

Submission to the United Nations Special Rapporteur on Extreme Poverty and Human Rights

The Government of Laos (GoL) is implementing an extensive hydropower program to support development objectives and generate revenue for economic growth.¹ Laos has built 46 large hydropower dams and expects 100 projects to be in operation by 2020.² Nine dams (of a total of 11)³ are planned for the lower Mekong mainstream and over 120⁴ within the lower Mekong basin by 2040. Rather than meeting local energy access needs, most large hydropower projects are developed primarily for generating power for export to neighboring countries, including Thailand, Vietnam and Cambodia,⁵ in line with GoL's stated strategy to be the 'battery of Asia.'⁶

While promoted as a means to support development and poverty alleviation, hydropower dams can impoverish local communities and have serious impacts on a range of human rights, including rights to life, an adequate standard of living (including rights to housing, food, and water), health, and culture. A 2010 study found that at least 76,290 people would be directly affected by six proposed Mekong mainstream dams alone, the majority of whom are ethnic minorities living below the poverty line and highly dependent on the natural resource base.⁷ Rights violations due to dam construction disproportionately affect vulnerable groups, including women, children and elderly people, ethnic minorities and indigenous people. Violations of economic, social and cultural rights are enabled via severe restrictions on civil and political rights in Laos, limiting affected people's rights to information and participation in decision-making. These restrictions imperil environmental and human rights defenders working to expose the impacts of dams or oppose individual projects. Hydropower dams in Laos are often linked to other developments and activities that drive environmental degradation and adversely affect marginalized communities, including extractive industries, agribusiness, road construction and legal and illegal deforestation.⁸

¹ See Map of [Lower Mekong Mainstream Dams](#) and [Map of Lao Hydropower Dams](#) (maps show existing, under construction and planned dams).

² [Lao News Agency](#), July 2018.

³ Two of the eleven proposed lower Mekong mainstream dams would be built in Cambodia; nine in Laos. The first two dams on the lower Mekong mainstream, the Xayaburi dam and Don Sahong dam in Laos, are both close to completion and scheduled to come into operation in 2019. The Pak Beng and Pak Lay dams in Laos are in advanced planning stages but have not officially commenced construction.

⁴ Mekong River Commission, '[The Council Study: Key Findings from the Study on Sustainable Management and Development of the Mekong River Basin, including Impacts of Mainstream Hydropower Projects](#)', 2017.

⁵ International Hydropower Association, [Laos Country Profile](#).

⁶ See [ESI Bulletin on Energy Trends and Development](#), Vol. 5, Issue 3, Dec 2012. However, following the high profile collapse of the Xe-Pian Xe-Namnoy saddle dam in July 2018, the Lao PM stated at the World Economic Forum (WEF) that: "our capacity to develop electricity in Laos compared to the demand of neighboring countries is very limited." [Channel News Asia](#), September 2018.

⁷ International Centre for Environmental Management (ICEM), [Strategic Environmental Assessment of Mekong Mainstream Hydropower](#), Mekong River Commission, 2010.

⁸ See, for example, Environmental Investigation Agency, '[Crossroads](#)' (2016).

Hydropower, poverty and human rights in Laos: key concerns⁹

Resettlement

Large dams often require extensive resettlement. A 2010 assessment estimated that at least 33,500 people will be resettled in Laos for Mekong mainstream dams alone.¹⁰ While standards for compensation and resettlement vary, increased poverty and other challenges are persistent features of hydropower resettlement programs in Laos. We have observed that even in projects such as [Nam Theun 2](#) or the [Nam Ou cascade](#), in which programs have been developed in an attempt to exceed standards or provide ‘model’ resettlement and livelihood restoration programs, major and ongoing challenges persist in meeting targets, in particular for rebuilding lost livelihoods.¹¹ Compensation in cash or in kind is often insufficient to replace lost income and food sources. Replacement land, where provided, is of lower quality or unsuitable for agriculture or crops previously cultivated. In projects we have monitored, villagers have complained of substandard and poor quality housing that does not meet cultural or social requirements, and lack of access to potable water. While some new homes may have electricity connections and piped water, villagers may not be able to pay fees, and be pushed further into debt.

A frequent pattern is a focus on development of new infrastructure over re-building livelihoods, which requires a sustained and long-term investment. Resettled people are often forced from subsistence-based livelihoods including farming, fishing, collection of NTFPs and other resource-dependent livelihoods, to wage labor or cash-based livelihoods, such as work on agricultural concessions, in hotels or construction. This transition is extremely challenging and often produces cycles of debt and impoverishment. It drives loss of community unity, traditions, and identity.

Resettlement can have significant under-recognized impacts on health and safety. Losing access to fisheries and cultivable land means people may be forced to rely on purchasing food, and sometimes water, leading to a struggle to access affordable, adequate, healthy and acceptable foods. Resettled villagers may have easier access to clinics, but medical practitioners are often ill-equipped to respond to the range of health concerns that arise (in terms of medicines, as well as psychosocial support).¹² Resettlement zones located near dam sites often experience an influx of construction workers and outsiders and increased incidences of violence and rape.

⁹ These issues are drawn from documentation and monitoring of project sites and affected communities in Laos since 2010. Key sites include: Xayaburi and Don Sahong (under construction) and Pak Beng and Pak Lay (proposed) on the Mekong mainstream; Nam Theun 2 (built), Nam Ou cascade (built and under construction), Xe-Pian Xe-Namnoy (under construction), Houay Ho (built), Nam Ngiep 1 & 2 (under construction), Xekaman 1, 3 (under construction) and Sekong 3/4/5 (planned) on Mekong tributaries.

¹⁰ International Centre for Environmental Management (ICEM), [Strategic Environmental Assessment of Mekong Mainstream Hydropower](#), Mekong River Commission, 2010.

¹¹ Nam Theun 2: [World Bank Withdrawal Leaves Major Concerns Over Project Outcomes; Does the World Bank's "Success Story" on Dams Still Hold Water?](#)

¹² This issue is particularly acute in consolidated resettlement zones and in cramped central living areas for people displaced by the Xe-Pian Xe-Namnoy saddle dam collapse.

Downstream and wider impacts

Hydropower dams can produce extensive impacts on the river and connected ecosystems far beyond the resettlement area, especially downstream. These include decreased fisheries, water quality changes, loss of agricultural productivity, erosion and other environmental degradation that can force land and resource dependent communities into poverty. Downstream and wider impacts are regularly under-assessed in EIAs and rarely compensated. In the [Nam Theun 2](#) and [Theun-Hinboun](#) projects, after extensive lobbying, compensation was provided to some downstream affected-communities, but was insufficient in many cases to cover losses or rebuild livelihoods.¹³ In the case of the [Don Sahong](#) dam in Siphandone, fishing communities in the area near the dam site have experienced a severe drop in livelihoods as traditional fishing methods through the use of *li* traps have been criminalized to prevent interference with dam mitigation measures. No compensation has been provided for loss of food and income sources.¹⁴

Extensive and recurrent displacement

Due to loss of livelihoods and food sources, wider impacts on ecosystems can drive mass informal displacement and urban migration outside of official resettlement programs. This includes displacement into neighboring countries, where many migrants are undocumented and vulnerable to work in poor conditions and lacking access to labor protections. Extensive development of infrastructure and investment projects in Laos, such as mining, agricultural concessions, and roads, as well as hydropower dams, mean that many communities face multiple incidences of displacement.¹⁵ Tenure insecurity exacerbates this threat.¹⁶

Ethnic minorities, indigenous people, and cultural rights

The majority of communities displaced to make way for dams are ethnic minorities.¹⁷ However, resettlement zones are designed and developed according to models developed by companies and government planners who typically do not take into account cultural norms and livelihood practices of local people. Project studies can also fail to collect disaggregated data or properly analyze cultural impacts and needs.¹⁸ This means affected people experience additional difficulties coping with changes as the siting and structures of their homes are not culturally appropriate and land is not suitable for the types of farming cultivation to which they are accustomed. In some cases this results in ethnic minority communities being worse off than non-minority communities.¹⁹

¹³ Nam Theun 2: [Letter from International Rivers to Nam Theun 2 Power Company](#), 2012.

¹⁴ Don Sahong: [Local Knowledge, Culture and Heritage: Collateral Damage of Mekong Dams](#).

¹⁵ See, for example, [Xekaman 1 Dam Brings Displacement and Underdevelopment](#).

¹⁶ Miles Kenney-Lazar, 2016. [Linking Food and Land Tenure Security in the Lao P.D.R.](#), Vientiane, Land Issues Working Group (LIWG).

¹⁷ Eg., this is the case for Xe-Pian Xe-Namnoy, Houay Ho, Nam Ou, Nam Ngiep 2, Xekaman 1 & 3, Sekong 3/4/5.

¹⁸ See, for example, Pak Beng: [Independent Expert Review of the Pak Beng Dam Environmental Impact Assessment and Supporting Project Documents](#).

¹⁹ See, for example, Kanokwan Manorom, Ian G. Baird & Bruce Shoemaker, 2017. [Nam Theun 2: The World Bank, Hydropower-based Poverty Alleviation and Indigenous Peoples: On-the-Ground Realities in the Xe Bang Fai River Basin of Laos](#). Forum for Development Studies, Vol. 44, Issue 2.

Participation in decision-making

Participation in hydropower decision-making in Laos is severely constrained. Few positive examples exist. Consultation is typically undertaken with authorities rather than wider representation within the community, excluding women and vulnerable groups.²⁰ Where consultation takes place, it is assumed that fundamental questions about the project cannot be asked; as a result, meaningful consultation and consent of affected communities are impossible, limiting accountability. Further marginalization occurs as company studies and proposals are typically in English, or Lao, while many communities remain fluent in indigenous languages, but lack literacy skills in Lao or English.

There remains a critical lack of independent community-based organizations or NGOs able to speak to affected people, monitor and support articulation of concerns to authorities, responsible companies and government ministries. People affected downstream or in hinterlands of dams are usually not included in consultations and may remain uninformed until the project is already being built. In reality, affected communities often find out about projects once the land on which they live or rely for livelihoods has already been sold off as a concession.²¹

Regulatory compliance

The 2018 collapse of a saddle dam of the Xe-Pian Xe-Namnoy hydropower project drew widespread attention to lack of regulatory oversight and compliance in hydropower projects, increasing threats and safety risks to local people.²² The tragedy highlighted the way in which the risks inherent in a lack of safeguards are externalized to already vulnerable communities. Villagers who lost property and were displaced are yet to receive compensation and remain in difficult and uncertain conditions, in some cases lacking adequate access to food, water, health care and other basic needs. Aside from this highly visible event, issues surrounding regulatory oversight and compliance are seen extensively through substandard EIAs, and lack of environmental monitoring and oversight in project construction and operations.

Threats to human rights and environmental defenders

The high profile enforced disappearance of Sombath Somphone in 2012 triggered an ongoing climate of fear and severely restricted space for civil society to operate; leaving communities without support. People who have recently voiced concerns and opposition to government-sponsored projects and policies have faced arrests and intimidation.²³

²⁰ See, for example Pak Beng: [Independent Expert Review of the Pak Beng Dam Environmental Impact Assessment and Supporting Project Documents](#). Nam Ou cascade: [Women Must Be Central to Decisions on Mekong Hydropower](#).

²¹ Xe-Pian Xe-Namnoy: [Affected People Want Consultation Before Construction](#), January 2013.

²² Radio Free Asia, [More Southeast Asian Dam Disasters Likely Unless Funders Ensure Higher Standards](#), November 2018.

²³ Radio Free Asia, [Lao Protest Villager Freed, 10 Still Held](#), January 2019.

Large-scale infrastructure projects, particularly dams, are understood to be a development priority of the GoL and international companies, meaning affected communities rarely raise concerns. People do not want to be seen as 'troublemakers' or risk repercussions that threaten their/their families' security, such as prison sentences.

Access to remedy

People facing impoverishment and rights violations due to hydropower construction in Laos face little hope of redress. Project-level grievance mechanisms, where established, are often managed by local authorities, lack measures to ensure confidentiality and independence, and are seldom used.²⁴ Due to a weak and compromised judicial system in Laos, affected people face major barriers and little hope of success in filing complaints in Lao courts, and fear security threats and reprisals from accessing international and investor complaint mechanisms.

Transboundary impacts of Mekong dams

The Mekong River Commission's (MRC) Council Study, released in February 2018,²⁵ warned that planned dams in the Lower Mekong Basin seriously threaten the region's ecology and economy and are expected to cause "acute levels of food insecurity in communities in Lao PDR and Cambodia."²⁶ The study predicts that due to planned dams, more people will be pushed into poverty and riparian communities face increased vulnerability to climate change.²⁷

Limited channels exist for communities affected by transboundary impacts to seek redress. The MRC's regional procedures²⁸ do not specifically require transboundary impact assessment or consultations with communities or provide for dispute resolution. Communities and civil society groups have filed lawsuits in the Thai Administrative Court regarding transboundary impacts of the Xayaburi²⁹ and Pak Beng³⁰ dams, complaints to the Thai and Malaysian Human Rights Commissions,³¹ and National Contact Points under the OECD Guidelines for Multinational Enterprises,³² targeting international corporate stakeholders. The lack of clear outcomes reveals a lack of effective accountability mechanisms for cross-border impacts.

²⁴ For example, documented in relation to Xayaburi, Nam Theun 2 projects.

²⁵ Mekong River Commission, '[The Council Study: Key Findings from the Study on Sustainable Management and Development of the Mekong River Basin, including Impacts of Mainstream Hydropower Projects](#)', 2017. The Council Study follows many independent and peer-reviewed studies predicting serious transboundary and basin-wide environmental and social impacts from planned hydropower development in the Lower Mekong Basin. In 2010, the MRC commissioned a '[Strategic Environmental Assessment of Mekong Mainstream Hydropower](#)' with similar finding on the impacts of mainstream dams and recommending a ten-year moratorium, which was not adopted by the Lower Mekong governments, including Laos.

²⁶ MRC Council Study: Cumulative Impact Assessment, 2017, p. v.

²⁷ MRC Council Study: Key Findings, 2017, p. 3.

²⁸ Mekong River Commission, '[Procedures for Notification, Prior Consultation and Agreement](#)' (PNPCA).

²⁹ International Rivers, '[Media Kit on Xayaburi Dam Lawsuit](#)'.

³⁰ International Rivers, '[Brief on Pak Beng Dam Lawsuit](#)'.

³¹ International Rivers Press Release: '[Human Rights Commission Report Highlights Lack of Accountability in Don Sahong Dam Project](#)', April 2016.

³² OECD Watch, '[Finance & Trade Watch Austria et al vs Andritz AG](#)', April 2014.

Stakeholder accountability

Diverse stakeholders are involved in financing, designing and developing hydropower projects in Laos. Many lack effective safeguards or accountability mechanisms, for example, Thai and Chinese banks and corporate stakeholders have limited environmental and social policies or complaint mechanisms.³³ While fewer projects are financed directly by International Financial Institutions (IFIs) or bilateral development partners, the World Bank and Asian Development Bank have directly and indirectly facilitated Lao hydropower dams³⁴ by financing regional energy infrastructure projects and technical studies in the Lao and regional energy sector.³⁵ Multilateral and bilateral donors have also supported technical assistance to the sector and sustainable hydropower initiatives. These programs, where focused predominantly on technical issues and failing to acknowledge the wider political context, can serve to obscure or even legitimize human rights violations.

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³³ ETO Watch, [Thai Outbound Investments in the Mekong Region and Myanmar](#), November 2017.

³⁴ See, for example, Position Statement by International Rivers & Mekong Watch, [ADB Approves Loan for Dam in Laos Despite Key Safeguard Violations](#), August 2014.

³⁵ For example, investments guided by the GMS Energy Roadmap, which prioritizes the development of a regional electricity grid proposed to be powered predominantly by large hydropower dams along the tributaries and mainstream of the Lower Mekong River Basin: International Rivers & Mekong Watch, [Time to Re-Assess Greater Mekong Subregion Energy Sector Investments](#), September 2015.