

4 February 2019

Dear Professor Philip Alston,

I am pleased to have the opportunity to make a written submission prior to your visit to Laos as the UN Special Rapporteur on extreme poverty and human rights. This submission reflects my understanding of the key dynamics of poverty in Laos, particularly in rural areas as they related to the environment, land, and natural resources. My comments are based upon a decade of research on the political economy and politics of land and natural resource governance in Laos, with a particular focus on tree crop plantations established via land concession, contract farming, and smallholder models (please see relevant papers attached). These comments also reflect my discussion with Rebecca Riddell, Advisor to the Special Rapporteur, on 18 January 2019. I hope that you will find this submission useful in preparing for your visit and writing your report afterward.

My submission is concerned with the relationships between human and political rights, access to land and natural resources, and rural poverty. As can be seen below, the common pattern in Laos is that economic development and related policies have been pursued in ways that have decreased rural Lao people's access to land and natural resources since the founding of the Lao People's Democratic Republic (Lao PDR) in 1975 and especially since the establishment of the New Economic Mechanism in 1986. This is particularly the case in upland areas that are largely inhabited by ethnic minority groups. Considering the importance of land and natural resources for the livelihoods and food security of rural people, especially the poor, decreasing access has led to impoverishment as well as inequality between rural and upland areas, on the one hand, and lowland and urban areas, on the other. Such policies and practices have been enabled and remain trenchant due to a political environment in which the rural poor have few means to voice their problems without repercussions. In what follows, I cover the importance of the environment for rural livelihoods, the ways in which access is being restricted, and the challenge of limited political rights.

Poverty dynamics in rural areas are unique due to the importance of environmental resources for food security and livelihoods. In Laos, this goes far beyond the value of land for cultivating rice and vegetables. It also includes i) grazing areas where cattle can be raised, ii) rivers where fish can be caught and water can be used for drinking, cooking, and bathing, and iii) forests where edible and medicinal plants can be collected, firewood can be gathered, and animals can be hunted. Furthermore, there are important links between human use of the environment and availability of resources. For example, rotational upland agriculture (swidden or shifting cultivation) generates young bush fallow where many important wild plants grow that otherwise are not available in mature forests. Beyond providing these direct resources, a healthy and accessible rural environment generates many indirect benefits for rural communities, such as a cooler micro-climate, decreased likelihood and intensity of floods and drought, and consistent water supply for irrigating fields. The loss of access to a healthy environment is thus a major factor in the impoverishment of rural livelihoods, which then must be replaced with cash to purchase essential goods from the market. While cash income is important for rural Lao people, it should be additional and secondary to a sufficient and secure resource base.

Unfortunately, rural Lao people have increasingly lost access to land and natural resources over the past four decades. In the first two decades after the Lao PDR was established, this was due more to government policies that resettled people from upland to lowland areas and restricted their access to forests for harvesting forest products and for swidden cultivation. Many of these policies were intended to achieve the government's goal of stabilizing and eventually eliminating shifting cultivation in the uplands – especially the variant in which farmers clear new areas of primary forest (the predominance of which is disputed). Resettlement of villagers to lowlands limited the amount of land and forest that they could access, especially when merged with other villages, and thus artificially increasing population densities. Land and forest zoning policies and practices, which began in the 1990s with funding from international donors, have a legacy of allocating too little land to villagers for upland agriculture and too much as conservation forest.

More recently, since the early 2000s, loss of access to land has been due to displacement, resettlement, and dispossession from large-scale land and resource investments, particularly hydropower, mining, agriculture and tree plantation projects. As the Lao government created favorable policies for domestic and foreign investors, large areas of the countryside have been granted as state leases and concessions. While such land ostensibly belongs to the state, much of it is customarily managed and used by rural communities. Agriculture and tree plantation investments have targeted areas where swidden cultivation is practiced, supporting the government's policy to replace swidden with other forms of land use. Such projects decrease rural people's access to agricultural and forest lands, which threaten their rural livelihoods and food security. Compensation provided for lost land and resources is minimal and many types of land, such as swidden fallows, are not compensated at all. While some employment opportunities are created as a result of the investments, there are oftentimes not a sufficient number of jobs that pay well enough to act as a wage-based substitute for appropriated land and resources. When villages are resettled due to mining and hydropower projects, they are provided with significant compensation packages and new, modern housing but their livelihoods suffer as they lack access to productive agricultural and forest land or new forms of employment.

A critically important reason why access to land and resources for rural, upland people in Laos has become progressively limited is that they have few political avenues for expressing their concerns. Consultation processes prior to project development are often absent or perfunctory with little genuine input from villagers. Such large areas of village land are affected by projects in part because a proper survey has not been conducted with villagers to identify and avoid their most important agricultural and forest lands. There are few cases in which villagers' free, prior, and informed consent has been sought prior approving the projects. When villagers are aggrieved at the loss of land and resources, especially without fair compensation, they lack opportunities to express their grievances. They can make complaints to the district and provincial governments or even to the National Assembly and hope that action is taken to the government, but they have no way to hold the government and resource companies accountable. If they are to engage in any sort of direct protest, then they will be censured and disciplined – in some cases villagers have been jailed for the action they have taken. Thus, a lack of political rights enables land displacement and dispossession to continue unabated, increasing poverty and abusing human rights.

Addressing these challenges is complex and politically fraught in Laos but by no means impossible. Doing so requires that policies, projects, and programs are centered on rural Lao people's interests and rights. Improving land tenure security is an important goal but must be matched by empowering rural people in negotiations and discussions over land investment projects. Land and forestry planning should continue to be pursued but based upon the customary practices of rural communities and respect for their rights to conduct swidden

cultivation. Rural livelihood programs should be built upon the basis of access to land and resources rather than act as an alternative or substitute. All forms of policy and practice should begin and end with the rural poor gaining and maintaining secure access to sufficient amounts and quality of land and resources.

Sincerely,

A handwritten signature in black ink, appearing to read 'Miles Kenney-Lazar', written in a cursive style.

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