

The Effectiveness of the Laotian EIA system in the Context of Sustainability and Hydropower Development

By

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A thesis submitted in fulfilment of the requirements for the degree of

Doctor of Philosophy in Human Geography

The University of Newcastle, Australia

January 2018

Statement of Originality

I hereby certify that the work embodied in the thesis is my own work, conducted under normal supervision.

The thesis contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text. I give consent to the final version of my thesis being made available worldwide when deposited in the University's Digital Repository, subject to the provisions of the Copyright Act 1968.

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Aengphone Phaengsuwan

Acknowledgements

This PhD research project and thesis would not have been completed successfully without the continuous support, mentoring and care of many others. Thus, I would kindly like to take this opportunity to acknowledge the following people for their supervision, contributions and support.

First of all, I would like to express my deepest gratitude and offer a million thanks to my supervisors Dr Meg Sherval and Associate Professor Jenny Cameron for their continued support, professional contributions and intensive guidance to see this thesis finalized. I owe an enormous debt to my supervisors for their time and energy, their excellent supervision and their professional contributions to this thesis. Particularly, during the last six months before the submission of this thesis, when my mum was first diagnosed with serious cancer and has since been fighting for her life. This occurred as I was trying to produce the final draft of the thesis and during this time, I experienced severe depression. Dr Sherval and Associate Professor Cameron were more than my supervisors, they were also my psychological doctors and I thank them for this. I also thank Dr Lesley Instone for her co-supervision of this research project in the first twelve months of my candidature and her valuable comments on the initial research project proposal.

I also gratefully thank the Government of Laos and the Government of Australia for investing in me and providing full financial support for my PhD research project under the Australia Awards Scholarships. I am also thankful to the Laos-Australia Institute in Laos for selecting and offering me the scholarship in the first place. I am also thankful to the University of Newcastle for accepting my application and giving me the opportunity to study at its unique and very green Callaghan Campus.

My special gratitude goes to my all family members, in particular my Dad, Sengphet Phaengsuwan, my Mum, Bouaphone Phaengsuwan, my Father-in-law, Dr Kongkeo Chounlamountry, my Mother-in-law, Xayphone Chounlamountry and my dear Wife, Phayphet Chounlamountry for their support and patience for this long period of intensive work carried out mainly in Australia, during which I have not had enough time to take care of my family. To my beloved Mum, you may not have a chance to see this final thesis and celebrate my achievement, but every single page of this thesis also belongs to you. Thank you for caring and encouraging me to pursue this PhD profession. Many thanks to my brothers and sisters for their support and taking care of Dad and Mum during my research career. Without your great support, I would not have had the time needed to work on my research project.

I am also grateful to many people who have contributed their time, insights and supported this research project during my fieldwork (data collection, interviews and field observations) in Laos. They all deserve to receive my whole-hearted thanks. I would also like to thank my former bosses and the staff in the Department of Environmental and Social Impact Assessment (DESIA) for allowing me to share their office spaces and to observe their practical activities taking place on the ground. Special thanks goes to Ms Khamphone Soulivong, Mr Panyasith Vongsouli and Mr Khouankham Vongkhamsao for their support and provision of some important documents needed for this research project.

My appreciation also goes to all the academic staff, administrative officers and fellow PhD researcher colleagues in the Discipline of Geography and Environmental Studies and in the School of Environment and Life Sciences for their warm hospitality, friendliness

and overall support. Special thank also goes to Mr Olivier Rey-Lescure for his mapping assistance and Dr Sarah Bell for proofreading this thesis.

Many thanks also to Mora Tum and his family for allowing me to share their house during my PhD research career in Newcastle and Robert Henry Woelders and his wife for their extended hospitality and care—driving me to beaches and taking me trekking through the National Parks during the university semester breaks to help me overcome my boredom in the absence of my family in Laos.

Finally, there were so many important people behind this great achievement that I cannot mention all of their names here due to the limited space. They all deserve to receive my whole-hearted thanks though for their support and involvement in this research project.

Aengphone Phaengsuwan

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Abbreviations

ADB	Asian Development Bank
CA	Concession Agreements
DCR	Decree on Compensation and Resettlement of People Affected by Development Projects
DEB	Department of Energy Business
DEM	Department of Energy Management
DEPP	Department of Energy Policy and Planning
DESIA	Department of Environmental and Social Impact Assessment
DIP	Department of Investment Promotion
DoNRE	District of Natural Resources and Environment
DoP	Department of Planning
DPRA	Development Project Responsible Agency
DSEA	Decision on Strategic Environmental Assessment
ECC	Environmental Compliance Certificate
EIA	Environmental Impact Assessment
EMMP	Environmental Management and Monitoring Plans
EMP	Environmental Management Plan
EMU	Environmental Management Unit
EMSP	Environmental Management Support Programs
EPL	Environmental Protection Law
ESIA	Environmental and Social Impact Assessment
GEM	Guideline for Environmental Monitoring
GoL	Government of Laos

GPP	Guideline for Public Participation
IDA	International Development Agency
IEE	Initial Environmental Examination
IPD	Investment Promotion Department
LEP	Law on Environmental Protection
LMB	Lower Mekong Basin
LPRP	Lao People's Revolutionary Party
MEM	Ministry of Energy and Mines
MENA	Middle East and North Africa
MoNRE	Ministry of Natural Resources and Environment
MPI	Ministry of Planning and Investment
MRC	Mekong River Commission
NDF	Nordic Development Fund
NEAP	National Environmental Action Plan
NEM	New Economic Mechanism
NES	National Environmental Standards
NPCA	National Protected and Conservation Areas
NSEDP	National Socio-Economic Development Plan
NT2HP	Nam Theun 2 Hydropower Project
OECD	Organization for Economic Co-operation and Development
OIA	Office of Investment Affairs
PDA	Project Development Agreements
PMO	Prime Minister's Office
PoNRE	Province of Natural Resources and Environment
RMU	Resettlement Management Units

SEA	Strategic Environmental Assessment
SESO	Standard for Environmental and Social Obligations
SMMP	Social Management and Monitoring Plans
STEА	Science, Technology and Environment Agency
STENO	Science, Technology and Environment Organization
VoNRE	Village of Natural Resources and Environment
WREA	Water Resources and Environment Administration

Abstract

Economic development is recognized generally as a measure of progress. In developing countries, this form of development is often given priority over other concerns such as environmental health and social welfare. Following recommendations from intergovernmental agencies such as the World Bank and the International Monetary Fund, many developing countries have embraced foreign direct investment as a means to quickly grow their economies. One such country is Laos. Over the past two decades, Laos has been at the centre of a major extractive boom and as a result, significant impacts from large-scale development projects such as hydropower, mining and rubber plantations have threatened local communities and the long term viability of the natural environment. Managing the impacts of projects therefore, is essential if development is to be recognized as ‘sustainable’.

One of the key tools for addressing the negative environmental and social impacts of development projects is Environmental Impact Assessment (EIA). Initially formulated in the developed world in the late 1960s, EIA has gradually been introduced into the developing world. This has given rise to research into the effectiveness of EIA in very different contexts from that in which EIA was originally conceived. This thesis contributes to this body of work by examining the design and operation of the EIA system in Laos, a country that has had an EIA system in place only since 2000. In so doing, this thesis also contributes to a nascent body of research on EIA effectiveness in Laos and the LMB more broadly (e.g. Wayakone & Makoto, 2012; Campbell et al., 2015; Wells-Dang et al., 2016). The research proceeds by drawing on the seminal work of Ahmad and Wood (2002), which outlines a framework for assessing EIA effectiveness in developing countries. The framework is applied to the EIA system in Laos in the context of

hydropower development, a timely focus given that the Government of Laos aims to use the energy generated from hydropower to be the 'Battery of ASEAN'. Currently there are hundreds of hydropower dams at various stages of planning, construction and in operation throughout the country.

The research focuses on three major components of the EIA system, its legal context, institutional arrangements, the procedural elements within the contextual setting of Laos. As suggested by Ahmad and Wood (2002) these components are essential for an effective and transparent EIA system. Consistent with many other studies of EIA in developing countries, the research reviews legal documents directly related to the laws, guidelines and decrees made by the government to implement EIA. This desk-top research is complemented by qualitative research. Semi-structured interviews were conducted with 52 key stakeholders including government officials at the national, provincial and district levels, and representatives from non-government organizations, environmental consulting firms, developers, international organizations and villagers. Observations of EIA practice were also conducted during field site visits with a focus on the activities associated with the monitoring of the impacts of hydropower development and public participation events.

The findings of this research acknowledge, as Ahmad and Wood (2002) suggest, that the most effective EIA systems should include strong legal, institutional and procedural arrangements. In Laos, However, the effectiveness of the EIA system is not solely reliant on strict procedural and legal measures, but also on the capacity of the institutions that are enacting the EIA system 'on the ground' and the political will of the government for not just development but for *sustainable* development. This research finds that 'on paper'

the EIA system in Laos has the potential to contribute to more sustainable hydropower projects. However, the effectiveness of the system falls down at the institutional and procedural levels where those applying the laws, practicing EIA and implementing critical stages of the EIA process (such as monitoring of impacts and public participation) are severely hampered in their work. Unlike EIA processes in developed countries (often held up as models of 'best-practice'), in Laos insufficient financial resources, under-resourced departments, unqualified or inexperienced staff and a system that essentially relies on the good-will and financial support of developers has allowed national economic development priorities to take precedence over rigorous and transparent EIA implementation. Thus, this research argues that while it is possible to regulate for more sustainable hydropower outcomes, little meaningful change will occur until there is national recognition that long-lasting sustainable development cannot be achieved without addressing the short-comings that exist in the current EIA system.