



## Participatory Negotiation in Decision-Making of Hmong Ethnic People: The Nam Ngiep 1 Hydropower Plant Project, Lao PDR

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**Abstract**— *The Lao government emphasizes hydropower development as a priority as the economic benefits from hydropower development are very significant for the Lao economy. However, the hydropower decision-making process is a complex business, involving different layers and requiring multiple participants, influencing both society and the environment. Understanding the hydropower decision-making processes, in particular the participation of the Hmong ethnic in these negotiations has important implications. This paper will scrutinize how participatory negotiation practices affect the Hmong ethnic people in the decision-making process of the Nam Ngiep 1 Hydropower Project. Simultaneously, the question of how the Hmong ethnic people negotiate with powerful actors like the state and the project developer to protect their rights and benefits requires an answer. The results of the study find that Hmong affected by the Nam Ngiep 1 Hydropower Project use many negotiation tactics in order to protect their rights and benefits, such as identity, network, and historical memory. Moreover, Hmong also use oral and written negotiation forms to protect their rights and benefits.*

**Keywords**— **Hydropower, Participatory Negotiation, Hmong, Nam Ngiep 1 Hydropower Project.**

### 1. INTRODUCTION

The participation of ethnic people in the hydropower development decision-making process is required as this is very important for the people affected by the project to ensure its sustainability. Moreover, the social and environmental impact that the development projects generate can, in this, be mitigated and reduced. Lastly, the benefits from hydropower plant development can then be fairly distributed to all concerned, mainly the people affected by the project. The government of Lao emphasizes the importance of the involvement of ethnic groups in development projects to ensure that participatory consultation procedures, regulations and technical methods are being applied properly and in a transparent manner. This is because the involvement of project-affected people is required by many laws and regulations, such as environmental protection legislation, electricity laws, the decree on compensation and resettlement of people affected by development projects and the decree on social and environmental impact assessments [1].

The participation of Hmong ethnic people in the decision-making process of the Nam Ngiep 1 Hydropower Project (hereinafter NNP1) is the focus of this article. The Hmong play a significant role in the decision-making process of the NNP1. Therefore, this paper aims firstly to examine how the Hmong protect their interests during negotiations. Second, the tactics, which the Hmong people, as powerless actors, use to negotiate with powerful actors, such as the government, local authorities and project developers will be studied.

This paper is divided into five parts, namely an introduction, secondly, a focus on the benefits and costs of hydropower development in Laos; thirdly, methodology; fourthly, the findings; and finally, the conclusion.

### 2. BENEFITS AND COSTS OF HYDROPOWER DEVELOPMENT IN LAOS

The Government of Lao (hereinafter GoL) intends to use the income of the production of electricity to contribute to the development of the country and to reduce poverty. This is one condition or enabling factor to achieve the Millennium Development Goals and reduce the poverty of multi-ethnic people, providing important infrastructure for commercial production by the people, and thus emphasizes hydropower development as a priority. This emphasis is manifested as the hydropower dam is illustrated on the 2000 Kip note while the electric transmission line is illustrated on the 500 Kip note.

In 2011, the GoL reported that during 2006-2010, the average electricity production increased by 22.12%, covering 3.1% of the GDP. Many dams were completed, and the government would receive US\$ 90 million per annum as estimated by the electricity sector [2]. During 2011-2015, 26 hydropower projects were completed; having a 4,328.45 MW installed capacity and providing 90.51% of households access to electricity. The latest five year socio-economic development plan (2016-2020) focuses on developing large, medium and small hydropower dams along the tributaries of the Mekong River together with the expansion of electrical networks for remote rural electrification and developing electrical power sources for export. By doing this, Lao PDR can graduate from being a least-developed country by 2020 and participate in regional and international integration [3].

Nonetheless, hydropower development causes many

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changes to society and the environment. The social and environmental costs are highlighted in many research works, such as the one by Danaiya and Ryder who state that, in exchange for the revenues from the Theun Hinboun dam, there are some negative impacts of dam development, such as the declining of fish populations, swamps, and riverbank gardens, both up and downstream. The environment and the people in Laos pay those costs, but the benefits mainly go to the export industry [4]. International Rivers has reported that the boom of hydropower is detrimental for the Lao people because hundred thousand of people are affected by the project and tens of thousands of people have lost their land to the dam's channel and transmission lines and have had to resettle [5]. The Don Sahong Dam will impact over a million people living up and downstream especially hundreds of villages located adjacent to both sides of the Lower Mekong River in Laos, Cambodia and Thailand [6]. The Xe Bang Fai River has totally changed in terms of quantity, quality, flow, color, temperature, fisheries, aquatic animals, the occurrence of flooding during rainy season, loss of riverbank vegetable gardens, and water supply because of the Nam Theun 2 project [7]. According to the available information, more than fifty thousand local people have had to resettle due to hydropower plant development in Laos.

#### ***Participation of Ethnic People in Hydropower Development***

The report of the World Commission on Dams (WCD) found that public participation in the decision making process of the construction of large dams is lacking throughout the world. Several elements hamper a meaningful participation, for example: insufficient time, lack of information available, affected people and majority groups often being excluded mainly during the design and implementation phase, participation being open only during the later stages of the decision-making process [8].

The World Bank, as one of the main donors of hydropower development in Laos, has evaluated the effectiveness of development projects via the participation of affected people and linking this to poverty reduction because development is aimed to improve the lives of people, so it should start with the people. The lack of participation of the people is a failure of the will of the government to meet the development goals. Development is a product of an increased level of community participation in the development process. Grassroots and local-level development projects require local people's participation in order to make sure that such projects are adapted to the local circumstances and suit local needs as well [9].

One important donor of hydropower development in Laos, the Asian Development Bank (ADB), has set a policy on recognizing entitlements and sharing benefits. Said policy provides that the state and developer should improve the livelihoods and quality of life of the affected people that the affected people should be the beneficiaries of the project. Moreover, mitigation, resettlement and development are fundamental responsibilities of the state and the developer. Informed

participation of multiple stakeholders in an open and inclusive manner is promoted by ADB in order to take into account the wellbeing of people, including medical clinics, schools, rural electrification, vocational training, and the sharing of benefits to minimize the risks from the development project after the dam has been constructed [10].

In Laos, ethnic people were included in the participation when the GoL promulgated the law on environmental protection, which requires that environmental impact assessments must involve the people who will be affected by the development project [11]. In the year 2000, the Science Technology and Environment Agency (STEA) issued a regulation on environmental assessments underlying the importance of public involvement. The regulation requires at least a notification of the stakeholders, dissemination of information about the project and its impact, and consultation with affected parties and parties interested in the project. The opinions of the affected interested and parties should be heard during each step of the process conducting the environmental impact assessment as well as with regards to the planning of the project and its implementation [12].

The methodology of consultation with ethnic groups ensures and records the participation of ethnic people, ensures the facilitation of the participation of ethnic people, ensures the effective participation of all stakeholders and ensures the recording of issues and complaints raised during the consultations. It is important to note that before these regulations were promulgated, the hydropower decision-making process proceeded without the participation by affected people. For example, prior to the 1980s, compensation was based on a notification and compensation scheme. In the late 1980s, assistance with resettling was taken into consideration; between the 1980s and 1990s, the previous compensation scheme was modified to include livelihood restoration measures, negotiation and long term benefit sharing. After 2000, the compensation scheme required all the previously mentioned components plus a partnership approach and long-term benefit sharing with the local community and region [13].

### **3. METHODOLOGY**

This paper is based on an empirical analysis of primary and secondary data and information; official government documents and relevant literature, including interviews with staff of the Nam Ngiep 1 Hydropower Company and project-affected people.

### **4. FINDINGS**

According to the 4th Population and Housing Census in 2015, the Hmong population makes up 9.2% or 595,028 of the population nationwide (6,492,000). The Hmong are thus the third largest population group, as more than half (53.2%) of the nation's population consists of the Lao ethnic group, which has a population of 3,427,665 and is thus the largest group of the population. The

Khmu ethnic group reflects 11% or 708,412 of the population and is thus the second largest population group. Phouthay, Tai, Makong, Kateng, Lue, Akha and other minority groups form 26.6% of the total population in Laos [14].

Hmong ethnic people live in many provinces of the northern part of Laos throughout the Thakek district of Khammouan province. No Hmong ethnic people are living in the southern part of Laos. The Hmong can be found in all districts of Huaphanh, Xiengkhouang, Oudomxay, Luangprabang, Vientiane and Xaysomboun provinces. They also live in some districts of Phongsaly, Luangnamtha, Bokeo, Xayyabouly, Bolikhamxay provinces and Thakek district of Khammouan province. In the Vientiane Capital, the Hmong have settled their home in Xaythany, Naxaythong and Pakgum districts [15]

The construction of the NNP1 will result in the inundation and thus disappearance of one village in the Bolikhan district, four villages in the Hom district, and the homes of fifteen families of three villages of the Thathom district in Xaysomboun province, all of whom will have to resettle. The dam was commissioned on 30 May 2016 with a concession period of 27 years and a commercial operation date of January 2019. The project is shared by the Japanese firm Kansai Electric Power for 45%, by the Electricity Generating Authority of Thailand International (EGATI) for 30%, and by the Lao Holding State Enterprise for 25%. More than 90% of the electricity from NNP1 will be sold to Thailand. The NNP1 has required more than 3,300 people and 417 households to resettle [16]

The NNP1 is located in the Hatsaykham village of the Bolikhan district. The Bolikhan district has a mountainous topography, consisting of 60% as mountain-plateau area, whereas 35% is plain area and 5% is formed of rivers and lakes. This location provides suitable conditions for hydropower development. Moreover, and bearing in mind the policies of fostering industrialization and modernization, this is necessary to reach the development goals of the district, where the GDP per capita should reach \$ 2,268 in the year 2020 [17].

Moreover, one village in the Bolikhan district and four villages in the Hom district of Xaysomboun province will be completely inundated, and all households will have to resettle and be compensated for the loss of housing, residential land, productive lands and other assets and their livelihood will have to be restored. The farmlands and catch of fish of three villages in the Thathom district will be lost to the reservoir area of the dam. Downstream, impact includes the water quality and the disturbance of the water flow influencing the catching of fish and aquatic animals and disturbing the riverbank agriculture activities of two villages in the Bolikhan district and two villages of the Pakxan district. Land and other assets of households living along the transmission lines and along the access road will be lost because of the project, which includes 15 villages of Thaphabath district [18].

The Hatsaykham community, four villages of Hom district and some households of three villages of

Thathom district needed to be resettled to the designated Houaysoup resettlement site, located on the right bank of the Ngiep River. On the resettlement site, the project will provide housing, a bridge across the Ngiep River, roads, a school, a clinic, a market, a village office and the like [19].

NNP1 has affected more than 3000 people, while over 90 percent of the affected people are the Hmong who live in Bolikhan district of Bolikhamxay province and Hom and Thathom districts of Xaysomboun province. This is because the majority of villagers in Thathom district of Xaysomboun province, namely Pou village, are Hmong, and Piengta village covers some of the Hmong households. At the same time, four villages, or 98.9%, of the Hom district of Xaysomboun provinces consist of only Hmong. Almost all villagers of the Hatsaykham village in Bolikhan district of Bolikhamxay province, which is located within the construction area, are Hmong, except for 9 people who are Lao Loum, and will have to resettle.

Hmong people in Hatsaykham village said they have already knew that the NNP1 will be constructed in their village location, and they also have knew that both the Nam Ngiep 3A and Nam Ngiep 2 dams are upstream of their villages. Almost all of the affected people in Bolikhan, Thathom and Hom districts explained that some consultation meetings were organized in their villages, but they could not remember the exact date, month or year of those meetings. However, one thing they could remember well was that the NNP1 project would bring along both positive and negative impacts to their villages. Yet, even after the consultation meetings, it has remained unclear whether the negative or the positive impacts of the project would prevail.

A middle-aged Hmong man said that he had participated several times in consultation meetings and that he proposed to the NNP1 project to receive a fair compensation for his affected assets. At the same time, schools, a clinic, a market and adequate land for on-farm activities should be provided in the resettlement area. A senior Hmong man from Soppuan village proposed to the NNP1 project that his family would like to stay together as a clan in the same zone of the resettlement village because older people will be happy if they can stay together with their sons and nephews as a community since breaking it up would be a nightmare for older Hmong people.

It is important to note that sometimes Hmong people also use spirits as representatives in negotiation tactics, for example, they have used the graves of their ancestor as a tactic to get more compensation. One female proposed to the NNP1 project that it should dedicate more attention to the graves of their ancestors because all Hmong belief that ancestor spirits will protect them from having bad luck. If the project satisfies the proposals, she and her family would be content with the resettlement program.

A senior officer of the NNP1 project stated that the houses where people will be resettled to can be classified into four sizes: small-sized housing for households of fewer than 5 people, medium-sized housing for households of between 6-8 people, large-sized housing

for households of between 9-12 people, and special sizes for households of over 13 people. However, the Hmong people said that it would be better if 44 households of the Sopphuan, Sopyuak and Namyuak villages can resettle in the Houysoup resettlement area as soon as possible in order to inspect whether the houses constructed are of good quality and prepared for wet season on-farm activities. This can also be regarded as a tactic that the Hmong people used to negotiate with NNP1 and local authorities because the chairman of the committee on resettlement and livelihood restoration of people affected by NNP1 is the Xaysomboun provincial governor.

According to a key informant from Hatsaykham village, the amount of compensation for the assets lost is not based on laws, regulations or the market value. For example, the project paid 14,000 Kip per square meter for paddy land, while such an amount of compensation is not even sufficient to buy two kilograms of rice. The amount of compensation is based on rates applied by the state, not market prices or average prices applicable for period of compensation and based on the types of properties and locations as provided in the decree on compensation and resettlement management in the development project. For example, the price of a crop garden is 4000 Kip per square meter and this price could not buy a kilogram of vegetables. One key informant said that the prices of compensation among some produce are different: local guava is cheaper than hybrid guava, sour tamarind is cheaper than sweet tamarind, and black sugarcane is more expensive than other sugarcane. The same key informants confirmed that, of course, these compensation prices are the result of an agreement reached after negotiations between the project and the affected people, but the project proposes very low prices in the first draft of the agreement, and such prices could be increased only a little during the negotiations.

Key informants from Hat Guin stated that they will lose agricultural land to the NNP1 project because all the land that the project uses for the resettlement sites in Houysoup belong to them. They have already submitted their proposal to higher authorities of the province and the national government to protect their rights to use those lands but have received no answer yet so far. One elderly man said that, the project compensates the affected people from Hatsaykham village and four villages of the Hom district, but the project has forgotten compensation for those who have lost land to the dam, which is unfair. In the resettlement village, the NNP1 will operate many village's development funds, but Hat Guin villagers who live nearby could not access those funds as resettlement villagers. Therefore, the villagers continue to try to negotiate with NNP1 in order to protect their assets.

A Key informant at Thahua village stated that, nowadays, the catching of fish in the Ngiep River is very difficult. Some traditional activities of aquatic animal catching are no longer used, for example, the triangle net ("Sawing" in Lao) for catching minnows and other small aquatic animals. At the same time, the use of bunched bushes to flow along the river in order to get small fish and other aquatic animals has also disappeared because, downstream of the dam, the water level of the river is

unstable. The project promises to operate many livelihood restoration programs in Thahua, but only fish cage farming is operating so far. They will draft a proposal to the chairman of the committee on resettlement and livelihood restoration of people affected by NNP1 by request to operate more livelihood programs in order to make sure that their food will be secure and that their quality of life will be upgraded. This is because many thousands of resettlement people will come to share their source of forest productions and fishing sources as well in the near future; therefore, livelihood restoration programs are required by villagers.

Key informants from three villages of Hom district mentioned that, they are unenthusiastic to resettle to the Houysoup resettlement site because it is far from their original villages and they are not familiar with the site's environment. They predict that their livelihood will be difficult if all affected people join the resettlement site because of the large amount of people and natural resources becoming more and scarcer. One female stated that she went to the Houysoup resettlement site in order to evaluate whether her family will move or not; she continued that there is a school, permanent housing, a market and a medical clinic in resettlement village, which are incentives for her to move in. However, how to live is also important for her family. She concluded that if were be possible, she would prefer to stay around in her original village, as she is at least familiar with the surrounding environment and the livelihood is easy. Yet the alternatives are limited and she cannot obstruct the decision of a large amount of people and the state as well. As a result, her family will have to adapt to the new environment in the resettlement areas in order to stay happy. She believes that her extra work, like weaving and embroidering, will be in demand at the local market.

A senior staff member of the NNP1 states that what the Hmong proposed reflects what is necessary for their livelihood, as the NNP1 would like to develop the dam as different from previous ones in order to make sure that Hmong will not protest, as was shown in the case of the Nam Mang 3 project. It should be remembered that *"On November 22, 2002, around 40 Hmong men from Ban Phou Khao Khouy with their armed sticks and some guns went ahead to the Nam Mang 3 (NM3) dam site in order to talk with China International Water and Electric Corporation (CWE) the main contractor of NM3 construction company about the project's information on resettlement and impact to their existing village after silence to answer of district authority and project developer as well"* [20].

Another senior staff of the NNP1 also states that, according to his experience working with the hydropower plant development project for more than ten years, Hmong have a strong connection within their clan. This means that if the senior of the clan said "yes" or "no" the other members of the clan will follow without raising questions. At the same time, Hmong people use many tactics to negotiate with the NNP1, such as identity, network and historical memory, to protect their benefits. For example, a senior staff member emphasized that the Hmong who are affected by the NNP1, namely the Yang, Wang, Xong and Lor clans can automatically

link to national leaders if they belong to same clan, which means that whenever they are unsatisfied, they can call to higher leaders, such as the president of the National Assembly or the president of the ethnic, social, cultural or justice committees of the National Assembly of Laos, as well as leaders in many ministries.

Hmong people from Hom district also said that some of their villagers had to fight for the Pathet Lao Movement during the Indochina war, so those villagers should get more compensation or more attention by the project. Senior staff of the NNP1 also stressed that during the opening of the Houysoup resettlement site, many leaders from central and local authorities were invited to attend the ceremony, one of them was the minister to the prime minister office, Professor Doctor Chaleun Yiapaoher, who is also Hmong; meanwhile almost all affected people were also invited to join. Surprisingly, Dr. Chaleun hugged Mr. Phonesy Xong, who is a national hero at the first time that they met. Mr. Phonesy Xong plays an important role as the power-base of affected people from Hom district because he is a very powerful person among the Hmong people in Xaysomboun province and nationwide as well.

### 3. CONCLUSION

Negotiation is a good practice for local people to be involved in the hydropower decision-making process, especially to protect the rights and benefits of project-affected people. Many laws and regulations were promulgated to deal with the participation of ethnic people in large development projects. However, some people did not say anything during the consultation meetings because they were afraid to talk via the microphone or may be afraid that their words will be harmful to themselves either directly or indirectly. Failure of negotiations leads to difficulties for the project-affected people.

In the case of the NNP1, project-affected people participated in the decision-making process from the project feasibility study to the operation, but options for reduction and mitigation of impacts are still limited. As a result, the affected people accepted involuntary resettlements, and adequate agricultural land became the first priority of resettlement people together with fair compensation and long-term benefits sharing of the NNP1 as well. At the same time, the prices of assets lost could not be increased to the affected people's satisfaction during the negotiation process if the project's proposed price was very low.

Hmong affected by the NNP1 use many negotiation tactics in order to protect their rights and benefits, such as identity, network, and historical memory. Moreover, Hmong also use oral and written negotiation forms to protect their rights and benefits. At the same time, the incident of the Nam Mang 3 dam case also shown that the Hmong are a strong negotiating people in terms of the hydropower decision-making participation, mainly during the resettlement program.

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