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# GENDER AND HYDROPOWER NATIONAL POLICY ASSESSMENT

LAO PDR

2013



CGIAR Challenge Program on  
**WATER & FOOD**  
Andes • Ganges • Limpopo • Mekong • Nile • Volta



**OXFAM**  
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Cover Photo: Rivers as home and highway – young students crossing their flooded river after Cyclone Ketsana in southern Lao PDR.

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## LAO PDR COUNTRY REPORT

The rivers of the world are coming under increasing pressure to provide for growing populations and economic development. At the same time, river management is becoming ever more politicised, as developments frequently redistribute the benefits of river use from riparian dweller to others. Hydropower is an example of a development that frequently benefits some at the expense of others, and gender is one such variable that is often overlooked.

### GENDER AND HYDROPOWER IN LAO PDR TODAY

In some instances hydropower development has made improvements in the lives of communities affected by dams, including women. Women's workloads can be lightened by new access to electricity, for example, or women might gain new rights to land in a resettlement process. In other instances, displacement and the loss of access to natural resources and livelihoods have far outweighed any positive benefits dam construction might have brought to local communities (World Commission on Dams, 2000). Overall, global research has shown that existing gender disparities are commonly aggravated by dam construction, meaning that benefits of hydropower accrue disproportionately to men, and the negative impacts to women (ibid).

Lao PDR has many different ethnic groups. The Lao-Tai group represents 67 percent of Lao PDR's population (ADB 2012), and mostly maintain matrilineal practices. This means that married couples reside with wives' families and a wife has higher status and more decision making power than her husband; houses and property belong to the woman's family, and in the event of separation, it is the husband who must leave (FAO 2012). This contrasts

with the other three major non-Lao-Tai ethno-linguistic groups, namely the Mon-Khmer (21 percent), the Hmong-Lu Mien (8 percent) and the Chine-Tibetan (3 percent) (ADB 2012) who mostly maintain patrilineal practices or a combination of both. These groups divide further into 49 distinct ethnicities and 200 ethnic subgroups (ADB 2012). Some minority groups still continue practices of polygamy and marriage of young girls (FAO 2012). This diversity demonstrates the vastly different levels of bargaining power likely to be held by women impacted by hydropower developments, depending on their ethnicity. Overall Lao PDR ranked 139 out of 186 countries in the UNDP's Gender Inequality Index<sup>1</sup> in 2012 (UNDP 2012).

This report reviews the policy and legislation framework which surrounds Lao PDR's hydropower sector –national and international – and assesses the degree to which it supports or hinders gender justice in hydropower development. The method of research has been a wide-ranging desktop review of current national policy and legislation documents of two main types. The first are those specifically designed to guide hydropower development in the country, and these have been examined for clauses which support gender justice in projects. The second are other policy and legislation which include relevant commitments to gender equity or women's rights which could be assumed to remain applicable in the context of hydropower development. The report begins with international agreements or tools which address these same issues. Note that government agencies and structures have not been the primary focus of this research, but the capacity of government to implement agreements and monitor gender commitments is an important consideration for improved gender practice and outcomes.



1. Calculated based on a range of indicators based on empowerment, reproductive health and labour.

## INTERNATIONAL AGREEMENTS AND ASSESSMENT TOOLS

Lao PDR has ratified or acceded to the following international protocols which recognise the importance of gender equity:

- CEDAW: Convention on the Elimination of All Forms of Discrimination against Women (adopted on 18/12/1979). Signed 17 July 1980. Ratified 14 August 1981
- ICESCR: International Covenant on Economic, Social and Cultural Rights (adopted on 16/12/1966). Signed 7 Dec 2000. Ratified 13 Feb 2007.
- ICCPR: International Covenant on Civil and Political Rights (adopted on 16/12/1966). Signed 7 December 2000. Ratified 25 September 2009.
- Fourth World Conference on Women Beijing Declaration (1995)
- United Nations Declaration on the Rights of Indigenous Peoples (voted in favour at the UN General Assembly, 13 September 2007)

A variety of international tools exist to assist in the assessment and planning of hydropower projects, which recognise gender differentiated impacts to varying degrees:

- The 2013 Hydropower Sustainability Assessment Protocol (HSAP) regards gender as a cross cutting at all stages of hydropower development and operation. It does not, however, provide guidelines for rigorous gender impact assessment, mitigation or monitoring.
- The Rapid Basin-wide Hydropower Sustainability Assessment Tool (RSAT) was developed in 2010 for application in the Mekong region by USAID, the Mekong River Commission, the World Wide Fund for Nature and the Asian Development Bank. The Tool provides guidance to the 'particular attention' of vulnerable groups including women, female headed households, Indigenous Peoples and those without legal title to land, but does not include guidelines on considering gender differentiated impacts.
- The Mekong River Commission (MRC), in 2009, produced a document entitled 'Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin'. The guidelines encourage consideration of the livelihood and social impacts of dams, but do not raise gender as an issue for special attention.
- The MRCs 'Knowledge Base on Benefit Sharing', produced in 2011 as part of its Initiative on Sustainable Hydropower (ISH), can be used by governments looking to use hydropower investments to fuel local and regional development. It does not mention gender as a consideration.
- In 2012 – 13, the MRCs Initiative on Sustainable Hydropower and GIZ have initiated a scoping exercise with the aim to integrate gender sensitive activities in its work program, specifically to improve gender mainstreaming in the Lower Mekong Region's hydropower development.

- The MRCs Integrated Capacity Building Programme leads a gender mainstreaming program and provides toolkits; Toolkit #10 on gender and hydropower is currently under review.
- The World Commission on Dams Final Report (2000) recommended the integration of gender justice into hydropower development through special attention for women as recipients of legal and project information, and the inclusion of women's perspectives in the consultation phase.
- As a member of the World Bank and the Asian Development Bank (ADB), Lao PDR is committed to meeting the provisions in the two Banks' Social Safeguard Policies, both of which include specific policies on gender and Indigenous People. The ADB also produces sector specific gender checklists –but not for hydropower.

## NATIONAL POLICY FRAMEWORK

### NATIONAL CONSTITUTION

The following Articles from the **Lao PDR Constitution (2003)** support women and gender equality:

- Article 29. (New): 'The State, society and families attend to implementing development policies and supporting the progress of women and to protecting the legitimate rights and benefits of women and children'.
- Article 3: 'Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group'.
- Article 37: 'Citizens of both genders enjoy equal rights in the political, economic, cultural and social fields and in family affairs'.

### PROTECTION, RIGHTS, AND DEVELOPMENT OF WOMEN

Lao PDR's main law and strategy promoting gender equity are as follows:

- The **Law on the Development and Protection of Women (2004)** includes, in Article 3, the commitment that 'the State has policies for the development and advancement of women, [and] the protection of the legitimate 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, cultural, and family status'. Article 13 elaborates, to say 'equal rights for women and men means equality in self-development, [and also means that] women and men have the same value and opportunities in politics, the economy, society and culture, family [affairs], national defence and security, and foreign affairs as provided in the Constitution and laws'.

- The **National Strategy for the Advancement of Women (NSAW) (2011 – 2015)**<sup>2</sup> aspires to see Lao PDR as a country ‘where all women enjoy equality with men, and can achieve their full potential in politics, the economy, culture, social and family life while enjoying a safe condition for living’. The Strategy’s overall goals are to: ‘increase understanding of gender equality; enable more women to join decision-making positions; provide opportunities for women and girls to access health care, education, training, employment, income generation, infrastructure, and social protection; promote wider participation of women from all ethnic groups in economic activities and social services; and strengthen gender machinery in-country’ (ADB 2012).

### PROTECTION, RIGHTS, AND DEVELOPMENT OF INDIGENOUS PEOPLES AND ETHNIC MINORITIES

There is no specific legislation relating to ethnic minorities or Indigenous people in Lao PDR. Rather, legislation frequently refers to the population as the country’s ‘multi-ethnic people’. However, the following provisions do exist:

- The **Lao PDR Constitution (2003)**: Article 8 specifically states that ‘the State will carry out a policy of unity and equality among the various ethnic groups. All ethnic groups have the right to preserve and improve their own traditions and culture and those of the nation. Discrimination between ethnic groups is forbidden. The state will carry out every means in order to continue to improve and raise the economic and social level of all ethnic groups’.
- In 1992 a policy entitled ‘**Resolution of the Party Central Organisation concerning Ethnic Minority Affairs in the New Era**’ was adopted. More commonly known as the ‘**Ethnic Minority Policy**’, it applies to all ethnic groups throughout the country. There are no specific articles in it, rather it is an agreement on the principle that all ethnic groups should have improved access to services and that discrimination is to be eradicated. The policy does not include strategies to achieve these objectives (IFAD 2012).
- The **National Growth and Poverty Eradication Strategy (NGPES) (2004)** recognises the particular difficulties faced by ethnic minority women who cannot speak Lao. The first objective in the Gender Strategy Matrix is to ‘Address needs and priorities of poor women, especially in rural areas and ethnic minority groups’.
- **Decree 192/PM (2005) on Compensation and Resettlement of People Affected by Development Projects** and the associated Regulations and Technical Guidelines (see below) require that separate Ethnic Minority Development Plans (EMDP) be developed where ethnic minorities are likely to be affected by development.

### RIGHTS TO LAND AND NATURAL RESOURCES

Women have equal rights to land in Lao law, as follows:

- The **Law on Heritage and Basis of Inheritance (2005)** does not distinguish between male and female children as the primary heirs of parental property, and states that inheritance is to be divided equally.
- Article 26 of the **Property Law 1990** defines ‘matrimonial property’ as the assets acquired by a married couple during their marriage, and states that husband and wife have equal rights over matrimonial property regardless of who actually acquired the asset. However assets owned or inherited prior to the marriage remain the property of the individual. These clauses are echoed in the **Family Law (1990)**.
- The **Land Law (2003)**, in Article 43, stipulates that the registration certificate of land, where it is matrimonial property, must include the names of both the husband and the wife.
- Whilst the **Law on Water and Water Resources (1996)** asserts the water project developers must help resettle displaced communities, no mention of gender is made.

### BROAD NATIONAL DEVELOPMENT PLANS

Gender is addressed in Lao PDR’s national development plans as follows:

- The **Seventh National Socio-Economic Development Plan (2011 – 2015)** promotes sustainable development, social justice and environmental protection, and highlights hydropower as a development priority. Section 2.2.6 of the Plan includes a range of actions related to capacity building of women to participate in political debate and economic development; increasing women’s participation in provincial and sectoral planning and the integration of gender considerations into such; ensuring that women can access their rights; and intensifying gender related research to improve the above.
- The **National Growth and Poverty Eradication Strategy (NGPES)** has an emphasis on hydropower as a means of attracting foreign investment and has a dedicated section on Gender Strategy for Poverty Reduction, including clear actions for gender mainstreaming across the fields of agriculture, education, health, transport and political voice. No specific link is made to hydropower.

*An Environmental Impact Assessment (EIA) is required in the project identification phase. The EIA must include a Social Management and Monitoring Plan (SMMP) which in turn, and in line with the Technical Guidelines on Compensation and Resettlement in Development Projects (2005), must include an Initial Social Assessment (ISA). If the ISA identifies likely socio-economic impacts, or ethnicity-specific impacts, a full Social (Impact) Assessment must be prepared in the feasibility study phase. Other reports to be prepared in this phase include the Land Acquisition and Compensation Report, Resettlement Plan (RP) and Ethnic Minority Development Plan (EMDP). (Suhardiman et al 2011)*

2. The Strategy is administered by the Lao Women’s Union (LWU), a strong advocacy group with representation in every village in the country, but the Strategy does not have core funding, relying instead on government ministries to fund the integration of its goals into their activities (ADB 2012).

## ENERGY SECTOR DEVELOPMENT AND NATIONAL INVESTMENT GUIDELINES

Laws and strategies relevant to investment in, or development of, hydropower in Lao PDR include:

- **Law on Electricity**
- The **Renewable Energy Development Strategy in Lao PDR (2011)** includes increasing gender equality as one of its main objectives, as well as 'environmentally and socially sustainable development through enforcement of adequate safeguards to ensure ... local communities' food security, and secure access to adequate land to meet and develop their livelihoods for all ethnic groups with special focus on women'. The Strategy does not elaborate on how it will meet these objectives.
- **National Policy on Sustainable Hydropower (STEA, 2006)**
- Neither the **Law on Investment Promotion (2009)** nor the **Law on the Promotion of Foreign Investment (2004)** address gender.
- The **Environmental Protection Law (1999)** states that 'environmental assessment shall include ... the people likely to be affected by the development projects or operations' (Article 8), but does not mention gender issues.
- **Decree 192/PM (2005) on Compensation and Resettlement of People Affected by Development Projects** identifies female headed households as a vulnerable group (Article 3) warranting special attention. The **Regulations for Implementing Decree 192/PM (2005)** on Compensation and Resettlement of People Affected by Development Projects requires the collection of gender-disaggregated data in the assessment phase, as per the requirements in the **Technical Guidelines** (below).
- The **Decree of Environmental Impact Assessment (2010)** includes social impact assessment. The decree itself does not contain gender specific provisions, however does stipulate in Articles 7 and 8, the rights of those to be affected by development projects to involvement in all stages of project assessment and planning. The Decree also obliges project developers to develop a Social Management and Monitoring Plan (SMMP) as part of their EIA, also consistent with the **Technical Guidelines** (below).
- The **Technical Guidelines on Compensation and Resettlement in Development Projects (2005)** pay significant attention to gender issues, including identifying specific problems women may face in resettlement, gender sensitive data collection and gender sensitive resettlement entitlements<sup>3</sup>.

## SUMMARY

Whilst gender clauses appear to be missing in some of Lao PDR's main laws, some of the decrees with which these laws are linked have significant gender content. In terms of social and gender impact assessment of hydropower, much hinges on the correct utilisation of the **Technical Guidelines on Compensation and Resettlement in Development Projects (2005)**. Lao PDR's national planning documents also contain good provisions for gender mainstreaming across government.

The achievement of gender justice in hydropower, and the realisation of the human rights commitments Lao PDR has made in international treaties, will thus be reliant on the implementation and enforcement of the provisions made in these national plans and the more detailed policy instruments surrounding planning and development. Ultimately, ensuring capacity of government staff and rigorous monitoring of project level implementation will be required to assess the efficacy of the national plans and related policies.

3. A forthcoming Handbook being developed in the CPWF MK10 project will look at enhancing considerations for safeguards in the context of ethnic minority and gender, including recommendations for practical application of the Decree 192/PM 2005, and its Technical Guidelines.

## REFERENCES

- Asian Development Bank and The World Bank (2012) 'Country Gender Assessment for Lao PDR — Reducing Vulnerability and Increasing Opportunity' Mandaluyong City, Philippines and Washington, D.C., USA: Asian Development Bank and The International Bank for Reconstruction and Development / The World Bank.
- Food and Agriculture Organisation (2012). 'Gender and Land Rights Database: Lao PDR'. <http://www.fao.org/gender/landrights/report/en/> Accessed 18 May 2013
- IFAD (2012) 'Country Technical Notes on Indigenous People's Issues: Lao People's Democratic Republic'. International Fund for Agricultural Development and Asia Indigenous People's Pact. International Fund for Agricultural Development. <http://www.ifad.org/english/indigenous/pub/documents/tnotes/laos.pdf> Accessed 27 May 2013.
- Joint Initiative on RSAT (2010) 'Rapid Basin Wide Hydropower Sustainability Assessment Tool'. <http://www.mrcmekong.org/assets/Publications/Reports/RSAT-Revision-3-for-printingOCT-3-2010-Corrected-FINAL.PDF> Accessed 17 May 2013
- Mekong River Commission (2009) 'Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin Final Version'. Mekong River Commission <http://www.mrcmekong.org/assets/Publications/Consultations/SEA-Hydropower/Preliminary-DG-of-LMB-Mainstream-dams-FinalVersion-Sept09.pdf> Accessed 29 May 2013.
- Mekong River Commission (2011) 'Knowledge Base on Benefit Sharing. Volume 1-5'. Mekong River Commission on Sustainable Hydropower Initiative. <http://www.mrcmekong.org/assets/Publications/Manuals-and-Toolkits/knowledge-base-benefit-sharing-vol1-of-5-Jan-2012.pdf> Accessed 29 May 2013.
- Suhardiman, D., de Silva, S., and Carew-Reid, J. (2011) 'Policy Review and Institutional Analysis of the Hydropower Sector in Lao PDR, Cambodia and Vietnam'. Mekong (MK1) project on optimizing reservoir management for livelihoods, Challenge Program for Water and Food. <http://mekong.waterandfood.org/wp-content/uploads/MK1-Policy-review-and-institutional-analysis-Report-spell-checked-23-Sep.pdf> Accessed 12 May 2013
- United Nations Development Program (UNDP) (2012) Gender Inequality Index. <http://data.un.org/DocumentData.aspx?q=HDI&id=332> Accessed 20 May 2013.
- World Commission on Dams (2000) 'Dams and Development: A New Framework for Decision Making. Final Report of the World Commission on Dams'. Earthscan Publications Ltd, London and Sterling, VA
- [http://www.internationalrivers.org/files/attached-files/world\\_commission\\_on\\_dams\\_final\\_report.pdf](http://www.internationalrivers.org/files/attached-files/world_commission_on_dams_final_report.pdf) Accessed 22 May 2013. Accessed 16 May 2013

## NOTES



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