

Involuntary Resettlement in Lao PDR

“The Lao government is aware that it must address the glaring gap in the area of involuntary resettlement and compensation for major projects. Currently, no national policy articulates uniform standards, although the fundamental principles of protecting affected people, compensating them, and restoring livelihoods are enshrined in the Constitution and other laws.”

*Somlith Phannavong
A Presentation on the (Draft) Resettlement Policy in Lao PDR”*

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The introductory quote was taken was all of about two pages long and consisted of a series of broad platitudes regarding human rights and multiple references to the need for “capacity building” amongst various institutional partners. While there are several references to the “need” for a more formalized resettlement policy in Laos, neither this document, nor the drafts to which it makes reference approach the pragmatism required of such a policy. However, many international organizations have created policy documents which serve as models for successful resettlement policy; arguably the most well known of these documents are The United Nations Office of the High Commissioner on Human Rights *Guiding Principles on Internal Displacement*, The Asian Development Banks *Policy on Involuntary Resettlement*, and The World Banks *Operational Policy on Involuntary Resettlement*.

Several of this year’s participants in the SIGUS workshop were made painfully aware of the reality of a flawed resettlement policy and the affects that it can have on a citizenry. The village in which my group and I worked, Gnapha Village, was in the midst of a resettlement process. As a group, we were faced with overcoming the knee-jerk reaction of fighting the whole notion of resettlement and instead acknowledging that major infrastructure and development projects were part of how “developing” nations actually develop. Involuntary resettlement was an inevitable outgrowth of that very development process. Once we accepted the reality of involuntary resettlement we began to grapple with the actual methodology of how it occurred and as a result, we crafted a series of broad guidelines which could be used to create a more equitable and just resettlement process.

I would like to do several things in this reflection paper. First, I would like to reiterate some of the problems which we perceived in the resettlement process in Laos. Second, I would like to give a brief overview of one of the previously mentioned resettlement policies. Given that much of the developing world is dependent on funding from major international development resources like the World Bank, I will focus on the policies of this organization. I will wrap up the paper by reflecting on obstacles to creating more equitable resettlement policies, while also briefly discussing current resettlement policies with regards to the Nam Theun-2 Dam being planned in southern Laos. But first, let me reiterate some of the problems we witnessed in Vientiane.

Perceived Problems

I could write an entire thesis illustrating the problems with the resettlement process in Vientiane, but here I will try to provide a brief summary. The summary of problems could be broken up into four main categories: information dissemination, site selection & design, project implementation, and finally, economic & social development.

When I refer to the problem of information dissemination, I mean that nobody in the villages we worked with seemed to be aware of the project status or timeline. They knew that a road was going to be built, but weren't sure where exactly it was going or when construction was going to start. Furthermore, what little they knew of the relocation settlement came from their fellow villagers who had already been relocated there. As far as we could tell, there had been no public meeting or any form of posted notice to provide information about the project- an oversight which seemed incredibly difficult to justify given the affect this project was going to have on the villagers lives.

Possibly the largest problem with the relocation process in Vientiane was the lack of a collaborative site selection or site design process. The government chose a piece of land extremely far from where the current village is located, and one which lacked many of the amenities of Gnapha. It was located about 20 km inland, on a patch of land in the brush accessible only by a poorly maintained dirt road. There was no thought given to adjacencies both within the village and in relationship to neighboring villages. The layout of the village itself, consisted of cutting a 7 meter wide road through the brush and lining it with 9 m. x 20 m. lots on either side. No public transportation reached the site and the closest market was several kilometers away. If the villagers of Gnapha had any say in where they were going to be resettled and what that resettlement village would look like- this would clearly not have been their choice.

Another glaring problem with the resettlement program in Vientiane was the implementation phase- actually building the village and relocating the villagers to the new site. Other than cutting the road, the site received absolutely no preparation. There was no running water and no electricity. The residents were using car batteries for power and they had to pool their money to build their own well. In terms of compensation, they received the equivalent of \$70 (US) for their previous homes and lots. They received no assistance in relocating their belongings to the new village and no assistance in building their new homes. They were literally left out in the brush to fend

for themselves. It was a bit frightening, to say the least.

The final failure in the resettlement of the Gnapha villagers was the complete lack of any economic, social or institutional development. There were no businesses in the new village, as far as we could see there was no school, either in the village, or nearby. People had left livelihoods in the old village, and there was no effort made to ensure that those livelihoods were maintained. Furthermore, the lack of public transportation made it incredibly difficult for people to commute between the old and new villages. Social structures disintegrated, and in the interviews that we conducted it became clear that people missed their friends and extended families- many of whom had not been relocated. The psychological and economic toll that the resettlement process was taking on the villagers was unfathomable.

World Bank: Operation Policy on Involuntary Resettlement

How would the World Bank have handled this? Their resettlement policies received much scrutiny during the Three Gorges Dam Project and as a result, the bank has placed a heavy emphasis on crafting a more responsible resettlement program. Essentially, the bank's policy is a set of requirements which borrowers must address and present to the bank in the form of a *Resettlement Plan* before receiving funding for their project. The Bank's guidance document clearly illustrates policy objectives, which impacts are covered, what required measures are to be taken, and who is eligible for resettlement benefits. I will illustrate some of the key points in each of these sections, particularly those which I feel would be pertinent in addressing the problems I witnessed in Laos.

The bank does a good job of outlining its objectives. The first major point in the objectives section is that involuntary resettlement should be avoided wherever possible through alternative project designs. The policy goes on to state that, where unavoidable, resettlement programs should be "conceived and executed as sustainable development programs," in which displaced persons share in the benefits of the project and are meaningfully consulted in the resettlement process. While it would be difficult to see how the resettled villagers of Gnapha could reap the financial benefits of a road or

riverbank reinforcement project, they certainly could have been involved in the planning of the resettlement process. Had the World Bank policy been followed, they may have. However, the World Bank stops short of implying how that involvement and participation might have happened. It might be valuable to actually include some tools (planning meetings, community charettes, etc.) in the policy to give borrowers a clearer idea of what is meant by community participation and how it could be achieved. The Bank includes a final policy objective that “displaced person’s should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.” This is clearly acknowledging the extent to which resettlement affects existing social and economic structures, although the document fails to map out this objective in terms of how to provide long term support for relocated villagers.

The “impacts covered” by the Bank are fairly straight forward and include loss of shelter, loss of assets and loss of income sources or means of livelihood (regardless of whether or not a person must be relocated to another location). This last point brings up an interesting issue in Gnapha. As far as we could tell, there were a small number of people whose homes were not affected, but had small shops on the rivers edge that were going to be dismantled. These people were receiving very little support in terms of relocating their businesses- I’m not even sure they were getting the \$70 compensation that villagers who lost their homes were receiving. While the bank policy was undoubtedly crafted to compensate farmers for the loss of agricultural land, it’s interesting to place the guidelines in the context of an urban resettlement and acknowledge that these shop owners would need to be compensated for the loss of their businesses and assisted in establishing a new location.

The “Required Measures” section constitutes the most relevant area of the Bank’s Policy. It is here that the bank comes closest to saying exactly what a resettlement program must include and I will point out some things which I found to be of importance. The Bank clearly spells out that relocation assistance, often in the form of a moving allowance, must be provided. Also, “agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site” must be provided. Many of the villagers in Gnapha had vegetable gardens on the old site, and were unable to grow anything on the new site-

the land, in the condition it was provided to them, was ill suited for any form of agricultural activity.

The section goes on to say that support must be provided to the resettled villagers during the transition period and that development assistance, such as “land preparation, credit facilities, training, or job opportunities” should be provided to help the relocated villagers establish livelihoods in their new location. Furthermore, the policy clearly states that, prior to displacement, the villagers are to be supplied with a resettlement site with “adequate facilities,” by which one could assume the Bank means water and electricity- two necessary items which clearly were not provided to the villagers of Gnapha. I think the Bank’s policy would be strengthened by clearly spelling out these requirements instead of vaguely referring to them as “adequate facilities.”

There are a few points in the final part of the “Required Measures” section which I feel are extremely important, particularly in their relevance to Laos. I will quote at length:

“Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.”

This whole notion was blatantly rejected in Laos. Receiving communities had never been consulted on the arrival of the villagers from Gnapha and there certainly weren’t any “grievance mechanisms” in place for villagers to communicate with government officials. To a certain degree, this neglect became the basis for our project. Could involuntary resettlement become a mechanism for civic engagement? Could it somehow become of positive force in which people realized there was a way to actually engage their government in a dialog rather than simply live with its dictates?

As previously implied, the “Required Measures” section of the Bank’s resettlement policy seems clearly geared towards rural resettlement projects, most likely from dams. The policy tends to view resettlement in urban areas as something to be avoided unless it can be proved that the provision of open land to displaced persons would adversely affect the long-term sustainability of parks or protected areas. The

policy does little to address the specific needs of urban resettlement packages- particularly in a place like Vientiane, where there is plenty of land to resettle people, but what might be needed is a site more closely related to the urban infrastructure of the city.

In one of the final sections of the policy, the Bank illustrates who is eligible for resettlement benefits. The Bank recognizes three distinct groups of people: those who have formal legal rights to the land from which they are going to be displaced, those who lack formal legal rights but do have a recognized claim to the land, and finally, those who have no recognizable legal right or claim to the land they are occupying. This section breaches a difficult subject, which is so prevalent in the developing world, and the Bank needs to go a bit further in its effort to address the needs of informal settlements. The bank only states that such settlements, settlements with no legal right or claim to the land, be provided resettlement assistance *“in lieu of compensation for the land they occupy, and other assistance, as necessary.”* In the two weeks we spent in Laos, I don't think there was a single one of us who came away with a *clear* understanding of how the land tenure system works. Might this serve as a loophole through which a borrowing government might displace villagers unjustly and under the conditions which we witnessed despite being in full compliance with the Bank's resettlement policy? These and other questions remain to be answered.

Obstacles

Why are these things not being done? I can only speculate on three possible reasons: financial constraints, lack of corporate responsibility, and issues of tenure. Financial concerns would appear to be the most readily available reason for why a more equitable resettlement policy isn't being pursued. Laos is one of the poorest countries in the world, with a GDP far below the operating budgets of most major American Universities. We know that issues of infrastructure development will often supercede issues of basic human rights in the developing world. Poor countries struggle to raise money so that they may fund larger projects which, in all likelihood, will raise the standard of living for a great many people while also opening up a variety of

economic opportunities. Solid roads facilitate international, domestic and local commerce, while dams, as we are currently seeing, can raise incredible amounts of money through the sale of hydroelectric power to neighboring countries. It is doubtful that Laos is paying for these projects out-of-pocket and in an effort to attract foreign investors, project costs will undoubtedly not reflect the costs born by those who will be resettled in the projects wake. Which brings me to my second line of reasoning- lack of corporate responsibility.

One day, while in the village I saw a fleet of Land Cruisers race by on the dirt road along the river edge. The trucks pulled over a short distance up the road from where I stood, and I noticed the JICA (Japan International Cooperation Agency) labels on the doors. A team of engineers got out of the trucks, scrambled down the bank and spent several minutes inspecting the bank edge. I was able to race ahead and converse with them, in broken English, for a short while before they were ushered off by their Lao tour guide. They were in charge of reinforcing the river banks - the project for which many people in my village were being relocated, yet when I asked them about what plans they were making to assist in the resettlement process, they curtly responded that it was not their job, they were only working on the *bank* to accommodate the *road*. It was the *road* that was going to dislocate the villagers and they weren't building the road - they blamed the Australians. While in a literal sense, they were right, I none-the-less found it somewhat unethical that they so easily detached themselves from what was happening a few feet away from the multi-million dollar bank reinforcement project they were undertaking. In my opinion, the work they were doing was just as related to the villagers' dislocation as was the road that would follow it. I felt that it was their responsibility to ask the right questions and ensure that a just resettlement process was undertaken.

The final reason that I can give for a faulty resettlement policy is the confusing tenure situation that seems to exist in Laos. While this confusion may have stemmed wholly from our inability to grasp the complexities of a foreign legal system in the very short while that we were in the country, I can't help but think that it actually is somewhat of a misguided system in which nobody really knows *who* owns *what* and what peoples legal rights are. In the legal vacuum which seems to exist with regards to land rights, it seems feasible that people can easily be evicted from land for which they have no "legal" claim to, despite their paying rent and having lived there for a substan-

tial amount of time. I think this lack of a structured tenure system, combined with the high levels of individual poverty (which leads to squatters or illegal “slum” settlements) perpetuates the government’s ability to forcibly evict people without adequate compensation. Having considered all of these obstacles, it’s interesting to reflect on a high profile resettlement process currently taking place in Laos, the Nam Theun-2 hydroelectric project.

Nam Theun-2

The Nam Theun-2 Resettlement Action Plan attempts to address many of the shortcomings pointed out in this paper. The policy is based on the Asian Development Banks and the World Banks guidelines for resettlement and it is clear that *Electricité de France* (the primary developer of the project) does not want a repeat of the World Banks public relations disaster that occurred in China as a result of the Three Gorges Dam project. The guidelines make several important points which current Lao resettlement policy seems to overlook. First of all, it sets as a goal not just maintaining, but raising, the standard of living of every resettled person within four years time. Additionally, the plan commits to raising every relocated villager above the national poverty line within this same time frame. Villagers will be financially compensated by the dam corporation until these goals are met.

In terms of livelihoods, the plan seems to take into consideration the existing economic infrastructure and makes efforts to maintain it. In addition to homes, agricultural and forestry land will be provided to villagers which have incurred losses as a result of resettlement. Should villagers wish to forgo this land for cash compensation, they are welcome to do so and will receive compensation based on the prevailing land values at the time. The Resettlement Action Plan also seems to account for food- which makes sense given that many of the people in this rural area are undoubtedly subsistence farmers. The developers commit to providing food security to all households until the income targets for the resettled villagers have been met.

Another strong point of the Resettlement Action Plan is that it acknowledges that villages often have traditional groupings of structures in and around the village. The plan commits to preserving these groupings as best it can. Furthermore, the plan allows

for the compensation of host, or receiving, villages which have been affected by the resettlement plan. Where entirely new villages are being constructed, the plan clearly states that civic structures will be provided, including “schools, hospitals, dispensaries, markets, temples, clubs, cemeteries, roads and other constructions owned by the State and the village.”

On paper, it is hard to find the shortcomings of the Nam Theun-2 Resettlement Action Plan. Its failures will most likely occur in its implementation. However, the vagueness of particular areas of the document causes me to worry. Primary among these concerns is the lack of an institutionalized feedback loop for the registering of complaints and injustices amongst resettled villagers. While the document often alludes to public participation and regularly makes reference to a “resettlement committee,” I failed to find a specific outline of how that public participation works and who exactly is on this “resettlement committee.”

As part of our final project in Vientiane, we strongly recommended that such a committee be comprised of people from the village government, people who are being relocated, people in the receiving village and representatives of the development organization (whether private or public) responsible for the project causing the resettlement to occur. This would provide a balance of viewpoints from all sides and a seemingly sound platform from which to judge grievances. I don’t see such a committee clearly outlined the Nam Theun-2 plan and worry that their committee may be wholly staffed by central government officials and *Electricité de France* representatives.

Conclusion

I believe that the resettlement process can become an exercise in civic engagement for disenfranchised people, but in order to do so the process must be well structured and transparent. I would consider the resettlements that we witnessed in Vientiane to be a shocking affront on basic human rights, which I believe will be repeated widely throughout Laos. While there are several existing models for resettlement which could be followed, such as the World Bank's *Operational Policy on Involuntary Resettlement*, the Lao governments failure to do so would indicate substantial internal obstacles to adopting such policies; obstacles which may include financial constraints, lack of corporate responsibility and issues of tenure/land ownership.

The fact that a more equitable plan is being pursued for the Nam Theun-2 Dam project is undoubtedly the result of that projects high international profile. Furthermore, the financial burdens of that particular resettlement are more easily carried by the promise of high financial returns through the sale of electricity to neighboring Thailand. Unfortunately, these returns are much greater than those that JICA can expect to garner by reinforcing a riverbank in Gnapha Village.

My time spent in Laos was both fascinating and, in many ways, frightening. The thought that peoples homes could be so easily expropriated for large government, or even private sector, projects was an understandable phenomenon which occurs all throughout the world- from American to Bangladesh. Yet the paltry compensation which these people received was appalling; and the manner in which they were resettled in new villages without any amenities and far from their original communities, was disheartening to say the least. It is my hope that the obstacles which currently stand in the way of a better resettlement policy can be overcome to the greater benefit of everyone involved.