

# ANALYSIS ON ADB INVESTMENTS IN THE GREATER MEKONG SUBREGION (GMS)



THE IMPACT ON PEOPLE'S LIVELIHOODS  
NGO FORUM ON ADB

<b>OPERATIONAL DEFINITION .....</b>	<b>4</b>
<b>INTRODUCTION.....</b>	<b>5</b>
<b>PREAMBLE.....</b>	<b>5</b>
<b>WHAT IS GMS? .....</b>	<b>5</b>
<b>CONCEPTUAL FRAMEWORK.....</b>	<b>6</b>
ASEAN INTEGRATION .....	6
DO ADB INVESTMENTS FAIL TO ENCAPSULATE THE IMPACTS OF INFRASTRUCTURE PROJECTS IN THE CONTEXT OF COMMUNITY – BASED LIVELIHOOD?.....	7
<b>OBJECTIVES AND METHODOLOGY.....</b>	<b>7</b>
<b>SCOPE AND LIMITATION .....</b>	<b>8</b>
MEKONG LIVELIHOODS.....	8
RELEVANT SAFEGUARD POLICY PROVISIONS.....	10
<b>CASE STUDY: NAM THEUN 2 HYDROPOWER PROJECT .....</b>	<b>11</b>
<b>COUNTRY PROFILE.....</b>	<b>11</b>
<b>HYDROPOWER DEVELOPMENT .....</b>	<b>12</b>
PROJECT DESCRIPTION.....	13
IMPACT AREA PROFILE.....	14
LIVELIHOOD VULNERABILITY: CIVIL SOCIETY CONCERNS.....	14
ADB’S ASSESSMENT ON THE IMPLEMENTATION OF THE PROJECT.....	15
POE REFLECTIONS ON PROJECT AFTERMATH.....	17
<b>ADB’S RESPONSE.....</b>	<b>18</b>
<b>ADB’S ROLE IN LIVELIHOOD RESTORATION .....</b>	<b>19</b>
DRAWBACKS OF ADB TOP DOWN SOLUTIONS ON LIVELIHOOD RESTORATION .....	19
<b>CASE STUDY: SONG BUNG 4 HYDROPOWER PROJECT.....</b>	<b>20</b>
<b>COUNTRY PROFILE.....</b>	<b>20</b>
<b>TYPES OF PRIVATE SECTOR INVESTMENTS IN VIETNAM INFRASTRUCTURE AND POWER GENERATION .....</b>	<b>20</b>
<b>ADB SONG BUNG 4 HYDROPOWER PROJECT DESCRIPTION .....</b>	<b>21</b>
<b>SONG BUNG HYDROPOWER PROJECT 4, SBHP, IMPACT AREA PROFILE .....</b>	<b>21</b>
<b>LIVELIHOOD VULNERABILITY: CIVIL SOCIETY CONCERNS .....</b>	<b>22</b>
<b>ADB’S IMPLEMENTATION OF THE REMDP .....</b>	<b>22</b>
<b>ADB COMPENSATION DISBURSEMENTS SUMMARY, SEPTEMBER 2014 .....</b>	<b>23</b>
<b>ANALYSIS.....</b>	<b>24</b>
WHAT ARE THE MAIN CHALLENGES IN DISPENSING COMPENSATION? .....	24
DO ADB INVESTMENTS FAIL TO ENCAPSULATE THE IMPACTS OF INFRASTRUCTURE PROJECTS IN THE CONTEXT OF COMMUNITY – BASED LIVELIHOOD?.....	26
<b>CASE STUDY: REHABILITATION OF THE RAILWAY IN CAMBODIA .....</b>	<b>26</b>
<b>COUNTRY PROFILE.....</b>	<b>26</b>
REHABILITATION AND CONSTRUCTION OF PHYSICAL INFRASTRUCTURE.....	27
LEGAL FRAMEWORK .....	28
PROJECT DESCRIPTION.....	28
THE RESETTLEMENT SITES .....	29
LIVELIHOOD VULNERABILITY: CIVIL SOCIETY CONCERNS.....	30

ON INADEQUATE COMPENSATION..... 30  
LOSS OF INCOME ..... 31  
ADB'S IMPLEMENTATION OF THE REMEDIAL ACTION PLAN ..... 31  
ANALYSIS CAMBODIA CASE: KEY CONSIDERATIONS..... 32

**CONCLUSION..... 34**

**REFERENCES..... 36**

## **OPERATIONAL DEFINITION**

ADB	-	Asian Development Bank
CDM	-	Clean Development Mechanism
COI	-	Corridor of Impact
FAO	-	Food and Agriculture Organization
IFIs	-	International Financial Institutions
IPs	-	Indigenous Peoples
MDGs	-	Millennium Development Goals
SPS	-	Safeguards Policy Statement
TA	-	Technical Assistance
TERRA	-	Towards Ecological Recovery and Regional Alliance
TRR	-	Toll Royal Railway
TSO	-	Thai Society of Ontario
UNFCCC	-	United Nations Framework Convention on Climate Change
VICA	-	VICA International Consultants Company

## INTRODUCTION

### ***Preamble***

The Mekong region is comprised of **Cambodia, Thailand, Vietnam, Laos and Myanmar**. It is rich in biodiversity, renewable and non-renewable resources and is a melting pot of some of the most culturally diverse peoples in Asia. The Mekong covering 2.3 million square kilometers, a home to over 300 million people from one hundred different ethnic and indigenous groups. Weaving through the five countries from the Tibetan Plateau is the 4,880 kilometer - long Mekong River that is the life-blood of all the agrarian and fishing communities in the region.

### ***What is GMS?***

Since 1992 the Asian Development Bank (ADB) initiated the Greater Mekong Sub-region (GMS) Program encompassing the five countries and parts of China. As of 2016, over USD 14 billion has been invested by the ADB. The GMS program is another flagship endeavor by ADB under the strategic pillar entitled “regional economic integration”. Furthermore the GMS Regional Investment Framework (RIF) 2013 – 2022 serves as the master plan for over 200 projects with an estimated investment of about USD 50 billion.<sup>1</sup>

In its own words the ADB claims to be a “catalyst” of the GMS program. The Bank intends to work closely with Mekong governments in order to develop, finance, coordinate and even conceptualize numerous development projects into local realities. At this point the GMS have become one of the key influencing mechanisms for guiding investment in the region. The key stakeholders are the Mekong governments, international financial institutions (IFIs) including the ADB, academics and other regional bodies such as the Association of Southeast Asian Nations (ASEAN). However according to a report in 2008 by Oxfam Australia, the projects in the GMS region promote economic growth and regional integration with limited or undermined focus on poverty reduction. The report further suggests that the GMS program has spent billions of dollars on infrastructure development projects, hydropower dams, and transport corridors with catastrophic impacts on people’s livelihoods, local environments and social fabrics.

Civil society-led impact studies on ADB funded GMS projects suggest that groups mostly dependent on natural resources bear the brunt of direct disempowerment from practices such as mining, logging, involuntary resettlement and road-building among others. Once removed from their rights of access to their customary resources, the ADB presupposes that affected communities will invariably integrate into new market-based economies. Most often than not, however this is far from the local reality.

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<sup>1</sup> The Greater Mekong Sub region Economic Cooperation Program 2015 ADB.

### **Conceptual Framework**

As the cases will unfold in this study, the common violations will mostly pertain to the suppression of local voice and the prevalent dominance of project driven finance, development consultants, and government agencies. For those of us who view such tensions as fundamentally political it becomes imperative for us to assess the importation of knowledge systems, dominant development models, and the power play between political and economic interests. Any attempt of a research (be it primary or secondary) on the issue of communities affected by large-scale development projects is and will remain political in nature. According to Kapoor and Jordan (2009) in 'Education, Participatory Action Research, and Social Change: International Perspectives', we need to recognize that any research inquiry begins from a social location that will produce knowledge useful for the purpose of ruling relations and the reinforcement of existing hierarchies of pre-existing norms.

The Greater Mekong Sub region initiated by the ADB in 1992 is anchored on the vision of transforming the members in the Mekong Region into a single borderless economy through a regional economic integration. The objective is to facilitate free flow of goods, investments and people to attain economic growth.<sup>2</sup> During the 5<sup>th</sup> GMS Summit, ADB endorsed a pipeline of 92 priority projects valued at USD 30 billion.<sup>3</sup> This involves sub regional road, airport and railway improvements; hydropower projects for cross – border power supply; tourism infrastructure development; and communicable disease control.<sup>4</sup> Since the advent of the ADB GMS program various investment projects such as railways in Cambodia and Vietnam are being rehabilitated for the trans boundary interconnectivity.

Therefore for the sake of this secondary study we need to be clear from the beginning about whose standpoint we are taking and why, whose questions need to be addressed and then write with responsibility toward those for whom we claim to write. Thus in the case of analyzing the impacts of ADB GMS project, it is incumbent on us as civil society to democratize and deconstruct the development knowledge base and thereby take the position for the communities outside the relations of the ruling.

### **ASEAN integration**

The AEC was signed on November 22, 2015 in Kuala Lumpur, Malaysia by leading Southeast Asian countries and finally entered into force on December 31, 2015 with the objective of creating a single market and production base, increase equitable economy development and facilitate the integration into the global economy. It also incorporates the strategic direction for the liberalization and facilitation of trade in goods, services, investment, capital and skilled labor. In addition, the single market and production base also include two important components, namely, the priority integration sectors, and food, agriculture and forestry.

The Southeast Asian countries comprising the GMS also belong to the ASEAN. While generally there is a robust economic growth in the region, development gaps between and within the members are still pressing particularly for the GMS countries with the exception of Thailand. The striking development gaps in the areas of income, human capital, institutions, disparities in governance and rule of law if not adequately addressed will impede the desired development outcome in the region. In addition, the ASEAN also has weak links to sub regional programs such as the GMS and ASEAN growth triangles.<sup>5</sup> ADB is investing heavily in both the

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<sup>2</sup> A Citizen's Guide to the Greater Sub Mekong Region Oxfam Australia. 2008.

<sup>3</sup> 2014 ADB Annual Report. Manila.

<sup>4</sup> The Greater Mekong Sub region Economic Cooperation Program Strategic Framework 2012 – 2022, Asian Development Bank. 2011.

<sup>5</sup> The ASEAN Economic Community: Progress, Challenges and Prospects. ADB Institute Working Paper Series. 2013

GMS and the ASEAN Economic Community either through investment projects, policy direction or technical assistance.

In 2014 during the 5<sup>th</sup> GMS Economic Cooperation Summit, China pledged USD 1 billion to show its commitment of support to the region's connectivity projects. In a statement by Premier Li Keqiang in the said summit, he made emphasis that infrastructure projects will be the driving force for regional economic development. Further, the ideas of the Silk Road Economic Belt and the 21<sup>st</sup> Maritime Silk Road will bring opportunities for deepening cooperation in the sub region. China is a key trading partner of GMS countries. In 2013 alone, the trade between China and the GMS members reached US\$ 153.4 billion.<sup>6</sup>

The ADB also underpins its strategy on poverty reduction on the basis that the backbone of economic progress is infrastructure development, which has become synonymous with economic and overall development. Accordingly, the right mixes and synergy of both hard and soft components of infrastructure supports inclusive growth and poverty reduction.<sup>7</sup> Nonetheless, a growing literature provides an alternative approach on development. Human development approach gives premium to the improvement of peoples' lives rather assuming that economic growth will automatically be translated to one's greater wellbeing. A critical component of human development is livelihood, which offers a dynamic view in the context of poverty alleviation measures and is also premised on the issue of sustainability.

Hence, for the purposes of this paper as civil society we are taking a biased research question:

**Do ADB investments fail to encapsulate the impacts of infrastructure projects in the context of community – based livelihood?**

We subscribe to the notion that livelihood comprises the capabilities, assets (including both material and social resources) and activities required for a means of living. Furthermore, a livelihood is sustainable when it can cope with and recover from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base (UK's Department for International Development). Shock tends to denote a more sudden pressure on livelihood whereas stress indicates a longer – term of pressure.<sup>8</sup> For the purposes of this study the 'stress and shock' will mainly refer to the impacts of the ADB investment projects.

It is being assumed that the ADB's knowledge, practices and beliefs may be geared towards a potential singular outcome only which fails to look at the immediate and long term impacts to human development.

***Objectives and Methodology***

This study intends to identify through an assessment of civil society case studies/reports and literature on the impact of ADB GMS projects the consequences on community livelihoods. It is also being expected that the findings of the research will be able to draw common thread in the nature of impacts by nature of investment namely transport and energy.

Laos Laos logy entailed looking at various ADB infrastructure project documents pertaining to transport, hydropower dams, and other infrastructure projects. Also included were civil society led participatory action studies on those ADB projects (including pre-project baseline surveys if applicable); ADB's Strategy 2020 Report and other academic journals, books and editorials were also exhausted in the review process.

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<sup>6</sup> Note: Find better source [http://usa.chinadaily.com.cn/world/2014-12/20/content\\_19133627.htm](http://usa.chinadaily.com.cn/world/2014-12/20/content_19133627.htm)

<sup>7</sup> Infrastructure for Supporting Inclusive Growth and Poverty Reduction in Asia. ADB. 2012

<sup>8</sup> The Theory Behind Sustainable Livelihood Approach

Throughout our inquiry we have tried to remain grounded in the limitations of our scope and availability of secondary resources based on case studies under investigation. In order to form a critique we have looked into three primary cases, which were selected on the basis of three reasons:

- a) There was adequate literature available on the case from both the ADB and Civil Society
- b) The case clearly represented the impact on livelihoods by the ADB project as the key focus of the research inquiry
- c) There was available feedback from the NGO Forum on ADB network active in the GMS on the cases chosen, for data validation and post inquiry follow up.

### ***Scope and Limitation***

As previously mentioned, the scope of this paper will mainly focus on available literature on three ADB projects in the GMS namely:

- 1) Nam Theun 2 Hydropower Project in Laos;
- 2) Song Bung 4 Hydropower Project in Vietnam; and
- 3) Rehabilitation of the Railway in Cambodia.

The insights from civil society working closely on the ground on these cases as well as the ADB response from our queries served further enrich the analysis of the paper.

Nonetheless in terms of limitation, the researchers experienced difficulty in obtaining key information particularly baseline or pre – project data from ADB and civil society sources, if it would have been available, the said information will be of great value in assessing the changes in the livelihood, income level and quality of living of project affected communities prior and after the project.

Relative to this was the limited information from civil society particularly in the case of Laos. Lastly, there was also difficulty of cross – validating the ADB response. The researchers appreciate the time and candor of concerned ADB divisions and departments in answering our queries on these projects. However, due also to the time constraints and resources available, validating the information obtained from the ADB particularly to the affected communities themselves was not undertaken.

### **Mekong Livelihoods**

The Mekong River for over a thousand years has nourished civilizations and housed one of the world's most diverse populations of fish and plants. The region is also rich in its natural resources, agricultural land and forests. Civil society reports shows that numerous dams have been built on the Mekong and its tributaries in China, Thailand, Laos and Vietnam, as well as many more in the planning process, are threatening Mekong fisheries – and thereby the food security they have provided for millions. According to International Rivers Network, "People affected could number in the millions due to the extensive changes expected to the river's downstream ecosystem." The dams are blocking Mekong fish from travelling upstream to spawn and thereby threatening fisheries. In general dams constitute a threat to fish due to the modification of flows and subsequent impacts on water and habitat quality and quantity.<sup>9</sup>

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<sup>9</sup> Baran, E. Strategic Environmental Assessment of Hydropower on the Mekong Mainstream: Mekong Fisheries and Mainstream Dams. 2010.

Between 60 and 65 million people live in the Mekong River basin and are overwhelmingly dependent on fisheries. About 80% of their protein intake comes from fish, with an estimated value of about USD 2.5 - 3 billion a year, the Bangkok-based NGO Towards Ecological Recovery and Regional Alliance (TERRA), reports.

They consume more than 1.5 million tons of fish per year, according to conservative Mekong River Commission (MRC) estimates.

The MRC, an inter-governmental body of Mekong countries based in Vientiane, Laos, says the basin provides a wide variety of breeding habitats for more than 1,300 species of fish, while the annual rise and fall of the river ensures a nutrient-rich environment on which the fish can feed. Aside from the fishermen, thousands more earn their livelihoods making and selling food products, agriculture and fishing gear and repairing boats, according to the MRC.

Livelihoods are a function of assets and structures, and a source of subsistence, income, identity, and social standing. Some social movements seek to expand people's asset bases.

Esteva and Prakash (1998) suggest that those displaced from most large-scale development projects are pushed to the ghettos, the slums, refugee camps or the other wastelands of modern societies. It is evident that the collapse of the market or state is influencing new opportunities for the excluded to stand on their own feet; to stop waiting for handouts or the fulfillment of all the false promises of equality, justice and democracy.

Bebbington (2007) in his book entitled 'Social Movements and the Politicization of Chronic Poverty' had described social movements to emerge from the contest patterns of resource control and access, and to challenge the institutions, structures, and discourses that determine the social distribution of assets, as well as their relative productivity, security, and reproducibility. Indeed, the emergence of movements might be understood in terms of their relationship to two distinct types of accumulation: **"accumulation by exploitation"** and **"accumulation by dispossession"** (Harvey, 2003). For this study the examples of **people's resistance will be understood as a defense of livelihood, in which movements emerge to protect assets by challenging the structures, discourses and institutions that drive and permit exploitation and dispossession.** At the same time, threats to livelihood might also elicit mobilization motivated by the cultural and psychological losses that might arise when livelihoods are disarticulated (Bebbington, 2004).



Figure 1 Photo retrieved from savethemekong.org

### **Relevant Safeguard Policy Provisions<sup>10</sup>**

The overarching objectives of the 2009 Safeguard Policy Statement (SPS) is to:

- 1) Avoid adverse impacts of projects on the environment and the affected households, where possible;
- 2) Minimize mitigate, and/or compensate for the adverse project impacts on the environment and affected households when avoidance is not possible; and
- 3) Help borrowers/ clients to strengthen their safeguard systems and develop the capacity to manage environmental and social risks (para.43).

The SPS has three operational policies that focus on the environment, Indigenous Peoples (IPs) and involuntary resettlement. Safeguard policies warrant the protection of the communities and preservation of the environment from the unintended harmful impacts of ADB - funded projects.

Category A projects are those that will likely have significant adverse impacts while Category B projects have impacts less significant impacts and Category C if it will only have minimal or no adverse impacts at all. Notwithstanding the gaps in the policy, the SPS also provides explicit policy principles and requirements on the following areas: environmental assessment process, biodiversity protection and natural resources management, pollution prevention and abatement, occupational and community health and safety and physical cultural resources<sup>11</sup>.

If potential adverse economic, social or environmental impacts from project activities other than land acquisition are identified, it will be avoided, or at least minimized, mitigated or compensated for, through the environmental assessment process. If these impacts are found to be significantly adverse at any stage of the project, the borrower/ client will be required **to develop and implement a management plan to restore the livelihood of affected communities to at least pre- project levels or better<sup>12</sup>**.

In addition the **Involuntary Resettlement Safeguards** cover **physical displacements**, which includes relocation, loss of residential land and/or loss of shelter, as well as **economic displacements**, e.g. loss of land, assets, access to assets, income sources and means of livelihoods. It also provides that the said displacements occur as a result of involuntary acquisition of land or restrictions on land use and/or on access to legally designated parks and protected areas<sup>13</sup>.

In the case of **Safeguards for Indigenous Peoples**, the borrower and the ADB will ascertain the consent of the affected IP communities in the following types of project activities:

- 1) Commercial development of the cultural resources and knowledge of IPs;
- 2) Physical displacement from traditional or customary lands; and
- 3) Commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial or spiritual uses that define the e identity and community of IP<sup>14</sup>.

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<sup>10</sup> All of the 3 projects were approved under the old policy

<sup>11</sup> Appendix 1 (Safeguard Requirements 1: Environment)

<sup>12</sup> Appendix 2 (Safeguard Requirements 2: Involuntary Resettlement, Objectives)

<sup>13</sup> Ibid. Scope of Application

<sup>14</sup> Appendix 3 (Safeguard Requirements 3: Indigenous Peoples, Special Requirements)

While free, prior, informed and consent (FPIC) as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples, the consent of affected IP communities pertains to the collective expression by the affected IPs through individuals and/or recognized representatives of broad community support for such project activities. Accordingly, the broad community support may exist even if individuals or groups oppose to the project activities<sup>15</sup>.

Below is a summary of the safeguard categories of the three projects included in this study.

**Table 1. Summary of Safeguard Categories**

<b>Project Name</b>	<b>Environment</b>	<b>Involuntary Resettlement</b>	<b>Indigenous Peoples</b>
<b>GMS Nam Theun 2 Hydropower Development Project</b>	A	A	
<b>Song Bung 4 Hydropower Project</b>	A	A	A
<b>GMS Rehabilitation of the Railway in Cambodia</b>	B	A	B

## **CASE STUDY: NAM THEUN 2 HYDROPOWER PROJECT**

### ***Country Profile***

Laos People's Democratic Republic (PDR) is one of the countries in transition and a low middle-income country in the East Asia and the Pacific region. According to its Laos Statistics Bureau, the country has a population of 6.5 million (2012). The Government of Laos had significantly lessened the proportion of the poor from as high as 46% in 1992 to approximately 27.6% in 2008.<sup>16</sup> However notwithstanding the booming economic development it does not automatically translate into improved access of social services particularly to the poor and vulnerable. According to the Universal Periodic Review of Human Rights Watch, Laos PDR has failed to protect the right to freedom of speech, press and assembly. In September 2014, the government adopted a draconian Internet decree that significantly restricts freedom of expression online. The country also remains to be as one of the poorest and least developed in South East Asia. While there are few improvements in the social indicators, Laos continues to fair the least in the said region.

The country is largely mountainous with plains and fertile soil along the Mekong River. The Mekong River stretches 1, 835 km of the country. According to ADB and the government it justifies that the rivers and streams offer a great potential for hydropower development. Accordingly, the ethnically diverse 6.8 million populations of Laos live in the 18 provinces with approximately 63% still living in the rural area. However, urbanization is approximately occurring at 4.9% each year.<sup>17</sup> The Government has earlier set ambitious targets for transitioning the country to middle income by 2020 while attaining the country targets for the Millennium Development Goals.

Laos's economy is mainly driven by the services, industry and agriculture sectors. The United Nations Food and Agriculture Organization (FAO) accounts that 93% of women participating in the labor force of the

<sup>15</sup> Ibid.

<sup>16</sup> World Bank Data (Note: For purposes of draft only, will still find a UN report for poverty stats among the 3 countries)

<sup>17</sup> United Nations Development Program: Country Information

country are employed in the agriculture sector. Its robust economic growth is attributed to its recent exposure to global markets, potential tourism industry, increased foreign investment in Laos's abundant natural resources and mineral exports. It is also remarkably rich with water resources, which brought considerable investments aimed at increasing the use of hydropower. Largely the amount of power generated is usually exported to its more prosperous and neighboring country, Thailand.

The economy has grown rapidly which is agriculturally based with over 80% of the population working in the said sector. Nonetheless, primarily gold and copper mining, hydroelectric dam projects as well as logging and rubber agribusiness concessions particularly to China and Vietnam have driven its economic growth. Despite this strong economic growth over the past decades, it is still off – track in meeting the hunger target and addressing undernutrition.<sup>18</sup> While economic activities have brought employment opportunities for the rural population, it also resulted into loss of existing livelihood activities highly dependent on agriculture.

### **Box 1. The Government of Laos**

Since the overthrow of the monarchy in 1975, Laos PDR practiced a centralized, one party system led by the President, Prime Minister and Politburo. The Laos People's Revolutionary Party (LPRP) rules the authoritarian one – party state. The most recent National Assembly (NA) election was held in 2011. The Constitution legitimizes only a single party; the LPRP and almost all candidates during elections are from LPRP members supported by the party.

The 2011 elections provided a process of enhancement of democratic right for the people of Laos in determining their representatives in the multi – ethnic country. The current Legislature has 132 members of the National Assembly with about 25% if women members.

The central government continues to deny citizens the right to change their government. Prison conditions were harsh and at times life threatening. Corruption in the police and judiciary persisted. The government infringed on citizens right to privacy and did not respect the rights to freedom of speech, the press, assembly or association. Local officials at times restricted religious freedom and freedom of movement. Trafficking in persons remained a problem. Workers' rights were restricted.

### ***Hydropower Development***

The key energy sector objectives of the government include bringing electricity to all by expanding and improving the main grid, or where cost – effective, by off – grid electrification; and earning foreign exchange by setting up export – oriented hydropower projects.

Accordingly, becoming the “battery of Southeast Asia” through exploiting its hydropower potential has been a longtime dream of the Government of Laos (GoL) and its backers. Furthermore, according to International Rivers, the country's rivers contribute around 35% of the Mekong's flow and have an estimated 18,000 MW of exploitable hydropower potential. These exports could generate millions of dollars in foreign exchange for the GoL. However, these plans have continually been thwarted: in the 1970s and 1980s by war and political instability and in the 1990s by the Asian financial crisis.<sup>19</sup>

<sup>18</sup> World Food Programme: Country Strategy

<sup>19</sup> Middleton, Carl et. al. Hydropower Development in Laos: An Overview International Rivers.

Today, there is a growing regional demand for electricity and new sources of financing in Laos. These include countries from China, Vietnam, Thailand and Malaysia, which promise to turn GoL's hydro dream into a reality. However while these new dams may bring wealth to the upper echelons of Laos society, the threat to food security and poverty for the affected Laos communities still remain.

The 1990s is said to be a golden age for the government's hydropower ambitions. The GoL signed Memoranda of Understanding (MoU) with the Thai and Vietnamese governments to export a total of 5,000 MW of power by 2010. Hydro developers rushed to Laos to seize this opportunity and by 1995, 23 MoUs had been signed with Korean, Australian, European and North American corporations to build 6, 676 MW of new hydropower capacity.<sup>20</sup>

### **Project Description**

The Nam Theun 2 is a \$1.45 billion hydropower project in the Khammouane Province of Central Laos. Since the operations began in 2009, Nam Theun 2 exports most of the 1,070 MW of power to Thailand. The Nam Theun 2 Power Company (NTPC), a consortium headed by Electricity de France International, developed the Project. Other stakeholders include Electricity Public Company Limited (EGCO) with a 25% stake, Ital – Thai Development with a 15% stake and the Government of Laos with a 25% share. In April 2005 the ADB approved USD 20 million loans, a direct loan to NTPC without government guarantee of up to USD 50 million and a political risk guarantee up to USD 50 million accordingly to mobilize commercial debt. There was also an International Development Association (IDA) grant of USD 20 million and a European Investment Bank (EIB) loan of USD 42.5 million.

Nam Theun 2 is a trans – basin diversion that has dramatically altered two Mekong River tributaries. A 39 – meter high dam has blocked the Theun River to form a 450-km<sup>2</sup> reservoir on the Nakai Plateau where 6, 200 predominantly ethnic minority people have been resettled. Downstream from the dam, only 2m<sup>3</sup>/s of water is released, which is not enough to sustain the fisheries that are a source of food and income for approximately 40 villages. Water is diverted down a 350m escarpment to the power station, before being transferred to the Xe Bang Fai River via a 27km downstream channel.

Through the \$250 million (net present value) in revenues that Nam Theun 2 would generate for the GoL over the 25 – year concession, the World Bank and the ADB asserted that the Nam Theun 2 project would help reduce poverty in Laos. The projected income for 2015 is estimated to be USD 222 million.<sup>21</sup> However, given the weaknesses in Laos' public expenditure management system, the World Bank insisted on a revenue management framework to direct the GoL's Nam Theun 2 revenues to poverty reduction expenditures<sup>22</sup>. Nonetheless, the revenues will still be channeled through the Laos Treasury and the allocation, monitoring and reporting on the use of Nam Theun 2 revenues will be primarily left to the Laos Finance Ministry and the State Audit Organization. There will be no independent oversight body or external independent auditing of the project's revenues. Under the NT2 Revenue Management Arrangements, progress reports on projects funded by NT2 revenues and accompanying financial reports should be submitted to the IFIs six months after the end of each Laos financial year. However, reporting delays and weaknesses continue to hamper efforts to formally confirm the utilization and allocation of all NT2 revenues to eligible poverty reduction and environmental management programs.<sup>23</sup>

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<sup>20</sup> Ibid.

<sup>21</sup> Sinha, S. Public – Private Infrastructure Advisory Facility (PPIAF). Indian Institute of Management

<sup>22</sup> International Rivers

<sup>23</sup> Nam Theun 2 Annual Update: 2013 Project Progress

### **Impact Area Profile**

Accordingly, the Xe Bang Fai is one of the major rivers of central Laos and the Xe Bang Fai basin's catchment area totals approximately 9,500 km<sup>2</sup> (IUCN, 1997). The areas of the basin are within seven districts of Khammouane province<sup>24</sup> and the three districts of Xaibouli, Vilabouli, and Atsaphone in Savannakhet province. The river and its many tributaries flow through a variety of ecosystems and geographical features. The Xe Bang Fai flows from its headwaters in the Say Phou Louang mountain range (along the Laos-Vietnam border) down to the river's floodplain and into the Mekong River.<sup>25</sup>

In addition, according to statistics from district offices, recent research, an estimated 120,000 to 150,000 people are currently deriving significant and important livelihood benefits from the Xe Bang Fai River. This population includes approximately 50,000 people living in at least 125 villages located directly adjacent or very close to the Banks of the mainstream Xe Bang Fai from its headwaters to its confluence with the Mekong River.

The river – based livelihoods vary from fishing, agriculture, cultivation of gardens along the banks and domestic livestock among others. The forests also highly dependent on the natural flood cycle from the Xe Bang Fai River provides livelihood resources such as non – timber forest products for use and sale. Many other villages are located along the eight main tributaries of the Xe Bang Fai and smaller permanently flowing and seasonally flowing tributary streams within the basin.<sup>26</sup>

Approximately 6,200 indigenous peoples living on the Nakai Plateau have been resettled to pave way for the construction of the reservoir. **It is estimated that more than 110,000 people downstream who depend mainly on the Xe Bang Fai and Nam Theun rivers for their respective livelihoods have been materially and directly affected by the Project.** Accordingly, this is attributed to the destruction of fisheries, water quality problems and the flooding of the riverbank gardens.

### **Livelihood Vulnerability: Civil Society Concerns**

The livelihood restoration programs aim to recover the resettled people's livelihood in the Nakai Plateau for more than 6, 200 resettled ethnic minority villagers on the Nakai Plateau, as well as downstream villagers. In some cases, approaches are still being tested and defined. The incomes of villagers in all areas affected by Nam Theun 2 have decreased once the reservoir is flooded and water diversions to the Xe Bang Fai River began.

Its five programs: **agriculture, forestry, fishery, livestock farming, and small businesses** were not done on schedule.

This challenge posted significant threats on the development and implementation of a sustainable livelihood program for the villagers in the Nakai Plateau. According to International Rivers, resettlers have been moved to what will become reservoir shores so that they can remain, by their request, on their traditional lands. The soil quality on the Nakai Plateau is generally poor. In addition, 67% of the land villagers once used for farming and grazing livestock will be flooded by the large reservoir.

The Project significantly increased the flows in the Xe Bang Fai River and caused fisheries losses, increased flooding, water quality problems, erosion and loss of riverbank gardens for over 120,000 people. The

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<sup>24</sup> Nong Bok, Xe Bang Fai, Tha Khek, Mahaxay, Nyommalat, Xaibouathong, and Boulapha

<sup>25</sup> Shoemaker, et. al. People and their River. International Rivers.

<sup>26</sup> Ibid.

proposed compensation and mitigation measures and budget are inadequate to deal with the scale and severity of these impacts. The villagers are expected to grow cash crops on poor quality land to sell in an unidentified market. Many resettled villagers abandoned their farmland because of low soil fertility and the absence of a market for the said cash crops.

The construction of irrigation systems in the compensatory farmland was completed in October 2010 in some of the relocated villages. Since the Concession Agreement stated that “0.66 hectares of prepared and irrigated land” must be allocated to each relocated household and “at least 0.16 hectares of the land must be ready for growing rice” by 2008<sup>27</sup>, this means irrigation was completed two years late.<sup>28</sup>

The compensatory land given is also too small. There was also no adequate planning for future expansion and second generation of families who would similarly need land and housing. Nonetheless villagers continuously grow dry-land rice because they cannot afford an uncultivated period and this further resulted to soil degradation. Reports have also further indicated that the affected communities were originally promised 10,000 ha of production forest but the area was reduced by at least 40%. At the same time this is also being threatened by illegal logging.

On the other hand there are also many villagers who started fishing in the dam reservoir after it was filled. However, a number of villagers reported an impression that the catch in 2010 has been reduced to nearly half of the catch in 2009. NTPC has released several species including tilapia, but all except for the fish locally called Pa Park are non-native species introduced for farming. Release of these species has raised concerns over negative impacts on the ecosystem and other possible negative consequences.<sup>29</sup>

More than 10,000 people affected by the construction of the downstream channel and other project infrastructure did not receive compensation before their land and other assets were taken. It is unclear if there will be enough land to provide most of 200 significantly affected households with critical land – for – replacement. In January 2008, the NTPC proposed a revised USD 16 million Downstream Implementation Plan, which covers mitigation, compensation and livelihood restoration activities.

### **ADB's Assessment on the Implementation of the Project**

Following discussions in May 2013, the Minister of Energy and Mines provided guidance, which was accepted by the stakeholders, on the process towards closing the Resettlement Implementation Period (RIP). A timeline has now been set out, under which the Resettlement Committee (RC) may make a decision at the end of 2015 whether to close or extend the RIP, on the advice of the Environmental and Social Panel of Experts (POE). Following this agreement, all the stakeholders are working together to:

1. Further enhance the effectiveness of livelihoods assistance activities;
2. Ensure that sufficient funding and oversight arrangements remain in place for key institutions;
3. Secure long-term access of resettlers to key natural resources (e.g., fisheries and agricultural land);
4. Strengthen the capacity of relevant Government agencies to assume their responsibilities; and;
5. Strengthen the ability of communities to secure their interests.

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<sup>27</sup> Page 77, Section 2, Part 2, CA

<sup>28</sup> \*\*Mekong Watch Report 2010

<sup>29</sup> Ibid.

Accordingly, the achievements of the Nakai Resettlement program so far have been impressive. As the first step towards possible closure of the RIP, NTPC carried out a 7th round of the Living Standards Measurement Survey (LSMS 7) in early 2013. The data indicate that over 97% of sampled resettler households are above the household income target of the rural poverty measured using per capita consumption.

In 2013 ADB's Nam Theun 2 Annual Progress Report it claims that, most households consume at a level significantly above the target, and almost all have monetary savings providing a potential buffer in the face of any future income shocks. Striking improvements have also been attained in health, nutrition, education and sanitation. For example, 90% of resettler children aged 5-9 are attending primary school. Stunting rates of children have decreased from 43 % to 34 %. Almost 98% of resettler households are using malaria bed nets.<sup>30</sup>

Further the fish catches from the Nakai Reservoir have stabilized since impoundment according to ADB, ranging from 20-80 tons/month in 2012 and 2013, depending on the season. The results of LSMS 7, undertaken by NTPC in 2013, indicate that fisheries are the most important single income source for resettlers, contributing around 40 % of household incomes during 2013. Fishing is most important to the vulnerable and poor households. Therefore sustainable management of fisheries is a critical factor in sustaining the resettlers' living standards.<sup>31</sup>

Lastly, a number of livelihood activities were also supported under the NTPC Downstream Program. NTPC monitoring data indicate that there has been promising progress in livestock raising and crop production activities. More work is needed to develop fish raising activities. The XBF Agriculture Technical Center, which is a combined research and supply facility that provides rice seeds, brood-stock fish, fish fingerlings and fish meat to local fish seed producers, local fish farmers and local markets, respectively, is playing an important role in this regard. However, clearly the Panel of Experts Report contradicts these said developments from ADB's end.

## **Analysis**

Accordingly, structured under a build – own – operate – transfer, the Project:

- 1) Supports the Government of Laos' poverty alleviation efforts by generating income of about \$1.9 billion over the life of the Concession to support Government poverty reduction programs;
- 2) Supports the Government's energy policy of developing hydropower resources to generate revenues from the export of power;
- 3) Promotes private sector participation in infrastructure;
- 4) Will supply Thailand with long-term and competitively priced power and strengthen its security of supply; and,
- 5) Promotes regional cooperation, as the Project is part of the GMS Master Plan for power generation<sup>32</sup>.

While a closer scrutiny of the Concession Agreement provides that the Resettlement Objectives are as follows:

- 1) Ensure that all project affected persons promptly receive their entitlements under clause 15;
- 2) Ensure that resettlers have their income earning capacity enhanced and achieve the Household Income Target<sup>33</sup>, with adequate support being provided by the parties during the Resettlement Implementation Period;

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<sup>30</sup> Nam Theun 2 Annual Update: Project Progress during 2013

<sup>31</sup> Ibid.

<sup>32</sup> Project Data Sheet

- 3) Materially improve resettler livelihoods on a sustainable basis;
- 4) Restore livelihoods of project affected persons (other than Resettlers who are covered by paragraph (c) on a sustainable basis;
- 5) Have the project affected persons participate in the consultation, planning and design process of their new settlement and production areas;
- 6) Apply special measures as required towards ethnic minorities and vulnerable persons to take care of their needs and foster self-reliance and to improve their socio-economic status;
- 7) Provide for the construction of infrastructure in the resettlement area in accordance with the standards set out in this part for the best interests of the local population and the population in and around the resettlement area;
- 8) Make replacement land available to all those interested with cash compensation only to be considered for those with specific plans to permanently move out of the district;
- 9) Conceive and execute resettlement and rehabilitation plans as specific NT2 Concession Agreement Signing Copy - Volume 2A, Schedule No. 4 Part 1 - April 2005 6 development plans; and
- 10) Comply with the NT2 Resettlement Policy.

ADB's Nam Theun 2 Annual Progress Report in 2013 provides that the achievements of the Nakai Resettlement Program has been impressive so far with reference on the LSMS7 carried out by NTPC in early 2013. As cited in the previous section, ADB claims that the fish catches from the Nakai Reservoir have stabilized base on the NTPC fish catching monitoring data report. While considered as the most successful livelihood pillar and offers the highest income to resettlers, it runs in contrast to what the villagers and Village Fishery Association (VFA) reported to the POE 23<sup>rd</sup> Report in 2014. Accordingly, the villagers and the VFA reported to the Panel that the catch levels were decreasing in the reservoir. This is attributed to the illegal fishing in the reservoir by the villagers themselves and fishing by outsiders as well. The significant proportion of illegal fishing in the area is threatening the sustainability of the fishing sector, which is supposedly for the benefit of the resettlers. Hence one of the recommendations provided by POE is a calling for stringent enforcement of patrolling in the reservoir to apprehend and deter illegal activities.

### **POE Reflections on Project Aftermath**

The Nam Theun 2 2013 Annual Progress Report further states that the first steps towards the possible closure of the RIP might be on its way because of the 'positive' developments in the LSMS. It indicated that 97% of sampled resettler households are already above the household income target of the rural poverty line. However the figures are also not conclusive as incomes from illegal logging and poaching are also included but should not be the case. Furthermore as the POE noted the state of forestry would largely determine when the RIP is in fact can be brought to closure. The POE reports that the there are still no dividends paid to the resettlers since April 2012. The size of forest estate has been largely reduced through encroachments and conversion to additional agricultural land. Logging of forest area around watershed by communities for livelihood is rampant along with poaching and easy routes to Vietnam and China with porous borders. To this the ADB responded that:

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<sup>33</sup> **Household Income Target** means the yearly target for the income of Resettler households, including income in cash and in kind, to be reached at the beginning of year 5 of the Resettlement Implementation Period, being for each Resettler household in the Resettlement Area, the greater of: (a) the then current National Rural Poverty Line, multiplied by the number of persons in the household; and (b) Lao PDR Kip 1,420,800 per person, multiplied by the number of persons in the household (this being the equivalent to USD 800 per average household in June 2002, using the exchange rate of Lao PDR Kip 9,800 = USD 1 and average household size being 5.518 persons).

*ADB, together with other IFIs and the POE, has raised this issue with the government for a number of years, calling for better patrolling of the watershed, stronger enforcement to prevent illegal logging and poaching, and intensified education to communities about the detrimental effects of these activities. The government has provided assurances that more attention will be given to curtailing and preventing illegal logging and poaching.*

The POE noted that there should be a forest management and development plan. Further that the NTPC should take the lead in developing the said Forest Management Plan and Sustainable Forestry Plan that in fact is listed in the Concession Agreement. It should cover an inventory of the forest, associated operational plan and costs, dividends to the resettlers. Pending the installations of these safeguard and sustainability measures for the forestry sector, the closure of the RIP should be postponed.

Similarly the state of the agriculture is not at par with the expectations of the POE. It even adds that the “many of the statistics (on agriculture) make for a discouraging reading.” The low utilization of the 0.66 and 0.22 ha plots is a result of the inadequacy of the said plot of lands with its supposed objectives. The POE identifies that the soil is seldom fertile in the resettlement area. In addition, the pumped irrigation and the intensive farming practices require new technology and resettlers are more accustomed with more ‘remunerative and usually less labor – intensive’ livelihoods like fishing. The said land is not even enough to pasture two water buffalos.

## **ADB's Response**

On the inquiry of how the resettlement site was chose, ADB has this to say:

*Field surveys carried out in 1995 identified potential resettlement areas. After further investigations 3 sites on the Nakai Plateau and the Gnommlat site were considered suitable for resettlement.*

The ADB's response on the allocation of 0.66 ha plots and the non – recognition of the lapses for such calls for more immediate attention how to rectify the gap and enable the villagers to make use of the plot given. While fishing and forest products have been the main drivers of the livelihood income, interventions on how to utilize the plots and the agriculture sector, as the ADB, GoL and other key-implementing actors should also address a whole. The POE recommended that the practice of intensive farming on the plots – would require new approach, new technology and new farming and husbandry practices. ADB added that,

*In addition to introducing soil fertility enhancement techniques and providing irrigation, other livelihood options were also introduced to ensure villagers would earn adequate incomes.*

On the other hand, another livelihood option was the livestock owned by the resettlers. The women take charge of small stocks like pigs, goats, ducks and chicken; whereas the men manage large livestock such as the cattle and buffalos. Accordingly the current practice in relation to crop and stock management are perceived to be unsustainable as it will result to land degradation and weed invasion. It also poses risk of epidemic diseases from the watershed, Khamkeut and Gnommlath Districts where there are cases of epidemics and low vaccination rates. Villagers as reported by the POE also do not also see the buffalos, as income producers but there had been a shift towards cattle in terms of providing a stable income source.

### ***ADB's Role in Livelihood Restoration***

Answering the research hypothesis earlier set in the course of this paper: **Do ADB investments fail to encapsulate the impacts of infrastructure projects in the context of community – based livelihood?** This paper as illustrated in the case of Nam Theun 2 certainly responds in the affirmative. Despite the claims made by the ADB on the significant improvements in the resettlement period, it would not have been the case if in the first place ADB had exercise due diligence in ensuring the quality of life and livelihood of the project affected communities prior resettlement. Secondly, despite the lapses in project implementation there still exist gaps in the implementation of the resettlement period.

### **Drawbacks of ADB Top Down Solutions on Livelihood Restoration**

Specifically, ADB in its own admission that new techniques and livelihood options are being introduced to compensate for the loss of the community – based livelihood those resettlers are previously accustomed with. This is a classic case wherein project affected communities, in the process are asked if not compelled to incorporate essential changes in their respective way of living and livelihood practices. The said process usually takes an ample amount of time to adapt and accept the changes in the new environment. Reverting back again to the human development approach as in this case is again set as one of the primary objectives of the project. However, poverty must also be seen as a deprivation of basic capabilities rather than merely lowness of income, which is the standard criterion for identification of poverty.<sup>34</sup> The Nam Theun 2 illustrates that project affected communities were uprooted in their villages to pave way for the hydropower dam. Not only did they experienced displacement but also their 'basic capabilities' in the livelihood they are familiar with were taken away from them and created another form of impoverishment.

The POE notes that, the first generation of resettlers has been asked to absorb fundamental changes in attitude, livelihood practices and daily behavior. Further that major adaptations to come will only be achieved by the promising second generation of villagers with better educational opportunities and ready acceptance of new technologies. Pending this desired outcome, the ADB, other IFIs and the government should ensure that it continuously monitor and implement the objectives and actions set in the Concession Agreement and Resettlement Policy. Furthermore, the lessons learned in developing one of the 'groundbreaking hydropower projects' should be replicated to existing and future ADB projects and that there should be utmost protection to the project affected communities. To date the road map for maintaining the sustainability of the gains of the project is being drafted by the NTPC.

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<sup>34</sup> Amartya Sen: Development as Freedom

## **CASE STUDY: SONG BUNG 4 HYDROPOWER PROJECT**

### ***Country Profile***

Vietnam is a developing country and classified as a middle-income country in the East Asia and Pacific region with an 89.71 million population (2013). It also has one of the highest urbanization rates in Southeast Asia at 29.8%<sup>35</sup>. Similarly as in the case of Laos, Vietnam was able to reduce its poverty incidence from approximately 60% in the early 1990s to about 20.7% in 2010. It is also estimated that more than 30 million live in the urban areas accounting for approximately 34% of Vietnam's total population. Consequently, this also puts a strain on its increasing energy demand by as high as 14% a year<sup>36</sup>. It is against this backdrop that the Government intends to address the said increase in electricity demand through the construction of the **Song Bung 4 Hydropower Project** in 2007.

Vietnam's economic dynamism over the past two decades has given rise to a significant increase in energy demand. With an average annual GDP growth of 7.5% over the past five years and increased access to electricity for consumers, generation capacity is lagging behind current industrial and residential demand. Power demand is expected to rise by approximately 16% annually from 2008 to 2010 and continue to increase at 11% per year between 2011 and 2015. In light of these figures water governance especially hydropower generation and its distribution has been a key focus for Vietnam policy makers. Since the advent of IFI investment this has further changed dramatically in the last few decades. Smits and Middleton (2014) in their paper entitled "New arenas of engagement at the water governance-climate finance nexus? An analysis of the boom and bust of hydropower CDM projects in Vietnam, WA 7(3): 561-583" corroborate this argument by indicating that the Vietnamese Government has been engaged multilaterally and bilaterally heavily in investments involving extensive construction of dams for hydropower or irrigation, and wider economic, social and political transformations.

Smits and Middleton (2014)<sup>37</sup> further identified that the Vietnamese government has constructed over 500 dams, weirs and sluices between 1959 and 1999. The primary drivers of these investments have been improved irrigation, electricity generation and protection from flooding; unfortunately the ground reality aftermath has been direct displacement of communities, increased debt and poverty both near the project sites as well as surrounding areas upstream and downstream. As the world evolved in its development consciousness namely with the advent of the Clean Development Mechanism (CDM), it seems that the Vietnamese government long before was already heavily dependent on hydropower as its primary source for electricity.

### ***Types of Private Sector Investments in Vietnam Infrastructure and Power Generation***

Out of necessity, the Vietnamese Government has actively promoted independent production of power through Independent Power Producers or IPPs. Furthermore studies show domestic and foreign-owned IPPs accounted for as much as 24% of installed capacity in 2006 and this figure has been on the rise ever since. The WB expects new wholly foreign-owned and financed IPPs to be the largest area of development in Vietnam's power sector over the medium term, amounting to several thousand MWs of new capacity (Hogan Lovells, 2009)<sup>38</sup>. The role of private sector investment does not only limit itself to the power sector but it encompasses all investment in infrastructure projects in Vietnam in general. It seems that foreign

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<sup>35</sup> Asian Trends Monitoring

<sup>36</sup> The Economist

<sup>37</sup> Mattijs Smits and Carl Middleton. New Arenas of Engagement at the Water Governance-Climate Finance Nexus? An Analysis of the Boom and Bust of Hydropower CDM Projects in Vietnam. 2014

<sup>38</sup> Hogan Lovells. Vietnam's Independent Power Producers Sector Toward Market Liberalization. 2009

participation in Vietnamese infrastructure may become more common in the near future. The success of the Phu My 3 power plant, the first build-operate-transfer (BOT) power plant invested by foreign investors in the country, has encouraged further foreign investment. Where private participation in infrastructure has occurred, the majority of contracts have been BOTs. Other forms of concession that have been offered by the Vietnamese Government include Build-Transfer-Operate contracts (BTO), Build-Transfer contracts (BT) and Build-Own-Operate (BOO) contracts. The Vietnam Government's Decree 78/2007/ND-CP ("BOT Decree") sets out regulations concerning investment in infrastructure facilities on the basis of BOT, BTO, BT and similar contractual forms (to be referred to collectively as BOTs). To create favorable conditions for foreign investors participating in infrastructure projects, the Vietnamese Government has worked on an update of the BOT Decree for some time and a decree amending the BOT Decree is intended to be issued in late 2009.

### ***ADB Song Bung 4 Hydropower Project Description***

According to the ADB, the planned capacity addition for 2006 – 2015 is over 23,000 MW wherein 10,000 MW are already due for construction<sup>39</sup>. The Electricity of Vietnam (EVN) identified that the total investment requirement for the power sector is USD 23 billion and USD 14 billion of which is through non – EVN investments including the private sector. It is in this context that the Bank will finance the gap in the energy sector. The Song Bung 4 with an installed capacity of 156 MW is also considered as the first hydropower project in the country to receive support from a multilateral financing institution.

In a report by Earth Rights International Mekong School entitled "I Want To Eat Fish Not Electricity: Public Participation in Mekong Basin Development" specifically looking at the Song Bung 4 project affected communities, the project has been described as consisting of a dam and a reservoir, and a 156 MW hydropower plant which was funded by the Asia Development Bank with a total project cost estimated at US \$254 million. The dam (120 m high, 360 m long and 340 m wide) will create a reservoir with a storage capacity of 621 MCUM and a surface area of 18.4 km<sup>2</sup> (the figures above have been corroborated by the ADB's own REDP 2010 report). The dam project has been built on the Bung River, a tributary of the Giang River, which is a tributary of the Vu Gia River in Nam Giang district, QuangNam province, in Central Vietnam (ref. Figure 1).

The ADB had identified approximately four villages or 253 households that will be affected by the project and 1,041 people that needs to be relocated. The majority of the affected households are from the Co Tu Ethnic minority. They practice a multitude of livelihood activities from livestock (e.g. pig, chicken, duck, buffalo, etc.), agriculture (e.g. home garden, wet rice, improve traditional upland farming), fishery, and agro – forestry as well as non – farming income generating activities.

### ***Song Bung Hydropower Project 4, SBHP, Impact area profile***

According to estimates made by civil society groups (VRN, BIC and Earth Rights International Mekong School) the SBHP project was threatening to displace over 200 households, belonging mostly to the Ka Tu ethnic minority community. These people were residents from four particular villages along the Bung River in Zouil commune, consisting of Pa Rum A, Pa Rum B, Pa Dhi and Thon 2 village. The main community which will be most affected by the Song Bung 4 Dam Project is the Zuioh community. Earth Rights International in their study identifies that these community residents were classified as the most vulnerable and have also been recognized by the Vietnam Government's national poverty reduction. Furthermore, Pa Rum B village has 56

<sup>39</sup> Project Data Sheet: Project/ Program Number 36352 - 013

families with 256 individuals, including 55 families from the Ka Tu ethnic group, and one family of Kinh. The population includes 79 women, 101 men and 76 children (some below 12 years of age).

It should also be noted that farming, fishing and agriculture were the mainstay livelihoods of these residents. Thus the Song Bung 4 dam being built in the name of national development was mostly for the demand of the Quang Nam province electricity use and not for the areas around the project site. Furthermore, the electricity generated from the hydropower project is expected to add to the national electricity grid. The Pa Rum B village is placed on a flat terrain surrounded by hills. They often use the flat terrain for planting vegetables and use the forest for non-timber products such as herbs, medicinal plants, and fruits among others. Their lives depend on the land, the river, the streams, the forests and farmland. In terms of housing most residents live in houses built in a circular formation around the village center/community house known as the Guol House. The Guol house is a multi-functionary facility, which is used for most village activities, meetings and cultural ceremonies. Pa Rum B also has a primary school, a commune medical center, and a nursery school.

All of the students study at the primary school together from the six villages in Zuoih commune. Earth Rights International in their study clearly state 'Once the dam is completed the villagers land will be submerged by the reservoir including their houses and farmland. The four most agriculturally productive villages will be resettled to new lands.' As a result it is fair to conclude that the numerous communities residing within the Zuioh commune existing will lose their natural way of life for the years ahead.

### ***Livelihood Vulnerability: Civil Society Concerns***

Civil society groups have also observed that local people make their living from growing up-land rice through slope-farm crop cultivation. This is quite a different practice from traditional flatland agricultural farming; locals often use a Slash-and-burn technique that is an indigenous practice, which is quite difficult to master by outsiders. Apart from slope farming the community residents were also involved in the raising of cattle, pigs and chickens, sifting for gold, hunting animals in the forest, fishing, as well as outsourcing as physical laborers in road construction.

The Song Bung 4 Project is also branded as a UNFCCC CDM Project to reduce CO<sup>2</sup> emissions through hydropower. Smits and Middleton (2014) have identified that the Project Design Document (PDD) of the CDM application for Song Bung 4 does not acknowledge the four villages and their consequent resettlement as a significant social impact. Smits and Middleton (2014)<sup>40</sup> further argue that this kind of omission of critical issues is often associated with large-scale projects in CDM to avoid reparation and rightful compensation. In the case of Song Bung 4 the ADB documentation especially the Resettlement Ethnic Minority Development Plan (REMDP) comprehensively tackles the issue of the villages identifies as there displacement automatically triggers the ADBs safeguard policies.

### ***ADB's Implementation of the REMDP***

On the issue of the Song Bung 4 there has been numerous monitoring and evaluations of the REMDP with a comprehensive list of direct consultations with affected households, Co Tu villagers, project developers, EVN and other stakeholders. According to the ADB's Independent Social Monitoring Evaluation Report published

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<sup>40</sup> Mattijs Smits and Carl Middleton. New Arenas of Engagement at the Water Governance-Climate Finance Nexus? An Analysis of the Boom and Bust of Hydropower CDM Projects in Vietnam. 2014

September 2014 “from July 3 to 8, 2014, VICA Independent Consultant Team (the Consultants) has implemented the eleventh monitoring mission. The main purposes of the monitoring mission include:

- (i) Collecting information, confirming the actual results of the implementation of the REMDP of SB4HP;
- (ii) Analyzing and evaluating different aspects of REMDP implementation in terms of resettlement, livelihood development, gender and ethnic minority;
- (iii) Providing crucial recommendations to improve the REMDP implementation. ADB’s implementation progress of the main project components was basically in line with the schedule approved by EVN under the Decision No. 47/QD-EVN dated 24th January 2011 on approving the overall progress (revision) of SB4HP.

The items of the main works were commenced on 25th June 2010.

### ***ADB Compensation Disbursements Summary, September 2014***

By the monitoring time, compensation payment has been made and completed in 12 main work items and auxiliary work items. The key work item (reservoir flooded area) has been completed as follows:

- (i) Compensation and assistance payment were made for Affected Households (AH) in Pa Pang village and village No. 2 in Ta Poo commune;
- (ii) Compensation and assistance payments were made for reservoir flooded area and areas acquired for construction of Resettlement Sites for people in PaDhi village, Pa Rum A village, and Pa Rum B Village;
- (iii) Compensation payments were made for work items in administrative quarter of Zuoih commune;
- (iv) Payments of allowance for reclamation of farm land, construction of Guol house were made for Pa Rum A, Pa Rum B and PaDhi villages;
- (v) The first compensation payment was conducted for 63 out of 64 AH in Khe Vinh reservoir flooded area under Vinh Village, Ta Poo commune (household of Gieng Bon has not received);
- (vi) The second compensation payment plan was established for 62 AH in Vinh village, it is in the process of completing dossier to submit for appraisal;
- (vii) Non-flooded land area of Pa Rum B Village has been completed measurement survey and identification of land status. It is expected to be completed in the fourth quarter of 2014.

The construction of access roads by the ADB to Pa Rum A and Pa Rum B RS (in combination with the temporary road for SB2HP construction) had been completed and put into use since April 2012. Completion of Song Bung Bridge has facilitated travel and transportation from other villages to Pa Rum A and Pa Rum B RS. Currently, the access road to Pa Pang RS has been put into use since April 2012. Construction contractors and local people can access to Pa Pang RS through the bridge and the asphalted road (at the connecting section with National Highway 14D). By the monitoring time, the access road to PaDhi RS has been completed and put into use since Quarter II of 2013. 2.5 km –long flood-over bridge and road 14D have basically been completed and put into use.

Furthermore according to the ADB the Co Tu Affected Peoples were assisted in accordance with the Project Policy Framework (PPF) and Vietnam Government’s policies on affected ethnic minorities. The compensation and assistance amount had been paid in full to them (with the presence of both husband and wife) after they signed (or finger printed) on the list of acknowledgement receipts.

In general, compensation and resettlement progress was delayed about 8 months in comparison with the approved schedule due to various reasons. However, according to the independent monitoring consultant’s evaluation, the compensation and assistance payment for AHs was implemented in compliance with approved REMDP’s regulations by Center for Land Fund Development in Giang Nam district in collaboration with SB4HPMU.

## **Analysis**

The 156 MW Hydro Power Plant as described in the earlier chapters will impact local communities as well as those who reside near the reservoir site. Going back to the numbers-Pa Rum B village has 56 families with 256 individuals, including 55 families from the Co Tu ethnic group, and one family of Kinh. The population includes 79 women, 101 men and 76 children (some below 12 years of age).

1. Over 200 households will be impacted, belonging mostly to the Ca Tu ethnic minority community.
2. And most adversely affected by SB4HPMU project is the Zuioh community.

One of the key concerns regarding the impact of the SB4HP is the fact that these communities were very stable in terms of sustainable livelihoods, housing and healthy social frameworks and infrastructure (housing, facilities, etc.) before the project was introduced into their lives. As a result the resettlement of these villages and people would in essence uproot them from a very stable and grounded socio-economic base. As civil society through various studies have pointed out, the core elements of a community – resource base, house, community space, health service, schools and social fabric- all needed to be recreated. This was and still is a very difficult resettlement process for the ADB and the Vietnamese Government to undertake. The REMDP was the key program in the SB4HP to facilitate this process and its implementation and design were crucial for any form credible positive impact on the resettled communities.

Some of the key questions, which have been asked to SERD for this study, are listed below along with their responses

### **What are the main challenges in dispensing compensation?**

*“Delays in the implementation of REMDP, compensation payments and physical relocation for three villages (Pa Rum A, Pa Rum B and Pa Dhi) were mainly due to the delayed start of dam, spillway, tunnel and power station construction, which commenced on 3 September 2010 – 20 months later than scheduled during appraisal. Compensation and assistance payments for AHs as agreed in the REMDP are complete. The second phase of compensation for the reservoir flooded area in Vinh hamlet, Ta Poo commune was completed in August 2014. The Detailed Measurement Survey for unflooded land in Pa Rum B is being conducted. The compensation payments are expected by June 2015. SB4HPMB, in cooperation with Center for Land Fund Development of Nam Giang, the Agribank of Nam Giang district and Community Mobilizer, has advised AHs to open saving accounts after receiving compensation payments. Husbands and wives are joint owners of the saving accounts.-The Co Tu ethnic minority compensation and assistance has been completed.”*

In response to queries on **resettlement site selection and livelihood restoration** the SERD responded as follows-

*“Consultations with AH's informed the selection and design of resettlement sites. Numerous consultations were carried out over a number of years. SB4HPMU and the consultants, together with the AHs, identified locations taking into consideration the advantages and disadvantages of each resettlement site. In Pa Rum A and Pa Dhi, AHs still cultivate the land they were using before resettlement, as this land is not flooded, so land quality and yield capacity remain unchanged. In 2013 and early 2014, only a minority of households had commenced cultivation of their newly allocated land. By the*

*end of 2014, however, 2/3 of households were cultivating rice, and rice output was reported to be higher than before. Households are also growing beans.*

*Consultants under an associated technical assistance (TA 7861-VIE: Implementation and Monitoring of Song Bung 4 Hydropower Project Resettlement and Ethnic Minority Development Plan) are monitoring the income restoration process, and the efficiency of agricultural production in the four-resettlement sites. "*

In case of the **resettlement** of the communities the SERD further added-

*"All activities related to site clearance of the resettlement sites and villages have been completed. To date, the resettlement sites and associated structures have been handed over by SB4HPMB to the Nam Giang DPC, and the Tapooh and Zuoih Commune People's Committees (CPC). The operation and use of Guol Houses, schools and health clinics will be managed and supervised by the CPCs. These structures are under warranty through to August 2015. "*

One of the key complaints by civil society and local communities has been the **failure of livelihood restoration** options such as the chicken farming and flatland gardening. The SERD was asked on ADBs response to these failed initiatives, their response is as follows –

*"Consultations about livelihood restoration have been conducted with AHs in different villages. Based on these consultations, trainings have been conducted on investment and livelihood alternatives. Activities will continue to be carried out by consultants recruited under TA 7861-VIE: Implementation and Monitoring of Song Bung 4 Hydropower Project Resettlement and Ethnic Minority Development Plan, including follow-up consultations in each village about the livelihood activities AHs have opted to pursue"*

The project at present is near completion with most of the compensation issues to be settled by 2015. According to the SERD all REMDPs have been completed. Associated infrastructure have also been completed and put into operation, including:

- Electricity supply: (i) a 35 kV electricity line; (ii) a 22 kV electricity line into Pa Pang that is supplying power for households in Thon 2 and Pa Pang; (iii) a 35 kV electricity line to Pa Dhi, Pa Rum A and Pa Rum B resettlement sites.
- Access roads to Pa Rum A and Pa Rum B resettlement sites, which have been in use since April 2012.
- The Song Bung Bridge (at the connecting section with National Highway 14D), which is facilitating transportation among hamlets and the Pa Rum A and Pa Rum B resettlement sites. The road to Pa Pang and Thon 2 was also put into use for traffic starting in April 2012, and the road to Pa Dhi was put into use in mid-2013.

From the SERD end in regards to the REMDP; VICA Consultants Limited, an independent consultant firm was appointed a six-year contract requiring the submission of semi-annual independent monitoring reports (12 in total) on the implementation of the REMDP. Eleven monitoring reports have been uploaded on [www.adb.org](http://www.adb.org) to date, and is open for review. The ADB has worked with VICA through SB4HPMB and assisted with comments and recommendations on how to improve monitoring and reporting. After the twelfth periodic monitoring report is submitted, VICA is required to produce a final monitoring report covering the entire implementation of the REMDP, which are due in 2015.

Going back to the research question of this study-

### **Do ADB investments fail to encapsulate the impacts of infrastructure projects in the context of community – based livelihood?**

In case of the SB4HP the REMDP was a comprehensive measure that was taken by the ADB early in the project cycle to ensure livelihood restoration after resettlement. One also has to recognize that the gains of some of the efforts in resettlement work have been through enabling the various Peoples Communities to be the lead implementing agencies of the REMDP. This community led approach has significantly led to an improved communication flow between the government agencies, monitoring teams and the ADB project staff who were on the ground training and supporting the communities. Also it must be recognized that there remain issues of failed livelihood restoration programs, under compensated communities, unregulated use of compensation funds and sluggish transition to regular ways of life in resettled sites. All this will require more time and continued effort. The role of ADB will still need to remain ever vigilant to address any long term social or environmental impacts up and downstream as the SB4HP continues operating. In testing the research question in this case the ADB has progressed in their effort to mitigate impacts on community livelihood at least in comparison to the Cambodia Railway and Laos NT2 dam case.

## **CASE STUDY: REHABILITATION OF THE RAILWAY IN CAMBODIA**

### ***Country Profile***

Cambodia is rising above from the remnants of civil strife and the years lost to the obliteration of its socio – economic institutions. From below ground zero, the country had undertaken initiatives to rebuild its society. The country's economic potential and natural resources are now drawing foreign investment mainly from China and neighboring Vietnam. Cambodia's real economic growth rate for 2015 is expected to reach 7.5% driven by the garment, construction and services sector.<sup>41</sup> The garment industry is considered the largest, employing around half a million people and accounting for 80% of exports. The tourism sector is also expanding and Cambodia is also venturing to tap into its offshore oil and gas reserve. Most of the workforce is also employed in subsistence farming. This is mainly attributed to the Mekong River that provides fertile and irrigated fields for rice production in the country.

There is no question that Cambodian lives have greatly improved over the last two decades. Remarkable progress also has been made in the reduction of child mortality and combating HIV/AIDS. However its strong economy and renewed confidence in the country is being undermined by allegations of corruption in the government. Cambodia is still a low-income country with approximately 1/3 of its 15.41 million population living on less than one dollar per day. This is notwithstanding the sharp decline of poverty since 1993. The poverty rate was 18.6% in 2012 with nearly 3 million poor people and over 8.1 million identified as near poor. About 90% of which reside in the countryside.

Despite the passage of the 2001 Land Law that aims land tenure security, land market development and pro – poor land access, series of unscrupulous land concessions and forced evictions have sparked social unrest. Awarding of land to companies has led to displacement of communities and exploitation of natural resources such as rubber, sugar and minerals.

The Royal Government of Cambodia (RGC) had also identified priorities in the rehabilitation of physical infrastructure. This includes the rehabilitation of primary and secondary roads, railways, airports, ports, irrigation facilities, telecommunications, and electricity generation and distribution networks. A considerable

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<sup>41</sup> <http://www.worldbank.org/en/country/cambodia/overview>

amount of attention is also being given to attract private sector to undertake work on a built – operate – transfer basis wherever possible.<sup>42</sup>

### **Rehabilitation and Construction of Physical Infrastructure**

The RGC have identified its focus on improving the country's road network, rehabilitating and expanding the deep – seaport of Sihanoukville. Priority has been given to the rehabilitation and upgrading of primary roads connecting neighboring countries – Laos, Thailand and Vietnam, major arteries within the country as well as roads servicing remote rural areas.<sup>43</sup>

While the total land area of Cambodia covers approximately 181,035 km<sup>2</sup>, the country has only two railway lines, with a total length of 650 kilometers. Until the late 2000s Cambodia's rail network was in poor condition as a result of prolonged civil conflict and decades of neglect. The rehabilitation is underway to pave way in consolidating its economic growth and closer trade ties with its neighboring countries. As a result, restoring and expanding the rail network have been listed among its top development priorities.<sup>44</sup>

#### **Box 2. Brief History on Cambodia's railway<sup>45</sup>**

The French colonial authority built Cambodia's first rail line in the 1930s. This northern track is 386 km long and connects Phnom Penh with Poi Pet town in Banteay Meanchey province on the Thai border, via Pursat and Battambang. In 1942 the final part of this line was linked with Thailand's railway network, although security concerns and political standoffs between Thailand and Cambodia in the late 1940s cut short the international service.

The second line, the southern line, was constructed with the assistance of Australia, France, West Germany and China between 1965 and 1969. This stretches 266 km, and runs south from Phnom Penh to the seaport of Sihanoukville, passing through Takeo and Kampot.

Until 1969 the Cambodian railway system was in good condition, and the amount of rail transport reached its peak just before the beginning of the civil war in 1970. The war not only interrupted rail operations but also caused considerable damage to the rail network. The 48 km section of the line that linked Sisophon to the Thai-Cambodian border, for example, was completely destroyed during the war.

The government argues that rehabilitating the network will cut down transportation costs and reduce the number of road traffic accidents. It also states that it will promote trade between Cambodia, its neighbors, and other countries in the region, and in the process contribute to economic growth and poverty reduction in Cambodia.<sup>46</sup>

<sup>42</sup> National Strategic Development Plan 2006 – 2010.

<sup>43</sup> Ibid.

<sup>44</sup> "Rectangular Strategy" for Growth, Employment, Equity and Efficiency Phase II." Speech by Prime Minister Hun Sen at the First Cabinet Meeting of the Fourth Legislature of the National Assembly at the Office of the Council of Ministers Phnom Penh, 26 September 2008. Phnom Penh, 2008

<sup>45</sup> Ministry of Public Works and Transport (MPWT). Overview on Transport Infrastructure Sectors in the Kingdom of Cambodia. Annual Report, Phnom Penh: Ministry of Public Works and Transport, 2010.

<sup>46</sup> Ministry of Public Works and Transport (MPWT). Report on the Major Achievements of the Ministry of Public Works and Transport During the 2004–2007 Period. Phnom Penh: Ministry of Public Works and Transportation, 2008.

## Legal Framework

The domestic and international laws relating to land, environment, investment and human rights impose requirements and restrictions on any railway system development. In the case of Cambodia, the laws and its respective provisions relevant on the railway rehabilitation and resettlement are as follows:

- Law on Concessions 2007, Article 5(b) which requires any railway project to have an infrastructure concession;
- Article 11 of the Sub – decree on the Functioning of the Council for Development Cambodia (CDC) stipulates that all investments that are worth over US\$50 million and may have a negative effect on the environment must be approved by the Council;
- Under the Law on Protection and Natural Resource Management (1996) environmental impacts assessments must be carried out on every public or private project<sup>47</sup> inclusive of proper consultation with affected communities<sup>48</sup>;
- Article 44 of the Cambodian Constitution and Article 5 of the Cambodia's 2001 Land Law protect land ownership and require that a person should only be deprived of their land if it is in a public interest and that just and fair compensation is provided;
- The Law on Expropriation should be followed if people do need to be moved for the railway;
- Article 23 of Cambodia's Land Law 2001 requires developers to respect and not interfere with the rights of indigenous communities, which may also have a bearing on railway development in Cambodia.

## Project Description

The **Greater Mekong Sub – Region Rehabilitation Project** was launched in 2006 accordingly to restore the countries approximately 650 km of railway infrastructure. The Project is aimed at boosting the economic growth of Cambodia and poverty alleviation by reducing the cost of living and generating revenues. Specifically, its objectives are as follows:

- 1) To improve the transport sector's efficiency by increasing the diversity of transport modes and routes; and
- 2) Resurrect the railway on a *sustainable basis*. It is also part of ADB's GMS program among the six states in the Mekong River Basin with a common goal of growth and prosperity through regional economic integration and cooperation.

According to the project documents, the railway's operations will be improved through restructuring, with the bidding award to a private railway operator through a concession to operate the railway commercially for a period of 33 years under a Public – Private Partnership (PPP) arrangement<sup>49</sup>. The said restructuring is implemented through an Advisory Technical Assistance (ADTA) that advises the Government on the future structure of the railway subsector and provides transaction advisory for selection of the PPP Railway Operator. The rehabilitation investment and the associated restructuring will together set the stage for efficient rail services, which in turn realizes the identified objectives of the Project.

The Project also includes the development of a freight and cargo railway facility that is approximately 98 hectares in the Samrong Estate and is located within the Kabab and Samrong Kron communes. On December 2006, the ADB Board approved Loan 2288 for the Greater Mekong Sub – Region Rehabilitation Project

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<sup>47</sup>Law on Protection and Natural Resource Management (1996), Article 6.

<sup>48</sup>Ibid, Article 10.

<sup>49</sup>Project Data Sheet: Project/Program 37269-013

initially to be operated from 2007 – 2009. A total of USD 14.4 million has been invested to the project (see Table 2).

**Table 2.** Project Investment Cost and Development Assistance<sup>50</sup>

Financier	Investment Cost (USD)
Asian Development Bank	84 million
Government of Australia	22.96 million
Government of Cambodia	20.3 million
OPEC Fund for International Development	13 million
Government of Malaysia	2.8 million (in kind)
<b>Total Investment Cost</b>	<b>143.06 million</b>

The Ministry of public works and Transport (MPWT) serve as the executing agency for the Project. Accordingly, it is responsible for the updating, implementing and internally monitoring the resettlement activities with respect to ADB policies. The Toll Royal Railway (TRR), a joint venture between Toll Holdings (Australia) and Royal Group (Cambodia) signed a concession agreement for the operation of the railways commercially for 33 years under PPP. While the TSO and Narawat, a French – Thai joint venture, was contracted to perform the civil works – repairing and reconstructing the rail lines between Phnom Penh and Poipet; and Phnom Penh and Sihanoukville.<sup>51</sup>

A supplementary project (Loan 2602, USD 42 million) to establish a new freight and rolling – stock maintenance facility at Samrong Estate, about 10 kilometers west of Phnom Penh, was approved on 15 December 2009. Additionally, a grant of 21.5 million from the Australian Agency for International Development (AusAID) took effect on 5 January 2011.<sup>52</sup>

### The Resettlement Sites

According to the Resettlement Plan of the Project, about 4, 174 households living near the railway line or in stations were identified to be fully or partially affected by the Project. Due to the Project, there was a decline in the earning potential particularly for the affected households as they were relocated away from urban centers. The said drop in income levels, insufficient compensation and indebtedness has or is likely to lead in further impoverishment of the AH.

The Project is Category A where involuntary resettlement was a primary concern. According to the updated Resettlement Plan (2009), at least 4, 174 households would be affected. These households whose residence, other structures and/or assets were or are situated within the Corridor of Impact (COI) of the railway line or on land required for the construction of the stations, depots or other project – related infrastructure stand to be affected by the Project.<sup>53</sup>

The initial 2006 Resettlement Plan (RP) outlines the relevant legal framework and policies, resettlement principles and project entitlements. A more detailed updated RP was prepared for each section in accordance

<sup>50</sup> ADB website, Fast Facts: CAM 2288 – (GMS) Rehabilitation of the Railway in Cambodia Project

<sup>51</sup> Ministry of Public Works and Transport (MPWT). Overview on Transport Infrastructure Sectors in the Kingdom of Cambodia. Annual Report, Phnom Penh: Ministry of Public Works and Transport, 2010.

<sup>52</sup> Compliance Review Panel Final Report. 14 January 2014.

<sup>53</sup> Request for Compliance Review. 28 August 2012.

with a detailed technical design (DTD) and a detailed measurement survey (DMS) that reflects the inventory of losses for the AHs. According to the RPs, no relocation or demolition could take place until the AHs received full compensation for their losses as per the DMS.<sup>54</sup> As part of the loan agreement, the government is responsible for the resettlement process ensuring “that no affected person will be worse off as a result of the railway project.” The 2006 RP also stipulates that resettlement sites should wherever possible be located less than 5 km from the former residence of the resettlers, so as not to disrupt livelihoods.

The RPs also indicates the provision of plots with land title to AHs relocating to resettlement sites, a guaranteed five – year right of residence for AHs shifting from the railway corridor of impact but still within the right – of – way of the railway line, an income restoration program for AHs and grievance redress arrangements.<sup>55</sup>

Nonetheless the project sponsored resettlement sites did not meet basic infrastructure requirements of the 1995 ADB Involuntary Resettlement Policy at the time of the resettlement. The project-affected communities were not properly consulted on the location of the resettlement sites, some of which suffer from inadequate facilities and quality of the physical works. In some cases, there was no safe access to minimum necessary amounts of water for relocated families. Also for several sites, the location of the land was inappropriate, particularly in terms of access to employment and production opportunities. In the CRP’s own report, it noted that there is a correlation between income restoration and distance to the original place of residence.

## **Livelihood Vulnerability: Civil Society Concerns**

The implementation of the resettlement program has drawn criticisms from the civil society e.g. international NGO Bridges Across Borders Cambodia (BABC), land rights NGOs Sahmakum Teang Tnaut (STT), Equitable Cambodia and the affected communities. In the Final CRP report, it stated that much of the noncompliance occurred up to around 2010 – 2011 and was documented in ADB mission reports. However proactive engagement with the government and AHs at the required level began only in late 2010 after NGOs presented their concerns to the President of ADB.

### **On Inadequate Compensation**

- Evidence of inaccuracies in the categorization of structure types and other measurements and a systematic downgrading of compensation entitlements for structures were identified based on the flawed DMS.
- The policy and practice of compensating AHs based on replacement cost of housing structure is not always sufficient to meet the ADB policy objective of improving the standards of living of the displaced poor and the international law obligation to ensure access to adequate housing. The compensation package calculated on the basis of only one floor regardless of the number of square meters of the structure including all floor areas devalued many assets of AHs. Some multiple family households received only single – family entitlements.
- Project compensation rates for losses of resettlement were calculated in 2006 when the original RP was prepared. However compensation payments began only in 2009.
- As a result, AHs were unable to construct adequate housing post – resettlement without going into debt.

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<sup>54</sup> Derailed: A Study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway. Bridges Across Borders Cambodia (BABC). 2012.

<sup>55</sup> Compliance Review Panel Final Report. 14 January 2014.

## **Loss of Income**

- The primary reason that income levels have dropped post – resettlement is that 3 out of the 5 project – sponsored sites are too far away from centers of economic activity and previous sources of livelihood.
- The combined factors of reduced income, increased expenses and insufficient compensation have led to widespread indebtedness. Many AHs claim that they have no choice but to borrow from money lenders at exorbitant interest rates ranging from 5% - 7% per month, using their plot of land at resettlement as collateral.
- Income restoration programs had not commenced at any of the resettlement sites at the time or for a considerable period of time after families have been relocated.

In particular, the Phnom Penh site (Trapeang Anhchanh) is situated 20 to 25 kilometers from many former residences and its distance from the urban center is hampering access to income – earning opportunities as well as access to facilities like schools and health centers. Many families operated at a small home – based business pre – settlement.<sup>56</sup> The resettlement site at the Sihanoukville is on the outskirts of the city, approximately 7 km from the location adjacent to the harbor from which the affected families were displaced. In the Compliance Review Panel (CRP) report, it noted that the livelihoods of the said affected households were limited who derive their income mainly from the fishing sector.

Similar to Sihanoukville and Phnom Penh, the resettlement site at Battambang was about 7 km from the former location of the affected families. This again contravenes to the 2006 RP on the 5 km or less location for the resettlement site. Most of the affected families relocated on this site do not have employment. While there is an alternative livelihood training program e.g. mushroom growing, the relative cost of maintaining it as a regular source of income outweighs the potential profits.<sup>57</sup>

While on the other hand, the resettlement site at Poipet is situated at a distance of approximately 6 km from the original residence of the affected families. The CRP noted that despite being the largest resettlement site, a primary school was not planned as part of the services to be provided under the project. Similarly training programs like mushroom raising and chicken raising are also implemented in the resettlement site. However, the said programs fail to create sustainable livelihood and income for the project-affected communities. It is only the resettlement site at Pursat is located close to the place from which the affected families were displaced. It allowed the affected families maintain their pre - displacement livelihoods.

## **ADB's Implementation of the Remedial Action Plan**

In April 2014, the ADB released the Management's Action Plan to implement the Board decision on the recommendations of the CRP Final Report. As of this writing, the ADB had already released two quarterly progress reports on the remedial actions. While the CRP will also release its first monitoring report by mid – March of 2015. The six recommendations as outlined in the Remedial Action Plan are as follows:

1. Establish a compensation deficit payment scheme;
2. Improve facilities at the resettlement site;
3. Improve the functioning of the grievance redress mechanism, to be reflected in a time – bound and verifiable action plan;
4. Develop an appropriate program to build capacity of IRC, to be reflected in a time bound and verifiable action plan;

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<sup>56</sup> Derailed: A Study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway. Bridges Across Borders Cambodia (BABC). 2012

<sup>57</sup> 25 January 2015 meeting with the community in Battambang Resettlement Site

5. Establish a debt workout scheme to help highly indebted families repay their accumulated debts through a dedicated credit line and a debt workout facility; and
6. Implement the expanded income restoration program (EIRP) in a sustained and sustainable manner.

As of October 2014, the Inter – Ministerial Resettlement Committee had completed its review for each of the 3, 581 partially or fully AHs under the Project. The review focused on the DMS and the contract between the IRC and the AHs for mis - categorization. Accordingly, the computation<sup>58</sup> for the adjustments on the compensation deficit had also been completed. For both action points the ADB verified 100% for the Southern Line, the samples for Poipet and Northern Line. This will be followed by the verification for Phnom Penh. However, the payments to the affected households have yet to be completed until the 2<sup>nd</sup> quarter of 2015.

In reference to the EIRP, one of the critical action points identified was an ADB TA that will focus on the continuation of the implementation of the EIRP. One of the outputs of the said TA is a sustainable expanded income restoration program. Accordingly, the EIRP includes a community development fund that is intended to improve the ability of relocated households to earn a living by making use of livelihood opportunities available near the relocation sites. The Government of Australia supports the EIRP until March 2015 through grant funds<sup>59</sup>. As mentioned in the previous sections, the mushroom growing and chicken raising are part of the EIRP. In addition the assessment of the capacity of the self – help groups (SHGs) for sustainability were also completed in October 2014.

### **Analysis Cambodia Case: Key Considerations**

This particular project is aimed at **boosting the economic growth** of Cambodia and **poverty alleviation by reducing the cost of living and generating revenue**.

- It is a **Category A Project** where involuntary resettlement was a primary concern.
- According to the updated Resettlement Plan (2009), at least 4,174 households would be affected.
- These households whose residence, other structures and/or assets were or are situated within the COI of the railway line or on land required for the construction of the stations, depots or other project – related infrastructure stand to be affected by the Project.<sup>60</sup>

The project has had two immediate impacts on livelihoods

- a) Inadequate compensation
- b) Loss of income.

The underlying causes as identified in the previous section suggest that IRC has not conducted due diligence in the DMS, and the resettlement sites were too far away with no livelihood options available for immediate restoration of the displaced people. Since the complaint had been filed there have been two investigations conducted by the CRP; where most of the urgent issues and concerns of the communities have been identified.

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<sup>58</sup> Base on property losses due to mis – categorization and inflation using consumer price index (CPI) and transition allowances (living/income and transport allowances) due to inflation using CPI

<sup>59</sup> ADB TA 37269 – 054 Strengthening Resettlement and Income Restoration

<sup>60</sup> Request for Compliance Review. 28 August 2012.

The CRP investigation of ADB's compliance of its own policies in the case of this project is ongoing. A monitoring report of the recent CRP visit of the resettlement sites was released mid March 2015. In a recent meeting in light of this study with the OCRP the following updates were received:

- In December 2014, ADB provided a TA to increase the capacity of the IRC implementing the grievance redress mechanism and income restoration for the Project. It has 3 outputs/ action plans on: 1) grievance redress; 2) capacity building for resettlement and 3) sustainable expanded income restoration program.
  1. This involves the training of EMOs (external monitoring officer) also from the IRC in carrying out the compensation package; they only have observer status.
  2. When such EMO reports, these should be documented and publicly disclosed.

This implies that the ADB is recognizing that the Involuntary Resettlement Committee, IRC, set by the Cambodia government has had severe challenges in meeting the resettlement, compensation and livelihood requirements as per ADB policies and project commitments. One of the key concerns is the limited capacity of IRC ground staff to disseminate vital information on resettlement options clearly with the local communities. Local civil society organizations and the complainants of the case at OCRP have raised their concerns over the mistreatment by the IRC. There have also been allegations that the initial Detailed Measurement Survey conducted by IRC on the compensation plan had various gaps and assessment flaws that have led local communities to not receive their rightful entitlements. To this end, a new DMS is currently being drafted and will be shared with the communities.

The CRP on the resettlement issue of this project has identified six key demands; the following table also describes the ADB progress in fulfilling the recommendation (see Table 3).

**Table 3. CRP recommendations and status of compliance**

CRP RECOMMENDATIONS	STATUS
1. Revised compensation package	Not yet completed; the government will carry out the new DMS. It is also IRC who will provide financing for the revised compensation package from their counterpart fund. This will include the transitional allowances, adjustments on inflation and revised compensation.
2. Infra, roads and water systems, drainage for resettlement site	The plan is to finish the said infrastructure before the rainy season by the end of the year
3. Proposal for debt relief scheme	Australian government willing to support with an NGO
4. Improvement in redress system	Being addressed in the December 2014 TA
5. IRC capacity should be strengthened for mitigating resettlement issues	Being addressed in the December 2014 TA
6. Income restoration should be continued and strengthened	The support being provided by the Australian government will end by March 2015 but ADB will continue it until 2016.

## CONCLUSION

In order to analyze these cases the first point of inquiry is to address the distinct differences in the livelihood impacts by the ADB.

In Laos, the Nam Theun 2 hydropower dam project the scenario was quite different as the project was located in a remote rural area impacting ethnic minority communities placed within a unique agrarian and forest ecosystem. This required displacement and resettlement of rural agrarian communities whose mainstay was farming and subsistence forest dependence. Livelihood restoration measures which were taken, as the previous chapter describes- have not been successful, along with low fertility of the resettled land provided as little compensation. This project has already been over 10 years with rippling effects on communities in terms of livelihood loss, loss of biodiversity, suppressed voice and limited capacity to redress grievances. One of the key impacts was communities increased dependence on the nearby forest. This has led to destruction of the biodiversity, logging and poaching of fauna. Compounded by a very restrictive regime where civil society space and community participation is restricted the long-term impacts on livelihoods in case of NT2 are gravely underreported.

The second case investigated was the Song Bung 4 Hydropower project in Vietnam. This project was introduced in an ethnic minority community who would be displaced along with communities in the surrounding areas near the reservoir. The ADB in order to mitigate the impacts unlike the first two cases mentioned had developed a Rural Ethnic Minority Development Plan at the project design stage where over 11 monitoring evaluations of this plan has taken place since its implementation. There are still remain many gaps in restoration of the communities affected, but there has been a noticeable effort on the part of the ADB and Vietnamese Government to tackle the challenging issues surrounding local livelihoods and their resettlement.

Lastly, the Cambodia Rehabilitation Railway case looks at the issue of displacement, land rights and ADB's post project efforts in securing livelihoods of resettled urban communities. The unique nature of the Cambodia project is that a formal complaint was filed in OSPF then OCRP demanding the ADB to honor its project commitments as per the ADB Safeguard Policy on Involuntary resettlement. The source of livelihood in these cases was service delivery oriented, small business, Labor for the marginalized communities in an urban environment.

In a region with high dependence on natural resources, the original livelihoods, and agricultural resources in the communities cited in Nam Theun 2, Cambodia Rehab Railway and Song Bung 4 are the lifeblood for rural populations. Pre-resettlement status of communities residing in these project sites have been clearly illustrated in the report, thus signifying their overall economic stability and community resilience. As the ADB projects were implemented the dissipation of the natural resource base through resettlement had disproportionately affected the poor and marginal groups in all three cases. In both the Nam Theun 2 and Cambodia case the ADB was guilty of inadequate pre project assessments leading to laborious and complicated mitigation measures which are yet to be proven effective in livelihood restoration of affected communities. In the case of Song Bung 4 a more hands on approach in safeguards delivery with a more comprehensive pre-assessment of the local situation was conducted. The results are far from ideal but positive inroads have been made in securing long term livelihood and community sustainability.

We urge the ADB to remain steadfast in conducting the necessary assessments pre project approval, being due diligent to safeguards requirements during implementation, with a committed 'hands on' monitoring of

livelihood restoration in order to address the future impacts of infrastructure in the GMS. Through the findings of this report it is evident that ADB development financing is yet to ring true to their commitment to inclusive growth in their Strategy 2020 and overall mandate of poverty alleviation in Asia.

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