the mining, and it covered leaves, ground and surface water. Leaves cannot implement photosynthesis efficiently, then, and the oxygen concentration in the air will be reduced.

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<sup>10</sup> Data from the district hospital

Moreover, if Holcim Company gets permission from the government to do additional mining 100 meters underground (Cang Sau Project), it will bring more serious impacts in the future. One of the functions of limestone underground is to prevent saltwater intrusion and keep the groundwater fresh. Fresh groundwater is essential to rice production and farming in the area. What will happen to the local farmer if they cannot grow rice?

**Destroy the natural landscapes and historical values**

The karst system of Kien Giang Province has a lot of beautiful scenery and gorgeous caves within the stalactites. There are many caves that are historical relics, which were used as shelter for Vietnam soldiers in the war (Vietnam - American War). Nowadays, the local people put a shrine in the cave to pay respect to the soldiers who were sacrificed in the war. As mentioned above, the limestone areas in Kien Luong is one the richest in biodiversity in the Mekong Delta-as they house thousands of species. There are many of species listed in the 2007 edition of the Vietnam Red Book and are also assessed as rare globally.

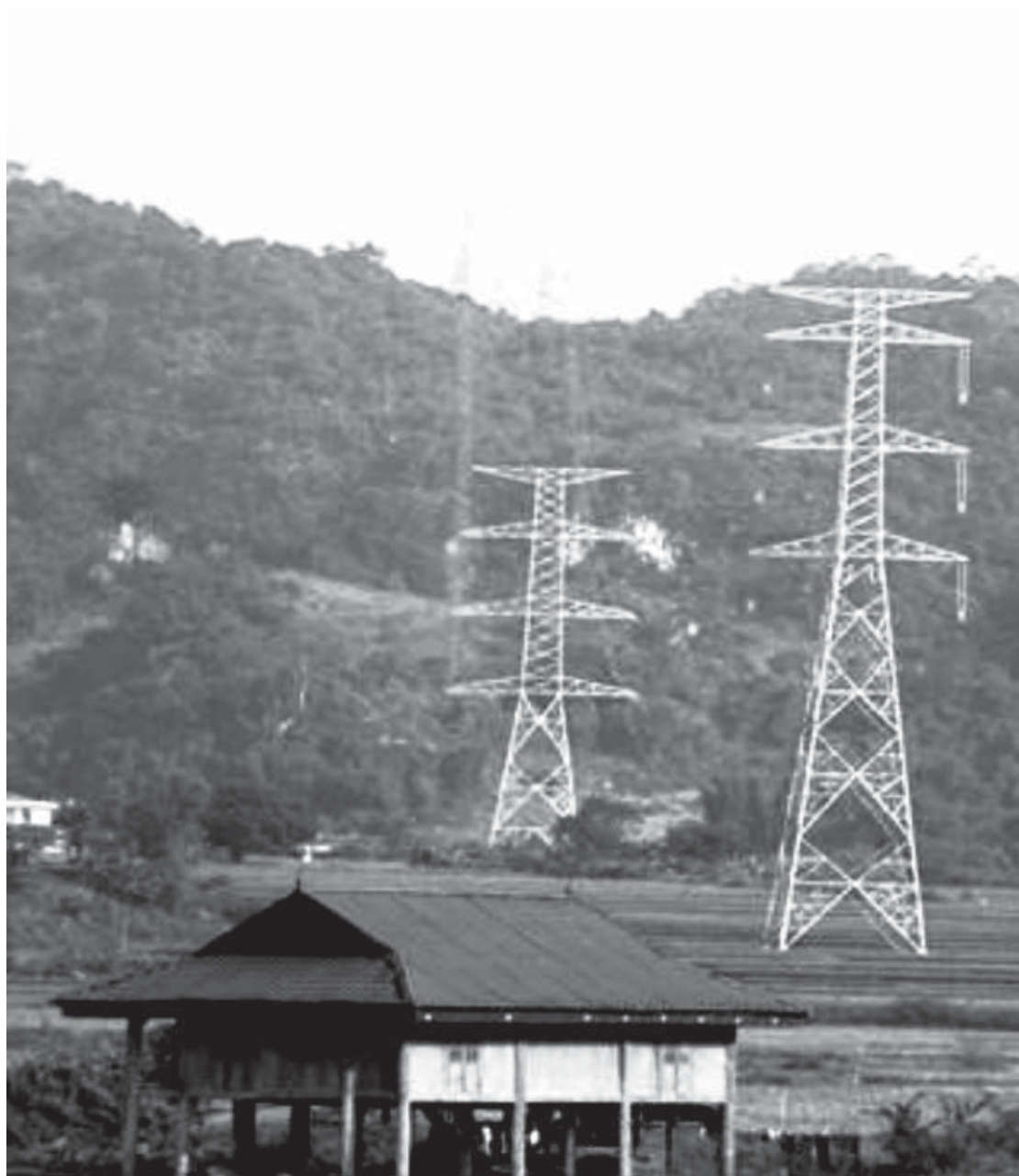
*“Not only the mountains will be gone, but also this place will be turned into an abyss when the mining is done. I do not know what will happen if they explode the underground part of the mountain, whether it will affect my paddy cultivation or not.”*

*- An old men shared.*

Almost all of the interviewees answered that they want to keep the material and spirit values of limestone mountains for the next generation. Some older people said that the limestone has great importance in the prevention of soil erosion, keeping fresh water for daily life and production. Besides, some people said that living nearby the limestone brings better health for humans because there is very fresh air. Instead of bringing better conditions for the people, the mining has destroyed their peaceful existence. Destruction of the natural landscapes and air pollution seriously affects the health of people in the area. Characteristics and cultural identity of the community have been linked closely to the living area and natural resources. They have to bear the impacts of development projects including the loss of identity, culture and living traditions and risk facing diseases as well.

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The natural landscape and mineral resources in Kien Luong - Ha Tien had to undergo hundreds of millions of years to become what they are today, and they are non-renewable natural resources. In less than 200 years we could totally eradicate these resources, including what is underground. It is not only in Kien Giang, or Vietnam, exploitation of natural resources is happening every day and every hour around the world. This is almost becoming a necessity if poor countries are required to accelerate economic development. But we need to know one important thing: the price we pay in the future will not be cheap, if not to say it will be many times more expensive than what we get today. More than 2,000 years ago, Africans had a good catchphrase to ponder: *"The Earth is not ours. It is a treasure that we hold for future generations."*





# Asian Development Bank Safeguard Policies: Fact or Fiction? The Case of the Northern Transmission Line Expansion Project

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Vu Hai Linh  
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## **Abstract**

I conducted research for this report in Chieng Hac and Chieng Yen Communes, Moc Chau District, Son La Province, where I talked with the local authorities and affected households. Many affected people are members of a minority ethnic group, and their livelihoods are mainly dependent on agricultural activities. The Son La - Nho Quan - Hoa Binh Transmission line sub-project was constructed in these two communes. The project destroyed many households, including lands and assets, and the affected people received very little compensation.

Because this project was funded by the Asian Development Bank (ADB), which has a Safeguard Policy for affected people, the borrower countries have to follow this policy. They are required to disclose project information to relevant stakeholders, encourage affected people to participate in the decision-making process, and give them the chance to raise complaints about the project. This research indicates that there was a lack of implementation of the ADB's Safeguard Policies in regards to this project. The borrower and the ADB did not disclose information

about the project to the affected people and the relevant stakeholders. Affected people could not effectively participate and they did not have the chance to raise their concerns. Because the ADB and the borrower did not talk to the affected people about the ADB's Accountability Mechanism, the affected people did not know where else they could raise their complaints other than to the local office. These circumstances created many disadvantages for the affected people.

## Introduction

Vietnam, like most countries in Southeast Asia, is stepping up the process of industrialization and modernization. In current years, agricultural contribution to Vietnam's economy has decreased from 40.2% (1985) to 22.02% (2011), while the industrial contribution has increased from 27.4% to 40.79%, and the service sector has increased from 32.4% to 37.19% in the corresponding period. Viet Nam has maintained an average economic growth of 7.34% during the 1991-2011 period and has reduced the incidence of poverty from 58% in 1993 to less than 25% in 2005 and 21% in 2008. Based on many government reports, this growth has been achieved through rapid industrialization and urbanization, which has resulted in an increasing demand for electricity. Therefore, electricity demand has grown at an average rate of 15% per annum and was forecasted to maintain the same growth rate until 2010 and then reduce to 12% by 2015. The Government plans to more than double the current installed electricity capacity to 22,600 megawatts (MW) by 2010.

To reach that demand, Vietnam has increased its borrowing from international financial institutions (IFIs) such as the World Bank (WB), the International Monetary Fund (IMF), and the Asian Development Bank (ADB) in the last ten years, and most loans are designed to meet Vietnam's infrastructure and energy needs. While poverty reduction is often cited as the primary objective for such loans, the net development gains for intended beneficiaries have not been thoroughly examined. Using the ADB as an example, Vietnam has been one of the primary countries where the ADB executes its Greater Mekong Sub-region (GMS) strategy in the Mekong region. In 2011, the ADB invested US \$1.4 billion in Vietnam out of its annual investment of US \$13.3 billion

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in the Asian Pacific region. The ADB's involvement is becoming more visible in the government's comprehensive agenda for development and growth. This is more prominent as Vietnam received US \$10.68 billion for 107 loans, US \$242.3 million for 311 technical assistance grant projects, and US \$150.1 million for 26 other grant projects up to December 2011.

While IFIs are increasingly becoming involved in Vietnam's development, very few IFI projects are participatory in their approach. Being multilateral, public development institutions, these banks' policies, programs, and projects are supposed to be publicly accountable and transparent. Several attempts have been made to strengthen and amplify the concerns or voices of people, communities, and indigenous people in the IFIs development projects in Vietnam. In the present context of IFIs' growing involvement in the country, it cannot be denied that there is a need for further consolidation of this engagement process in the IFIs projects, programs, and policies in Vietnam.

*“The Northern Power Transmission Expansion (Sector) Project will install 500 kilovolt (kV) and 220 kV transmission lines and associated substations. The project covers the northern part of Viet Nam, which is relatively poor. The project will enable power to be supplied to the planned industrial zones in the region, thereby facilitating employment and income-generating opportunities. Thus, it will benefit the poor and ethnic minorities living in the project area. The project will also create the potential for power interconnection between Viet Nam and the Peoples Republic of China.”*

*(Project data sheet)*



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Project site

The affected people are primarily ethnic Thai, Kinh, and Mong people, with fewer Dao and Sinh Mun people. Because the transmission line is very long, the affected people are spread across seven communes in Moc Chau District. The two most severely affected communes are Chieng Hac Commune and Chieng Yen Commune.

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Chieng Hac Commune: Chieng Hac Commune is 103.66 square kilometers, and the population was about 8,000 people as of 2010. The population density is about 80 people per square kilometers.



Chieng Yen Commune: Chieng Yen Commune is 90.7 square kilometers, and the population was about 6,000 people as of 2010. The population density was about 60 people/km<sup>2</sup>.

Their livelihoods depend on agriculture. The conditions of the soil are appropriate for short-term industrial crops such as corn, tea, cassava, and luong (bamboo). The per capita income is very low at about 300-400 USD per person per year. They often face natural disasters, especially flood and landslides.

At Chieng Hac Commune, the affected households are along the new national highway no. 6, located 15 kilometers northwest of the center of the district. In 2007, the province signed a decision to build a micro hydropower station under the 500 kV line, 7.43 MW capacities.

Chieng Yen Commune is located about 80 kilometers southeast of the district center. It is sparsely populated than Chieng Hac Commune. It was very hard to access as the road was being repaired, which caused the affected households to be in the mountains, far from main road.

Before the expansion project, the ADB funded the Northern Transmission line project. The ADB placed the resettlement for the project in category A in its Resettlement Plan, but the plan was not on the ABD's website. This project began in 2006, and was said to have been completed by 2010, but as of April 2012, the resettlement was not finished. There were gaps between ADB policy and local implementation. Furthermore, they may not have disclosed sufficient information to the affected people. The households without land rights may not have been able to participate in decision-making about the process. In addition, the ADB and the local authorities did not take accountability during the process.

## **Findings**

### **General information**

The researcher went to Chieng Hac village before Chieng Yen village. In Chieng Hac village, the researcher interviewed 15 people, including 12 affected people and 3 local authorities related to the subproject. 6 out of 12 affected people were Thai, 4 out of 12 were Kinh, 1 was Dao, and 1 was Sinh Mun. Only 3 women were interviewed. The interviewees were mostly older than 40 years old. Only one person was educated at the high school level, one finished Intermediate school, and the rest were literate. Each household usually has 4-5 people. 9 out of 12 households were classified as having average incomes in 2011, and 3 out of 12 were poor households.

They worked in the fields harvesting main crops of rice, cassava, corn, tea, fruit trees, and bamboo. Only one person worked in the Moc Chau Forestry farm as a manager. Most of the interviewees lost their agricultural lands because of the subproject. Two out of twelve households lost their residential land and one household lost both. The total square units of lost area per household were around 400 square meters. The affected people received different compensation because of the location and the value of the lost property. Compensation ranged from 2 million VND (US \$100) to 1-6 billion VND (US \$5,000-\$30,000).

EVN is the Project Executing Agency responsible for overall implementation of the Project. NPPMB (Northern Power Project Management Board) and CPPMB (Central Power Project Management Board) are the Implementing Agencies responsible for day-to-day implementation of Project's activities, such as construction, expansion and upgrading of the 500kV and 220kV substations and transmission lines.

In the case of Moc Chau District, the Moc Chau District Clearance and Resettlement Board on Son La- Nho Quan - Hoa Binh Transmission Line Project are responsible for relocation and compensation of affected people.



The transmission line across the Ta Niet Village, Chieng Hac Commune

### **Transparency**

According to the ADB's Public Communication Policy 2011, affected people have:

*"The right to access and impart information and ideas - ADB recognizes the right of people to seek, receive, and impart information and ideas about ADB assisted activities. ADB shall provide information in a timely, clear, and relevant manner."*

The right to appeal - The policy recognizes the right of those requesting information to a two-stage appeal process if they believe that ADB has denied their request in violation of its policy. (Page 4, Public communication Policy 2011 Disclosure and Exchange of information)

According to the *Summary Initial Environmental Examination*, there are 7 communes in Moc Chau District that are affected by the transmission line. In fact, according to Decision No.836/QĐ-UBND (22<sup>th</sup>, Sep 2008) of Moc Chau District, 9 communes have been affected; this is also according to an officer who was asked how many communes and districts were affected.

Decree No.197/2004/ND-CP (3<sup>rd</sup>, Dec 2004) of the Vietnamese government, available on the internet, regulates compensation, support, and relocation when the state recovers land, but some aspects of it are not clear. In each commune, there were different decisions made around the Decree, and it was applied differently according to each situation.

Decision No.742/QĐ-UBND (4<sup>th</sup>, Apr 2007) of Moc Chau District stipulates the unit price of compensation and support policies, but Decision No.75/QĐ-UBND that was promulgated to detail some content of Decree No.197/2004/ND-CP (3<sup>rd</sup>, Dec 2004), was not published. Therefore, even if the affected people were aware of their rights under the law and were able to gather information about compensation prices, they would not have been able to find sufficient information.

This is the typical process for projects that are implemented in Vietnam. The Project Board typically clears the land to operate the project before thinking about the relocation plan for the affected people. They put the interest of the project above the rights of the affected people. They may finish the compensation process based on the Decree and the Decision, but do not discuss whether the amount of compensation is too low, or take responsibility for rehabilitation. The Moc Chau Compensation Board separated compensation into 4 phases from 2008 to 2012. The amount of compensation depended on the decisions of each province (and the price changed every year), but when the decision was asked about in greater detail, no one in the Compensation Board was able to produce a hard copy or a soft file of the decision.

The following is a comment on the project report provided in the Project's Report and Recommendations of the President to the Board of Directors: "In accordance with ADB's new *Public Communications Policy*, the RF and RPs submitted to ADB for review and approval will be immediately uploaded on ADB's resettlement website. The final versions of these documents will be uploaded upon board approval."



When I emailed the ADB to ask them about the Resettlement Plan and Resettlement frame work, they said they will discuss the matter and send me a response shortly. I also asked them if they have the documents in English or Vietnamese, to which they have not replied.

Surprising statistics that I found were that 100% of the interviewees did not know that the ADB funded this project, and 100% of the interviewees who said that they learned about the project from the local authorities only had a vague understanding of the project. 10 out 12 households said that they did not receive any documents and 2 households said they heard about the project from the head of the village.

*"The local authorities said that this project had been already adopted by the government. Therefore, we just followed it."*

*-A 62 year old man*

None of the interviewees received the project documents in their own native language. One interviewee told me that Mr. Dong's household, an affected house in her village, was the only person who tried to find the document on compensation prices (he found it from an outside source and still has it today). All of the interviewees who received information from the head of the village argued that the information provided was nothing more than what they already knew. The village head's answers were always very vague. 90% of community members did not even know who the project's stakeholders were; some of them said that they knew, but they only gave the name of someone who they met or a wrong name, which is not very worthwhile information.

80% of the people I interviewed said that they did not receive any documents about the environmental and resettlement issues, and 60% wanted to know more about the project, but they didn't know where they could get this information besides through the head of the village, who had not proved to be very helpful in the past.

The lack of the implementation did not stop there. All of the affected people raised concerns when I asked about whether they wanted to know more. Information they wanted to know more about included:

- + The compensation price
- + Potential health affects
- + The support policy

I compared the two affected communes. Chieng Yen more rural than Chieng Hac, and the people knew less about the project in Chieng Yen than in Chieng Hac. Therefore, in Chieng Yen Commune, access to information seemed weaker. The attention of local officials was also lower. The infrastructure in Chieng Yen is quite old and poor. The distance between two households is sometimes more than 5 km. Communication, therefore, is very challenging. Most answers for the interview were: "No, we do not know about it," or "No, we haven't ever heard about it." Because they are far from the district's center, they just go to the commune office to ask for information. In Chieng Hac Commune, some villagers went directly to the Clearance and Compensation Board.

Affected people must be at least as well off in terms of economics, social life, and health after the project as they were prior to the project. However, because even the local authorities did not know about the ADB and the ADB's Safeguard Policy, they could not give information about the rights of affected people or the accountability mechanism. This information was not disclosed to the affected people as the ADB promised. The ADB failed to honor its responsibility for project transparency.

### **Participation**

According to the Loan Agreement signed between ADB and Vietnam's government: "...the Borrower shall cause EVN to ensure that (a) the RPs are carried out promptly and efficiently in accordance with all Borrower laws and regulations, ADB's Policy on Involuntary Resettlement (1995) and Policy on Indigenous Peoples (2003), and the approved RF, (b) all affected people are given adequate opportunity to participate in resettlement planning and implementation; (c) the affected people are compensated and assisted prior to displacement from their houses, land, assets such they will be at least as well off as they would have been in the absence of the Project and the poorest affected people and vulnerable groups including ethnic minority affected people are assisted to help them improve their socio-economic status, (d) implementation of the RPs is monitored by NPPMB and CPPMB, concerned people's



committees, and independent monitors, and related reports are submitted to ADB and the Borrower as stipulated in the RPs; and (e) the RPs for Subprojects to be appraised under the Project will be prepared in accordance with the agreed RF, and submitted to ADB for review and approval prior to being disclosed to the affected people".  
(*Loan Agreement, page 29*)

When I spoke with the head of District Clearance and Compensation Board, it seemed that they implemented these requirements very well. According to a member of the District Clearance and Compensation Assembly, those consulted included (1) affected household representatives (head of village, frequently); (2) commune representatives (president, land administrator, Fatherland Front); and (3) representatives of district related boards (economic, land administration).

He also mentioned the process for compensating affected households:

- Step 1: Deployment meeting (to bring the project announcement to affected households).
- Step 2: Send the affected households project leaflets, assets forms, and land and crop forms. The staff of Clearance and Compensation Board show them how to fill out the forms.
- Step 3: The Clearance and Compensation Assembly measures each affected household's land and confirms the compensation. (5 days after step 2)
- Step 4: Synthesize the compensations and send to the District for approval (through an Assembly meeting).
- Step 5: Payment
  - The District Department of Natural Resources and Environment appraises and gives the results to the District President (20 days after approving).
  - The District President approves the recovery and compensation plans. After that, the Clearance and Compensation Board lists the names of the affected households and sends it back to the communes (in 20 days) and the households (in 5 days).

- Gather feedback from the affected people (20 days).
- Consult the Assembly, and approval by the District Department of Natural Resources and Environment.
- The District Department of Natural Resources and Environment reviews and makes the appraisal report, and sends it to the District President for approval.

The value of compensation for affected people is publicized 5 days before making payment. Compensation is paid directly to the person who is named in the papers. Investors may acquire the land after 20 days. However, the head admitted that the 500 kV transmission line project was not implemented fully and accurately in accordance all the steps described above. He explained that the Clearance and Compensation Board had to wait until EVN sent the money for compensation. The Clearance and Compensation Board is just a local office that announces the project and measures the assets and land, and sometimes they have to negotiate with the affected people because the money does not come on time. They signed an assurance paper with the affected people, promising that they would eventually get adequate compensation.

The interviewees confirmed this, as 10 out of 12 had participated in the meetings. Many affected villagers, the village leaders, and even some of the staff of the District Compensation Board all attended the meetings. The meetings were usually held in communes or villages but they did not follow the above steps. According to the law, the meetings should have provided information about the project, given the amount of compensation, and distributed compensation to affected households.

However, some said that they were invited to only one meeting to get compensation while some found out about the project only when the compensation staff came to measure their land. Some people did not hear of any meetings, even though they were affected by the transmission line. They also did not have the chance to raise their concerns about the project, because they did not get enough information to understand the potential impacts of the project. According to the general information, a majority of those affected by the transmission line were not well-educated and the project managers did not talk about the negative impacts. Therefore, the villagers felt very upset because they did not

know what they needed to be worried about. And because they were not well educated, none of them participated in the decision-making process, even though they should have been given the right to discuss the project design with the government, company and other relevant stakeholders.

ADB policy states that the board of the project should record and respond to the affected people's concerns, and send back a response with valid documents. However, they did not follow through with their responsibilities. The local authorities just talked about the orientation of the Party and the country's development policy; the affected people thought that they were contributing to the country's development but the participation process did not fulfill the ADB's requirements.

The affected households had the right to participate in the decision-making process of the project preparation, especially the resettlement and compensation options. But they only had one choice. Most of them received a very small amount of compensation and they had to find new houses by themselves. Others were able to get more compensation for their losses, but they still could not raise their concerns with the government and EVN.

### **Accountability**

"The Borrower shall cause EVN to ensure that (a) funds for land acquisition and resettlement are allocated and disbursed in a timely manner; (b) the RPs are updated and submitted to ADB within 3 months of completing the respective detailed measurement surveys; (c) EVN will promptly advise ADB of any substantial changes in the resettlement impacts and, if necessary, will submit a revised RP to ADB for concurrence; and (d) resettlement impacts on ethnic minority peoples in the subproject areas will be mitigated through specific measures including in the RF, RPs and the gender strategy prepared for the Project. For SLHPP, the Borrower shall cause its Ministry of Agriculture and Rural Development and the resettlement committees of the concerned provinces to carry out the resettlement plans and sustainable livelihood programs in compliance with the Borrower's Prime Minister's Special Decision No.459/2004, and acceptable to ADB." (*Loan Agreement, page 29*)

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From the time the Accountability Mechanism went into effect in December 2003 until the end of 2011, the OSPF received 39 complaints. 13 were found eligible for problem solving, 24 were not eligible, and the eligibility determination for 2 complaints is ongoing. The CRP received 5 requests for compliance reviews over the same period, 4 of which were found eligible and 1 was not eligible. Appendix 3 summarizes the experience since 2003. *(Page 3, the Accountability Mechanism)*

When I first read this, I asked myself, "Why were there only 39 complaints when the ADB funded so many projects?" A very simple reason that came to mind was that 100% of interviewees, both local authorities and villagers, did not know of the project donor. Therefore, they had not ever heard of the ADB's policies, and in particular, the Accountability Mechanism.

In the case of Chieng Hac commune, there was one complaint from Mr. Nguyen Van Son's house. He lost his residential land for the construction of the transmission line, and his family received some money as compensation to relocate. However, he could not find another house because his old land was under his father's name; this created complications. He needed the old land title to buy the new land, but he could not get the old land title unless he had his own land to begin with. Therefore, he still lives under the transmission line, waiting for a solution.



Mr. Son Nguyen Van's house (Ta Niet Village, Chieng Hac Commune) is still under the transmission line

When I asked the local officer about this case he answered, "When we came to talk with the affected people about the project and the compensation, they volunteered to find other land by themselves." To the same question, the affected people responded, "There are no options for us. They came, they measured our assets, and then they told me to sign the paper. How could I refuse?"-A 56 year old man

*"I didn't want to move too far from my old house, and he - a man from the Clearance and Compensation Assembly - said that they could not distribute new land to me. Therefore, I had to sign the Agreement to find new land by myself even though the real price of land is much higher than the compensation offered,"*

*Mr.Lun from Chieng Hac Commune said.*

Another issue was that the commune did not have a land use plan yet, so they could not distribute the new land to the affected households. In the case of a development project like a hydropower dam, the project owner must relocate whole villages to build a reservoir. All of the affected people who suffer from the project are located in the same place, so they feel more confident to stand together to fight for their rights. However, in the case of the transmission line project, the affected households were scattered throughout a very large area; therefore they felt that they were not strong enough to send a complaint to the responsible office. They have heard of negative incidents from those who received trouble from the local authorities after they sent complaints, which contributed to their reluctance. Sometimes, the affected households held different interests, so there was concern that disputes could occur between them.

## **Conclusions**

I conducted research for this report in Chieng Hac and Chieng Yen Communes, Moc Chau District, Son La Province, Vietnam, where I talked with the local authorities and the affected households. In the cases of both communes, the implementation of the Son La - Nho Quan - Hoa Binh Transmission line subproject was not fully or accurately implemented. By analyzing the implementation of the Son La - Nho Quan - Hoa Binh Transmission line subproject in these two communes, we can see that the ADB failed to properly and accurately implement its policies.

The ADB did not disclose information on its website for those who wanted to learn more, and the ADB and the local authorities did not ensure that the affected households fully understood the project itself. The people were not aware of their rights or the ADB's Safeguard Policy which was supposedly written for them.

The progress of the Resettlement Plan and the Resettlement Framework were also not compliant. The affected people participated in some meetings, but they did not have the chance to raise their concerns. The meetings were merely implemented for the sake of implementing them, without any intention of actually fulfilling the requirements. The affected people' questions and concerns were not answered adequately; their role in the decision - making process was not realized.

Because of the lack of information, the affected people did not know about the ADB/s Accountability Mechanism. Therefore, they did not have the chance to use it for their complaints. Some households still have not received full compensation, and some of them still live under the power transmission line. They are becoming increasingly tired because of the line's sound and electrified housewares. Both affected communes do not have sufficient land use planning, so new land could not be distributed to affected people.

The ADB's policy on involuntary resettlement is very important and is applicable for all ADB - funded projects in order to avoid involuntary resettlement where possible. In this case, the ADB failed to monitor the project operation and the EVN failed to respect the loan agreement and the ADB's policy. The ADB failed to ensure that the Borrower properly implemented the project.

## Recommendations

The ADB should ensure that implementation by borrowing governments is consistent with the ADB's Safeguard Policy, and should especially enhance the independent monitoring mechanism. The ADB should ensure that all information is disclosed to all relevant stakeholders, especially affected people. The ADB must collaborate with the relevant stakeholders to figure out a solution and bring it to the affected people.

The Vietnam government and EVN should follow their responsibilities under the loan agreement, and ADB's Safeguard Policy and the relevant national's law by:

- Disclosing information about project and giving affected people the right to be involved in the decision - making processes on resettlement.
- Ensure project documents and relevant documents are provided to affected households, and posted in affected areas and commune offices.
- Ensure communities are aware of their rights under the accountability mechanism to send complaints about the project.
- Collaborate with the ADB to figure out the solution for affected households who still have not received adequate compensation.
- Provide health and security trainings for affected households that are still living nearby the transmission line.

There were no NGOs who come and give the supports to the affected people, although their role in this case should be important. NGOs should assist by collaborating with each other to share information, strategize, and provide affected people opportunities to express their needs and concerns. NGOs should also support affected people in research and documentation, and in submitting complaints to the ADB.

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## Epilogue

Mat Carney

Something powerful happens within a society when young students, scholars and activists make it their priority to research and discuss issues of importance to them. Although the issue maybe small, in relation to the size of ASEAN and the Mekong region, significant attention can be drawn to the issue when young people are both passionate and persistent. These voices thus gain attention within domestic and regional political spheres, ensuring that regional development is sustainable and decision-making inclusive. This collection of stories, independent research and personal accounts of issues throughout the Mekong region demonstrates how young people can effectively challenge the establishment and bring about change. Each individual paper gains legitimacy and credibility from the personal narrative and first-hand experience of the author. Mekong governments and corporations will constantly be held to account by a collaborative cross-border youth movement that strengthens Mekong regional civil society. This emerging Mekong regional civil society and youth movement provide a crucial check-and-balance system that draws attention to corrupt and unsustainable practices.

The very fundamentals of ASEAN, its principles and aims, make regional governments reluctant to criticize one another. Arguably the most problematic institution within ASEAN is the 'so-called' ASEAN Way. Numerous scholars argue that the ASEAN Way facilitates regional security on a state-to-state basis. Although is it possible to argue that ASEAN has prevented regional and bilateral conflict, the ASEAN Way neglects domestic and border development issues. It is within this neglect that civil society movements, especially those lead by local youth, can play an active part in facilitating positive change by drawing light on issues.

There is a collision point that puts local activists, youth lead organisations and NGOs against that of state-sponsored, endorsed and constructed development projects. Although there is a need for development to ensure continued prosperity, there is a desperate need for more appropriate checks-and-balances to ensure local communities and peoples are not negatively affected. All papers within this book clearly demonstrate this 'collision' point, where large-scale development projects collide with the livelihoods of local populations. With all ASEAN countries enforcing significant limitations on the local press, restricting the ability to challenge government decisions, local youth and civil societies are crucial in drawing attention to issues. Investigating the lack of access to information is an important starting point. Many governments and corporations deliberately exclude local communities in decision-making processes by producing reports that are not in local languages and using complicated and jargonistic language.

The renowned Economist and International Development expert Jeffery Sachs calls the current period we are living in, 'The Age of Sustainable Development', meaning there is no more pressing issue to ASEAN and Mekong member states than that of sustainable development. Sachs argues there are numerous environmental threats that are continuing to gain in severity, "...humanity is changing the Earth's climate, the availability of fresh water, the ocean's chemistry, and the habits of other species.." <sup>1</sup> (Sachs 2015:2). He then poses the question, "...what happens when the world economy is on a collision course with the physical environment?" This collision is obvious within the Mekong region as development increasingly affects locals and the environment in which they live.

Sachs states there are three crucial factors of sustainable development that are all intrinsically interconnected and must receive an equal amount of governmental and societal respect. They include economic, social and environment factors. He then concludes that all three factors rely on one crucial factor, good governance, not just governmental governance but also corporate governance. It is then obvious that without good governmental structures, there is a lack of accountability, endemic

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<sup>1</sup> Sachs, J. 2015. 'The Age of Sustainable Development'. Columbia University Press. New York.

corruption and a neglect for aspects of one's population. Through Jeffrey Sachs' assessment it is clear that Mekong countries will continue to struggle and fail at sustainable development until good governance is achieved. Sachs states,

*"...Multinational companies are often the agents of public corruption, bribing officials to bend regulations or tax policies in their favour and engaging in tax evasion, money laundering, and reckless environmental damage"*  
(Sachs 2015:4).

The local communities affected by developmental projects mentioned in this book are in desperate need of their respective governments to respect the principles of good governance. In drawing attention to unsustainable development practices, civil society movements highlight the need to improve the internal governance of Mekong countries. Without good governance, individual citizens will constantly face complicated political infrastructures, corrupt bureaucracies, and powerful and unregulated multinational and national companies.

Li Miao Miao clearly demonstrates what a lack of domestic and regional governance can do, especially in the case of powerful overseas investors, and how affected communities often have limited or no access to appropriate grievance mechanisms. The construction of the Lower Sesan 2 Dam makes clear the Cambodian government's desire for rapid development, and the failure of the country's legal system to guarantee the rights of its citizens.

Aye Mon Thu, Khaing Mi Phue Aung and Saw Lay Ka Paw clearly provide evidence for the collision point between the need for development, the lack of regulations and good governance and a neglect for local communities. In their individual case studies of environmental and development issues in Myanmar, local communities are constantly challenged by companies looking to maximise profits. They also demonstrate the Myanmar government's haphazard approach towards regulations, and the poor implementation of laws that have made it into legislation.

Ashijya Otwong describes another phenomenon of bad governance in the Mekong region, providing evidence of how Thai companies have shifted their investments to neighbouring countries with less developed legal systems and fewer regulations on environmental protection. Although arguments can be made that Thailand has relatively good environmental protection laws in comparison to other Mekong countries, Thai companies are not currently required to follow domestic Thai laws outside Thailand.

Dokkeo Sykham and Luuk Nam Ou concentrate on the plight of local communities in Laos and how the construction of dams on the Mekong River and its tributaries affect local populations and their livelihoods. Food production is significantly damaged due to changes in fish migration and soil erosion, and affected communities have received little or no compensation from companies involved or the government. The immense environmental impact of dam construction on the Mekong is often ignored by Mekong governments in favour of short-term profits, thus neglecting long term sustainability.

Ham Oudom highlights the positive power of activism in Cambodia, as the campaign against the Araeng Valley hydro-power dam was successful in its bid to temporarily hold off construction. The Cambodian Prime Minister stopped the construction of the proposed dam during the current governmental period, due to expire in 2018, meaning although there has been an initial victory of those supporting sustainable development, the fight must continue beyond 2018. The Araeng Valley case is a powerful proof to other environmentalists throughout the Mekong region that their voices can be heard and projects can be halted.

Tran Chi Thoi, Nguyen Khiem and Vu Hai Linh all discuss issues related to the lack of sustainable development in Vietnam and the limited ability local communities have to participate in decision-making around projects that will impact their livelihoods. With the Dak Mi 4 Hydropower Dam significantly affecting local communities downstream in Vietnam, producing soil erosion and dumping sand on previously fertile lands, local communities have been actively trying to access compensation and credible information from government institutions. In a similar

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manner, limestone mining is having dire consequences on both the environment and the health of local communities, with locals having little or no say in processes that significantly change their way of life.

Many individuals within Mekong countries argue that rapid development is necessary to improve the lives of the majority. Normally 'the majority' means the government's primary support bases, located in large cities such as Hanoi, Vientiane, Phnom Penh, and Yangon. Thus governments find it easy to neglect local communities. The Mekong environment is interconnected, however. The articles within this book are an important step in demonstrating the need to promote transparency and good governance within ASEAN. EarthRights International deserves much praise for the time and effort they put into equipping students to share their powerful stories. It is this generation that will effectively lead Mekong civil society in the years to come, and their strong commitment is sure to bring about positive change.





# Land and River Grabbing

the Mekong's Greatest Challenge

edited by

Chayan Vaddhanaphuti  
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