

FRAMEWORK CONTRACT COMMISSION 2007 Lot Nr 4  
Contract Nr 2010/253997

# Resettlement in Laos

## Final Report

*6 August 2011*

This Project is funded by the European Commission



Project implemented by

**SOGES**

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## Abbreviations and acronyms

ADB	Asian Development Bank
CPI	Committee for Planning and Investment (now Ministry for Planning and Investment)
CSO	Civil Society Organisation
DVC	Development Village Cluster
FDI	Foreign Direct Investment
FS	Focal Site
GMS	Greater Mekong Subregion
GoL	Government of the Lao PDR
GPAR	Governance and Public Administration Reform
LDC	Least Developed Country
LFA	Land and Forest Allocation
LFNC	Lao Front for National Construction
LPRP	Lao People's Revolutionary Party
LWU	Lao Women's Union
MAF	Ministry of Agriculture and Forestry
MDG	Millennium Development Goal
MEM	Ministry of Energy and Mines
MOE	Ministry of Education
MOFA	Ministry of Foreign Affairs
MOU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
MPWT	Ministry of Public Works and Transport
NAFRI	National Agriculture and Forestry Research Institute
NBCA	National Biodiversity Conservation Area
NFA	Non-Formal Education
NGPES	National Growth and Poverty Eradication Strategy
NLBRDPE	National Leading Board for Rural Development and Poverty Eradication
NLMA	National Land Management Authority (recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011)
NPA	Non-Profit Association
NRM	Natural Resource Management
NSEDP	National Socio-Economic Development Plan
NTFP	Non-Timber Forest Product
NUDP	Northern Uplands Development Programme
PACSA	Public Administration and Civil Service Authority

PLUP	Participatory Land Use Planning
PM	Prime Minister
PPA	Participatory Poverty Assessment
PRF	Poverty Reduction Fund
SDC	Swiss Agency for Development and Cooperation
UNDP	United Nations Development Programme
USD	US Dollar
VC	Village consolidation
WREA	Water Resources and Environment Agency (recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011).

## Executive Summary

### KEY POINTS EMERGING FROM THIS REPORT

- **Resettlement in Laos since around 1990 can be divided into two broad classes: resettlement linked to certain government rural development and poverty reduction policies, and resettlement linked to public and private sector development projects.** Practically speaking, the former class is not covered by PM Decree 192 on Compensation and Resettlement (GoL 2005) and associated legislation, whereas the latter is.
- **The Lao government has never promulgated a formal resettlement policy per se.** Resettlement is instead officially regarded as a strategy to facilitate the implementation of a range of rural development and other policy initiatives; it can also be a consequence of some of these initiatives, in the form of induced relocation. Such policies reflect government aims for a transition of upland shifting cultivators to sedentary livelihoods increasingly linked with the market economy.
- **Despite the fact that some policy documents such as the National Growth and Poverty Eradication Strategy do include the option of upland communities developing in situ, resettlement has emerged as a key feature of the implementation of the government's rural development policy since around 1990.** Government resettlement schemes have often been characterised by the tendency to underestimate people's reliance on local natural resources and the challenges involved in making a transition to new livelihood systems, as well as by poor policy execution. The availability of development agency support has also been a significant factor in supporting resettlement.
- **The lack of nationwide data makes it impossible to accurately estimate the total number of people who have been affected by resettlement linked with rural development policies, but it is likely that this runs into the tens of thousands.**
- **Some researchers into resettlement linked with rural development policies have reported positive impacts on those affected, typically including improved access to education and health services, wage labouring opportunities and markets. However, most of the available research indicates that negative impacts (often very serious) have significantly outweighed positive ones, particularly in the first few years after resettlement.**
- **Resettlement also has significant impacts on the implementation of INGO development projects.** Eight of the 16 EU-funded projects surveyed reported impacts on project implementation from government resettlement schemes.
- **There has been much debate over the degree to which resettlement linked to government rural development / poverty reduction policies has been voluntary. It is suggested here that much resettlement lies somewhere along a spectrum between two extremes, i.e. purely voluntary and absolutely compulsory.**
- **The processes surrounding the action of resettlement are extremely complex and varied.** Most resettlement linked with rural development / poverty reduction policies is the result of negotiations between the provincial/district authorities and villagers, with the former using a range of tactics to achieve resettlement goals.
- **It seems certain that resettlement will continue to form an important part of rural development strategy.**
- **Trends that are highly relevant to involuntary resettlement linked to public and private sector development projects include: the rapid growth in Foreign Direct Investment (FDI); Laos' continuing integration into regional and global markets, partly through the execution of large-scale infrastructure projects; the implementation of regional development plans such as the "Northern Plan" and the "development triangles" in the South.** All these trends are likely to influence both rural and urban resettlement processes, but further research is urgently required into how these trends and processes are likely to play out.
- **The natural resources sector is a very important one for Laos, yet the World Bank (2011c) recently concluded that 'natural resource projects are being developed too fast to qualify as carefully planned and thoroughly assessed long-term investments'.** Estimates of the number of people likely to be resettled as a direct result of hydropower schemes range from around 100,000 to 280,000. These people are amongst the poorest households in the country and are disproportionately likely to belong to a non-Lao-Tai ethnic group (World Bank 2011).
- **On a national scale, it appears that involuntary resettlement caused by agricultural or forestry concession projects has to date been rare, not least because pertinent laws and regulations requiring well-managed involuntary resettlement are often ignored.** However, concession establishment often results in a rapid reduction in villagers' access to natural resources that can undermine livelihoods to such an extent that villagers have few options other than to "choose" to move elsewhere. In other words, they are actually subjected to induced relocation.
- **A mutually facilitative relationship between government resettlement strategy and private sector development projects appears to be emerging in some areas.**
- **Legislation governing involuntary resettlement resulting from public or private development projects has improved significantly in recent years, but implementation and enforcement needs to be greatly strengthened.**
- **Ten recommendations for action are discussed in Section 6 and summarised at the end of the Executive Summary.** These include: further research; development of clear organisational stances on resettlement, plus a coherent position amongst key development partners; efforts to reinvigorate dialogue with government; development of agreed criteria for acceptable practice in resettlement linked to rural development policies; facilitation of the in situ development of upland communities wherever possible; use of a variety of mechanisms to address governance and human rights aspects; improved enforcement of the regulatory framework governing relevant types of public and private development project; innovative efforts to encourage investor compliance with relevant Lao laws and regulations.

This report constitutes a background paper on the issue of resettlement and is based upon a review of available refereed and “grey” literature, augmented by interviews with key stakeholders as well as the results from a rapid survey of INGO projects funded by the EU.

For the purposes of analysis, resettlement in Laos since around 1990 can be divided into two broad classes: resettlement linked to certain government rural development and poverty reduction policies, and resettlement linked to public and private sector development projects. Practically speaking, the former class is not covered by PM Decree 192 on Compensation and Resettlement (GoL 2005) and associated legislation, whereas the latter is (or at least should be). (Section 1.1 of this report provides definitions of key terms describing various forms of resettlement and relocation).

***Existing research into the extent and consequences of various types of resettlement and other forms of population movement (notably internal migration) is limited***, which is a matter of concern given the significant implications of such movements for socio-economic development and related policy formulation.

### **Resettlement linked to certain government rural development and poverty reduction policies**

***The Lao government has never promulgated a formal resettlement policy per se.*** Since around 1990, however, resettlement has emerged as a key strategy to facilitate the implementation of a range of rural development and poverty reduction policy initiatives, including: Village Consolidation (VC); Development Village Cluster (DVC) and Focal Site (FS) establishment; shifting cultivation stabilisation and – to a lesser extent nowadays – opium eradication. Resettlement, in the form of induced relocation, has also been a consequence of certain government policies, particularly Land and Forest Allocation (LFA), shifting cultivation stabilisation and opium eradication. These various policy initiatives are reflected in a Lao phrase often used in official discourse: *chatsan asib khong thi*, which is perhaps best translated as “the establishment of permanent occupations” and reflects government aims to oversee a transition of upland shifting cultivators to sedentary livelihoods increasingly linked with the market economy. The maintenance of internal security has fluctuated over time in its importance as a driver of resettlement (in the form of compulsory relocation), though it appears to have re-emerged in recent years due to government concern over ‘unregulated internal migration’ (the subject of Prime Ministerial Executive Order No. 36 of 2009).

***Some policy documents such as the National Growth and Poverty Eradication Strategy (CPI 2004: 56) do include the option of upland communities developing in situ. The widespread incidence of resettlement, however, reflects the belief that it is more efficient to move villagers from remote areas to areas where services can be delivered more easily.*** However, this apparently simple logic has often been undermined by the tendency to underestimate people’s reliance on local natural resources and the challenges involved in making a transition to new livelihood systems, as well as by poor policy execution. The availability of development agency support has also been a significant factor in supporting resettlement.

***There has been much debate over the degree to which resettlement linked to certain government rural development / poverty reduction policies has been voluntary.*** Population movements due to VC, DVC formation and FS establishment would generally be classified as compulsory relocation. Although Article 4.2 of PM Executive Order 36 (GoL 2009) states that persons to be resettled must be volunteers, reports of villagers moving under the direct threat of force do exist (although because of the lack of nationwide studies it is not possible to reliably estimate the number or proportion of resettled villagers who have moved for this reason). On the other hand, there are cases where villagers take the initiative and freely choose to move, often motivated by the hope of access to better land and/or public services (i.e. they undergo voluntary resettlement). In many cases, however, the divide between ‘compulsory’ and ‘voluntary’ is not in fact as clear-cut as these definitions would imply.

***It is suggested here that much resettlement linked with rural development / poverty reduction policies lies somewhere along a spectrum between the above two extremes, i.e. purely voluntary and absolutely compulsory.*** The processes surrounding the action of resettlement are extremely complex and varied, and available research as well as the consultant’s own field experience suggests that most resettlement linked with rural development policies is the result of negotiations between the provincial/district authorities and villagers, with such negotiations lasting from a few months up to several years. In some cases the authorities may exert varying degrees of pressure on villagers to move,

and support from international organisations may be promised to villagers as an incentive, even though these organisations may be unaware of this or may even have explicitly stated their opposition to resettlement. However, villagers also develop and apply their own strategies, which may include negotiating to stay where they are or selecting alternative resettlement sites better to their liking. The process by which decisions on resettlement are actually reached within a village can also be very complex, with influential figures often shaping opinion and leading villagers to a collective decision. Attitudes towards resettlement may vary considerably amongst community members, with variables such as gender and age influencing people's views.

### **Resettlement linked to public and private sector development projects**

***The rapid growth in Foreign Direct Investment (FDI) that has been a feature of the past decade will accelerate further, while Laos' integration into regional and global markets (partly through the execution of large-scale infrastructure projects) will continue; regional development plans are also likely to be influential.*** All these trends are likely to influence village relocation processes, intentionally or unintentionally, but further research is urgently required into how these trends and processes are likely to play out. In addition, urban development projects are becoming increasingly important causes of involuntary resettlement or induced relocation, with complaints over inadequate planning processes and compensation frequently emerging.

***The natural resources sector is a very important one for Laos, having contributed around 4 percentage points of economic growth in 2010 (against an overall growth rate of around 8.5%), yet the World Bank's Lao PDR Development Report 2010 noted that it has recently become clear that 'natural resource projects are being developed too fast to qualify as carefully planned and thoroughly assessed long-term investments'.*** Estimates of the number of people likely to be resettled as a direct result of hydropower schemes<sup>1</sup> range from around 100,000 to 280,000, with the number likely to be resettled due to mining schemes being much smaller. These people are amongst the poorest households in the country and are disproportionately likely to be illiterate and to belong to a non-Lao-Tai ethnic group (World Bank 2011).

***On a national scale, it appears that involuntary resettlement caused by agricultural or forestry concession projects has to date been rare, not least because pertinent laws and regulations requiring well-managed involuntary resettlement are often ignored.*** However, concession establishment often results in a rapid reduction in villagers' access to natural resources that can undermine livelihoods to such an extent that villagers have few options other than to "choose" to move elsewhere. In other words, they are actually subjected to induced relocation.

***A mutually facilitative relationship between government resettlement strategy and private sector development projects appears to be emerging in some areas.*** For example, research findings, media reports and a government policy document (PM Executive Order 36, 2009) all provide evidence to suggest that private sector agricultural projects are being deliberately utilised by government planners in some areas to provide alternative livelihoods for resettled villagers, thereby also meeting the projects' demand for labour. There is nothing inherently wrong with this utilisation of agricultural concessions to provide alternative livelihoods for resettled populations, provided that resettlement receives the full prior informed consent of those who will move, that contractual arrangements are fair and that relevant laws and regulations are followed (notably regarding environmental and social impact assessments, compensation and working conditions). The problem, however, is that such conditions are often not observed.

***The Lao legal framework governing natural resource management (NRM) has been described by a recent World Bank study as 'mostly adequate' (World Bank 2001c: 3). Legislation governing public or private development project-related loss of land, home and/or the means to earn a livelihood has improved significantly in recent years. However, implementation and enforcement of existing legislation needs to be greatly strengthened,*** which will require significant capacity-building at central, provincial and district levels as well as commitment on the part of the

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<sup>1</sup> That is, excluding populations that will be affected by downstream impacts.

government. Given its central role in these matters, improving the performance of the Water Resources and Environment Agency (WREA) should be a particular priority.<sup>2</sup>

### **Extent and impacts of resettlement**

***With regard to resettlement linked with certain government rural development or poverty reduction policies, the lack of nationwide data makes it impossible to accurately estimate the total number of people who have been affected by resettlement.*** The only large-scale study that has been conducted (in 1996) estimated that the number of people to be displaced in the next five years ranged from 100,000 to 800,000 people, with some provincial reports indicating that over 50% of the upland population would be moved (Goudineau 1997: 21). However, the lack of any comparable follow-up study means that the extent to which these plans were actually implemented is unknown. Research conducted at a smaller scale does however provide some insights into the actual extent of resettlement: for example, in Nalae District, Luang Nam Tha Province, Daviau (2006: 12) reports that 32% of the district population were resettled between 2001 and 2005. *The Economist* (2004) cited an estimate that around 25,000 highland people had been displaced by early 2004 due to opium eradication efforts. The small survey of EU-funded INGOs conducted as part of this study found that 5.3% of target villages (8,232 persons) have been resettled during project implementation due to government policies. Baird and Shoemaker (2007: 885) concluded that 'tens of thousands' of vulnerable people had been negatively affected by resettlement initiatives in Laos over the preceding decade. The consultant believes that this is as accurate an estimate as it is currently possible to make, given the limited data available.

***Some researchers into resettlement linked with certain rural development or poverty reduction policies have reported positive impacts on those affected, typically including improved access to education and health services, wage labouring opportunities and markets. However, most of the available research indicates that negative impacts have significantly outweighed positive ones, particularly in the first few years after resettlement*** (unfortunately, longitudinal research studies tracking the fortunes of resettled villages over longer time periods are lacking). For example, Goudineau (1997a: 28, 30-33) found that the first three years after resettlement are often characterised by disease outbreaks, with death rates of up to 30%. Making the transition to new livelihood systems is a major challenge, hence food insecurity is a common problem, often exacerbated by reduced access to traditional coping mechanisms such as Non-Timber Forest Products. Other impacts, such as poorer nutritional status, reduced social cohesion, increased vulnerability to human trafficking and new forms of drug addiction, have also been reported. Daviau (2006: 30) concluded that the transition period required by the resettled populations in his study in order to reach acceptable living standards was two to three years with regard to housing and over five years with regard to food security.

***There appears to be a lack of research into the gendered impacts of resettlement.*** This is despite the fact that it is highly probable that women suffer disproportionate impacts from resettlement processes, given that the high labour demands of resettlement, as well as the additional challenges of sourcing water and food for the household in an unfamiliar location, are all likely to exacerbate what is often already an inequitable gender division of labour.

***Resettlement also has significant impacts on the implementation of development projects.*** Eight of the 16 EU-funded projects surveyed reported impacts on project implementation from resettlement linked with certain government rural development / poverty reduction policies. Key impacts included: an inability to achieve specified project objectives; disrupted implementation due to conflicts between resettled and local people, as well as to an influx of resettled people into target villages putting pressure on available financial and natural resources; uncertainty over resettlement plans causing both project management and villagers to be reluctant to begin project activities.

### **Future trends**

***Looking to the future, it seems certain that resettlement will continue to form an important part of government rural development strategy.*** The government's intention to continue with Village

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<sup>2</sup> WREA was recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011. It is not yet clear how these organisational changes will affect the discharge of the critical responsibilities formerly assumed by WREA.

Consolidation (VC) and Development Village Cluster (DVC) establishment is confirmed by the draft Seventh NSEDP.

***With respect to involuntary resettlement as a result of public or private development projects, mining and, in particular, hydropower schemes will in future involve significant involuntary resettlement.*** Available evidence suggests that agricultural and forestry concessions will involve such resettlement to a lesser extent, but are likely to involve a significant amount of induced relocation. The mutually facilitative relationship between government resettlement schemes and private sector development projects that appears to be emerging in some areas may provide a further impetus to such resettlement schemes.

***'Unregulated internal migration', as the government calls it, also appears to have emerged in recent years as a driver of resettlement.*** The phenomenon involves the independent migration (i.e. not resettlement) of households, mostly from poor rural areas to better-off rural or urban locations. It can be driven by a range of factors, including shifting cultivation stabilisation policies, failed resettlement schemes and individuals' quest for land and other natural resources. Resettlement (in the form of compulsory relocation) is one of the responses proposed by the government in Prime Ministerial Executive Order 36 (2009), promulgated to address the issue. Little relevant research is available, which is a gap that urgently needs to be filled if the development community is to be able to formulate an appropriate position on the matter.

## **Recommendations**

***Section 6 presents recommendations that may be relevant to the development community at large. In summary, these are as follows:***

- i. Support further research*
- ii. Develop clear organisational positions on resettlement*
- iii. Strive to reinvigorate dialogue with government, aiming at mutual agreement upon a set of principles and an approach to resettlement linked with rural development and poverty reduction policies*
- iv. Develop a set of criteria (ideally in consultation with the National Leading Board for Rural Development and Poverty Eradication and other government agencies) that can be practically applied in order to ascertain whether a resettlement initiative linked to rural development / poverty reduction policies is acceptable*
- v. Facilitate the in situ development of upland communities wherever possible, in line with above criteria*
- vi. Build a common position amongst key development partners*
- vii. Improve the gathering, consolidation and analysis of data on resettlement across the country*
- viii. Use a variety of mechanisms to address governance and human rights aspects of resettlement*
- ix. Work to improve the legal and regulatory framework governing relevant types of public and private sector development project*
- x. Support innovative approaches to encourage the compliance of investors with relevant Lao laws and regulations*

## 1. Introduction

The Terms of Reference state that the *Global Objective* of this consultancy assignment is 'To enhance coherence between policies and practice in the implementation of EC development cooperation as well as to provide tools for enhanced policy dialogue with regards to resettlement in Laos'. The assignment has three *Specific Objective(s)*:

- (i) To understand the interaction between European Commission funded projects and the Government of Laos resettlement policy and implementation.
- (ii) To improve policy coherence within the EC's interventions and the delegation's staff capacity regarding resettlement issues in Laos.
- (iii) To contribute to better alignment of the EC's (including ECHO) and EU member states' policies on resettlement as well as to enhance policy dialogue with the government and other development partners.

### 1.1 Definitions

Key terms used in this report are defined as follows, adapted from Mann (2010):

- *Voluntary resettlement*, in the Lao context, can refer to the traditional practice of Mon-Khmer populations (mainly in Southern Laos) of moving a village in a cyclical fashion within a defined overall territory or ancestral domain. The term can also refer to other ethnic groups, such as the Hmong, that have traditionally practised a non-cyclical or 'pioneering' form of shifting cultivation. Finally, this report suggests that the term can also include communities that initiate a resettlement process by approaching their local authorities, often in the hope of obtaining improved access to land and other natural resources.
- *Migration* refers to one or more members of a household choosing to move to a new location, generally with the aim of improving their livelihoods but sometimes in response to a natural disaster. Migration may or may not be permanent.
- *Induced relocation* refers to a situation where people are not required or compelled to relocate, but where their livelihoods are made so difficult (for example, through reduced access to natural resources or government services) that they are left with no alternative but to relocate.
- *Compulsory relocation* describes a situation where the government requires households or villages to move to another location for specific reasons. Such reasons commonly include Village Consolidation and Development Village Cluster formation, governed by Instruction 09/PBPCC of the Political Bureau of the Party Central Committee (GoL 2004), recently supplemented by Instruction 03/PBPCC (GoL 2011). However, this report contends that the implementation of such instructions can entail elements of resistance and negotiation.
- *Involuntary resettlement* refers to project-related loss of land, home and/or the means to earn a livelihood. It is associated with public and private sector development projects, including infrastructure development projects (such as roads, hydropower schemes, mining and urban improvement) and agricultural concessions. Such resettlement should be governed by the relevant legislation, notably PM Decree 192/PM (GoL 2005), PM Decree 112/PM (GoL 2010), Regulation No. 699/PMO.WREA (WREA 2010a) and the related Technical Guidelines on Compensation and Resettlement (WREA 2010). Although some might debate the point, the government has reportedly made it clear that such legislation does not apply to government poverty reduction initiatives such as Village Consolidation, Development Village Cluster formation and Focal Site formation.

The main focus of this report is on population movement linked with certain government rural development and poverty reduction policies that often (but not always) involve compulsory and induced relocation. However, reference is also made to the type of public and private sector development projects that result in involuntary resettlement and are likely to become increasingly important drivers of resettlement in coming years.

## 1.2 Purpose and structure of the report

This report constitutes a background paper on the issue of resettlement, and as such provides a foundation for addressing all three Specific Objectives as well as for the drafting of specific recommendations for the EU Delegation. The report is based upon a review of available refereed and "grey" literature, augmented by interviews with key stakeholders (including representatives from government, development agencies, donors, INGOs and the private sector) as well as the results from a rapid survey of INGO projects funded by the EU.<sup>3</sup> Preliminary findings and recommendations were presented at a stakeholder workshop in Vientiane on 13 July 2011, and the resulting feedback from participants used to inform the final version of the report.

Section 2 of this report explores the historical background to contemporary resettlement by reviewing the period prior to the establishment of the Lao PDR in 1975. Traditional mobility amongst ethnic groups in Laos, displacement due to pre-colonial conflict, and displacement and resettlement during the Indochina Wars are amongst the themes discussed. Section 3 then focuses on the period since 1975, dividing the discussion into two phases: before around 1990 (during which period resettlement tended to be driven primarily by security concerns and the desire to repopulate areas depopulated by war) and after around 1990 (since when government rural development policies and, more recently, public and private sector development projects have been the main drivers of resettlement). The impacts of resettlement on resettled and host populations, as well as (briefly) EU-funded INGO projects, are then discussed in Section 4 (with the main focus being on resettlement related to government rural development and poverty reduction policies). Section 5 presents conclusions, and Section 6 outlines general recommendations.

## 1.3 A note on ethnicity in Laos

As later sections of this report demonstrate, ethnicity is closely linked with the issue of resettlement in Laos, one of the world's most ethnically diverse nations. The official census identifies 49 distinct ethnic groups<sup>4</sup> belonging to four broad ethnolinguistic "superstocks": Mon-Khmer, Hmong-Iu Mien, Sino-Tibetan and Lao-Tai. The Lao-Tai account for around two-thirds of the total population. The Constitution, adopted in 1991 and amended in 2003, describes the Lao people as 'multi-ethnic', and citizenship is granted to all inhabitants of the country without discrimination. All groups have equal constitutional rights under Lao law and no special constitutional status is granted to any particular ethnic group. The Lao government's ethnic policy has consistently been not to differentiate between ethnic groups; unlike in China, for example, the creation of autonomous minority zones was neither promised nor realised. Rather, the long-standing principle is that of unity on the basis of equality, with the integration of all ethnic groups into the political, social and economic life of the country (Pholsena 2003: 11).

Before proceeding further, a brief discussion of terminology is required. The term "indigenous people" is not accepted by the Lao government, and the term "ethnic minority" has also been rejected, probably because this is perceived to clash with the Constitution's promulgation of the principles of equality and unity. In this report, the term "non-Lao-Tai group" is therefore used to refer to ethnic groups other than those belonging to the majority Lao-Tai ethnolinguistic superstock.

Despite the Constitution's aspirations, there is clearly a correlation between ethnicity and poverty in Laos: though non-Lao-Tai groups account for only one third of the national population, they make up more than half of the poor (NSC et al 2006). In fact, the second Participatory Poverty Assessment (NSC / ADB 2006) noted that of the 33.5% of the population classified as poor at the time of the assessment, approximately 75% were non-Lao Tai. These disparities extend beyond consumption poverty to encompass other

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<sup>3</sup> Current projects funded by the EU were invited to participate in the survey, as well as completed projects that finished after 31 December 2009.

<sup>4</sup> Ethnolinguist Dr James R. Chamberlain notes that the definition of an ethnic group in Laos differs somewhat from international practice, with an 'ethnic group' or *xon phau* in fact consisting of a number of subgroups or *seng*. 'It is the *seng* that is equivalent to what most ethnolinguists would call an ethnic group, that is, possessing a separate ethnic identity and language. Thus in the Lao official system the 49 *xon phau* comprise over 160 *seng*. The World Bank's *Indigenous Peoples Profile* for Laos lists over 200 ethnic groups' (NSC / ADB 2006: 17).

dimensions, such as health and education. However, the exact nature of the relationship between ethnicity and poverty is very complex, and is a topic requiring much further research.

#### **1.4 Constraints**

A significant constraint to investigating the topic of resettlement is the lack of nationwide research studies, which makes it impossible to rigorously assess the incidence of the practice, the numbers of people affected and to what extent. The only primary research that appears to have been conducted on any kind of scale was a study conducted under the auspices of the Ministry of Education's Department of Non-Formal Education (supported by UNESCO and UNDP) in 1996 that surveyed over 1,000 families in 67 villages, spanning 22 districts and six provinces (Goudineau 1997; Evrard and Goudineau 2004).<sup>5</sup> A number of studies provide insights – at different times and over varying periods – at the district or project level (e.g. Daviau 2001, 2006; Romagny 2004; Doussantousse 2010; Evrard 2011), as do individual reports of resettlement from INGO projects that have encountered the issue during implementation. In addition, some research provides coverage of resettlement in the context of other topics, including land policy and farming practices (Vandergeest 2003; Ducourtieux 2004), foreign direct investment in agriculture (Dwyer 2011a), illicit drugs and social change (Lyttleton 2004), nutrition (Krahn 2003) and poverty (CPC / ADB 2001). A recent sectoral study that does have nationwide scope is a World Bank analysis of the spatial distribution of mining and hydropower projects, which provides estimates of the numbers of people likely to be displaced by such schemes (World Bank 2011).

Baird and Shoemaker (2005, 2007) supplemented existing literature and their own field experiences with interviews with numerous development agencies and donors. Their papers are, in general, highly critical of both government policy and development agency performance, and have been relatively widely read by members of the development community in Laos, amongst whom they have made a significant contribution to raising awareness of the issues. Resettlement driven by private sector development projects is not addressed in these papers, however. Baird and Shoemaker, together with other researchers, have recently engaged in a journal debate with High (2008) over issues including the degree to which individual agency is a driver of resettlement (High et al 2009).

An additional constraint to this study was the time available, which was limited to 31 working days for one consultant. Further research is recommended, as discussed in Section 6 below.

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<sup>5</sup> Alton and Rattanavong (2004) conducted a study in two provinces but covered only eight villages in total.

## 2. Resettlement prior to 1975

### 2.1 Traditional mobility amongst ethnic groups

The traditional mobility demonstrated by many ethnic groups can be described as a kind of voluntary resettlement, and is discussed briefly here in order to provide historical context to more contemporary events. Evrard and Goudineau (2004: 941-2) note that Mon-Khmer groups traditionally had control over large territories in which they practiced shifting cultivation, with fallow periods of 15-20 years. Some groups may periodically have moved their villages in order to remain reasonably close to the fields currently being cultivated, but the settlement's location always remained within the limits of the village's overall territory. Other Mon-Khmer groups did not move their village but instead spent five to six months of the year in temporary dwellings in their fields. Individual or groups of households could also move to join existing villages or to found new ones. Sino-Tibetan and Hmong-Iu Mien groups traditionally practised a 'pioneering' form of shifting cultivation, moving on when the soil in one area was exhausted. For these groups, the lineage and clan constitute the basis of social organisation, while most of their villages 'act only as temporary groupings of residential units'. Historically, lowland Lao-Tai groups also periodically moved, to gain access to new land or, during the colonial period, to escape taxation or forced labour (the lattermost reasons for movement constituting induced rather than voluntary resettlement). In addition, populations were often compulsorily relocated by the winning side in conflicts, such as that between Vientiane principality and Siam in the nineteenth century.

### 2.2 Relocation and resettlement during the Indochina Wars

No major shifts of population occurred during the colonial period, with the exception of 'the migrations encouraged by French administrators – that of Vietnamese and Chinese families to the newly-created urban centres' (Goudineau 1997a: 11). However, the Indochina Wars, particularly the Second ("American" or "Vietnam") War, had significant impacts on the population. Laos was progressively divided into two spheres of influence, one dominated by the US-backed Royal Lao government, the other by the revolutionary forces of the Pathet Lao. The result was enormous movements of population, rising from 27,000 in 1958 to as many as 730,000 in 1973 during the ceasefire (Taillard (1989: 95), cited in Evrard and Goudineau (2004: 942)). After 1975, an estimated 300,000 persons, including many of the country's most educated individuals, crossed the Mekong River to Thailand (Stuart-Fox 1986: 52), depleting the urban population in particular.<sup>6</sup> Goudineau (1997a: 11) states that that over half of the country's villages moved during this period of conflict.

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<sup>6</sup> For example, Goudineau (1997a: 12) states that the population of Pakse dropped from 370,000 to around 10,000.

### 3. Resettlement after 1975

#### 3.1 Resettlement: 1975 – c. 1990

Unsurprisingly, the immediate post-war period saw much movement of populations that had been scattered by conflict. Many of these people were returning to their original land, but some were moving into areas abandoned by emigrants or leaving the highlands (either out of desire or necessity) to cultivate land in the valleys and lowlands (Goudineau 1997a: 13).

A significant amount of movement took place under government direction, though the degree of assistance provided to those who were directed to move is likely to have been limited at best. Such movement was the result of government efforts to repopulate towns and regions that had been depopulated (e.g. Sepone, Saravane and Xieng Khwang) and to address security concerns. The latter reflected ongoing resistance to the new regime, generally located in remote areas, which continued on a significant scale until the late 1980s. For example, in Luang Nam Tha Province, villages were moved from areas still not under the full control of the government to sites along the main road (Evrard and Goudineau 2004: 943).

Evrard and Goudineau (Ibid.) calculate that when these various types of post-war population movement (including the return of refugees) are added up, the total percentage of villages and households that relocated in the period 1975-1990 is very high: at least 50% for Luang Nam Tha Province as a whole, rising to 85% in some areas such as Long District. They note that similar statistics exist for the other five provinces surveyed by the aforementioned 1996 UNESCO/UNDP study: Oudomxai, Xieng Khwang, Attapeu, Saravan and Sekong. Finally, they also note that the populations involved in these movements were not only non-Lao-Tai groups – Lao-Tai groups were also involved. This is in contrast to resettlement post-1990, which has largely involved non-Lao-Tai groups.

#### 3.2 Resettlement: c. 1990 to the present

For the purpose of discussion, this section divides resettlement since around 1990 into two types: resettlement linked to certain government rural development and poverty reduction policies, and resettlement linked to public and private sector development projects. Practically speaking, the former are not covered by PM Decree 192 (on compensation and resettlement) and associated legislation, whereas the latter are (or at least should be).

##### ***3.2.1 Resettlement linked to certain government rural development and poverty reduction policies***

Evrard and Goudineau (2004: 944) note that up until the end of the 1970s, the Pathet Lao leaders insisted on the need to bring development to highland areas, but that from around 1985 this stance was effectively reversed to one which sought to move highland villages to areas in which they could benefit from rural development policies. They cite the following reasons for this shift: (i) the failure of policies such as land collectivisation; (ii) the apparent desire to rationalise rural development policy, with the Lao government believing that it is less expensive and more efficient to move villagers from remote areas to areas where services can be delivered, rather than to deliver services to them in situ. The availability of donor and aid agency support was also a significant factor: in May 1989, at the first Lao National Conference on Forestry (part of the Lao Upland Development Project that was supported by the World Bank, FAO and UNDP), the government passed a resolution stating that by the year 2000, 60% of the country's 1.5 million people engaged in shifting cultivation should be established in permanent settlements (Evrard and Goudineau, *Ibid.*) (though note that this did not mean that all these 900,000 people should be resettled, as the expectation was that some would be able to establish sedentary livelihoods in situ).

It should be emphasised that the Lao government has never promulgated a formal resettlement policy per se. Resettlement is instead formally regarded as a strategy to facilitate the implementation of a range of policy initiatives, including the stabilisation of shifting cultivation, the incorporation of upland farmers into the market economy and the improvement of service provision (discussed further below). Evrard and Goudineau (2004: 945) cite a government paper presented at a UN conference on Least Developed Countries (LDCs) to illustrate this point: 'the term resettlement [...] does not convey the exact meaning of the Lao word "*chatsan asib khong thi*". The government's intention is not to move the settlement per se, but to create permanent conditions that will ensure the livelihood of "unsettled" families' (GoL 2001: 33). The term *chatsan asib khong thi* is perhaps best translated as "the establishment of permanent occupations", and as such encapsulates the essential elements of the government's overall rural development policy. However, Evrard and Goudineau claim that, in practice, the strategy of resettlement has become central to the actual implementation of this rural development policy. The following discussion of various policies and their implementation provides substantial evidence to support this view.

### Village Consolidation and Development Village Clusters

Village Consolidation (VC; *kan tao hom ban*) involves amalgamating smaller settlements into larger 'aggregated' villages that meet the minimum size criteria<sup>7</sup> laid out in Instruction 09/PBPCC of the Political Bureau of the Party Central Committee (GoL 2004). Such amalgamation often involves compulsory relocation, but may sometimes be performed purely administratively, with no village movement being involved. Instruction 09/PBPCC (2004) states that relocation plans should be realistic, according 'to local condition and sustainable development plan' (GoL 2004: 4). Recently, this Instruction was supplemented by Instruction 03/PBP (GoL 2011), which aims to 'expand the results of implementing' the earlier Instruction as well as to update it in accordance with changing conditions.

Development Village Clusters (DVCs; *kum ban phatthana*) also have their origins in Instruction 09/PBPCC, which was augmented by Prime Minister's Instruction No. 13 (GoL 2008). VC and DVCs, which also link back to the earlier Focal Zone policy (see below), represent the government's policy and approach to making public services available to scattered and remote upland communities that would otherwise not be reached with the limited resources available. Many emerging DVCs are located along rural roads and highways, and many have been provided with improved health and educational facilities. Interestingly, the recent Instruction 03/PBP (2011) states that in order to form a DVC, the constituent villages do not necessarily have to be physically consolidated; rather, the DVC has the primary aim of facilitating 'the effective leadership of the Party and district administrative authority, both in socio-economic development and national defence and security' (GoL 2011: 2-3). The implication is that the government may in some cases desire to maintain villages near international or protected area borders for security reasons, even though these villages may be very small.

DVCs are seen by some development actors as a new way of further decentralizing administrative support from the district level to the grassroots level (World Bank 2008: 16), and have attracted interest from various agencies active in the field of governance for this reason (e.g. UNDP). However, as the above quotation makes clear, it should be noted that VC and DVCs also have a strong political element, particularly with regard to strengthening the Lao People's Revolutionary Party's presence at the grassroots level. VC and DVCs have long been associated with other government policy objectives, notably the stabilisation of shifting cultivation and Land and Forest Allocation (see below). More recently, evidence has emerged of links with private sector development projects such as rubber plantation establishment (see Section 3.2.2).

Article 14 of PM Instruction No. 13 (2008) makes a reference to relocation, but only a very general one: 'Relocation plans of different localities must be explicit on how the resettlement will be carried out, where people are to be relocated, what people will do, and how much investment and budget will be required'. However, more specific guidance was provided in 2009 via Prime Ministerial Executive Order No. 36 (GoL 2009), which will be discussed here in some detail. Executive Order 36's stated aims were to:

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<sup>7</sup> 200 people in upland areas, 500 people in lowland areas.

- Facilitate the implementation of the aforementioned Instruction 09/PBPCC and Prime Minister's Instruction No. 13.
- Solve problems related to the 'disorganized migration of the population' (this refers to the issue of 'unregulated internal migration' discussed in Section 3.2.1 below<sup>8</sup>).
- 'Balance' the population's distribution as regards the availability of land for resettlement and livelihoods, as well as 'the specific socio-economic development needs of each area and region of the country'.

Article 13 of Executive Order 36 states that the first priority should be to 'concentrate on solving the disorganized migration of various ethnic groups which link to stability and security in certain Northern provinces and Central region'. This demonstrates the level of concern with which the government views 'unregulated internal migration'.

Articles 2.5 and 6 state that comprehensive, nationwide resettlement and livelihood plans (integrated into the NSEDP) should be prepared on an annual basis from the 2009/10 fiscal year onwards, with the National Leading Board for Rural Development and Poverty Eradication (NLBRDPE) being assigned overall responsibility for coordinating planning with relevant line agencies, as well as with Land Allocation initiatives. The NLBRDPE had earlier been assigned a key coordination role with regard to VC and DVC as part of PM Instruction 13 (GoL 2008). Up until 2008, responsibility for resettlement lay with the respective provinces, the performance of which was variable; no budget was available from the central level for resettlement activities. In 2008, responsibility for overseeing resettlement was handed to the NLBRDPE<sup>9</sup> and some funds began to be made available from the centre for facilitating resettlement (through the provision of roofing and transport, for example). However, as is the case with numerous other issues, government policies and guidelines may well not be interpreted consistently across different provinces and districts.<sup>10</sup>

The NLBRDPE's plan for the period 2011-2015 involves 176 locations, which could be individual villages or DVCs; it is not clear whether activities in all these locations will involve resettlement. These locations were reportedly selected through a bottom-up planning process involving the NLBRDPE's provincial/district offices, their counterparts in provincial/district Departments of Planning and Investment and relevant line ministries, and are generally part of the relevant district and provincial strategic plans. The NLBRDPE will monitor a sample of these locations, and states that it will not assign funds to schemes that are deemed unacceptable.

Executive Order 36 states that each administrative level (i.e. district and province) should first try to resettle populations within its own jurisdiction in order to balance population levels with available resources, in line with socio-economic development plans and taking into account National Security concerns; if this is not possible, the issue should then be referred for inclusion in the nationwide plan.

Article 3 of Order 36 specifies criteria for determining who should be resettled. Those viewed as being suitable for resettlement include the following:

- Individuals who have already been (unsuccessfully) resettled or who have migrated of their own accord. The Order states that such individuals may create problems and 'disturb the peace'.
- Those who have inadequate land or live in very remote areas, including those practising shifting cultivation and those encroaching on various types of protected area.
- Those who live in areas prone to natural disasters.

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<sup>8</sup> 'Unregulated internal migration' (as the government calls it) involves the independent migration of households, mostly from poor rural areas to better-off rural or urban locations. It can be driven by a range of factors, including shifting cultivation stabilisation policies, failed resettlement schemes and individuals' quest for land and other natural resources.

<sup>9</sup> Although the NLBRDPE does not play a major role with regard to private sector initiatives, it is sometimes assigned by the government to play a monitoring and advisory role in relation to particularly large and/or important projects, such as Nam Theun 2 and the Sekong 4 dam (the latter will involve the relocation of Kaleum District town).

<sup>10</sup> As Stuart-Fox (2004) points out, centre-province relations have exerted significant influence on governance reform efforts as the latter have swung from decentralisation to recentralisation and then back to decentralisation in the period since 1975.

- Those who cultivate opium or other illicit crops.
- Those who live in an area allocated to a large scale development project, such as a dam or mine.
- Individuals who are able to provide labour for industrial schemes, agricultural plantations or Special Economic Zones. This explicit linkage between government resettlement plans and private sector development schemes is discussed further in Section 3.2.2.
- Those who inhabit 'strategic locations', including National Protected Areas, heritage sites and locations relevant to national security.

Article 4.2 states that persons to be resettled must satisfy certain criteria, notably the fact that they must be volunteers and 'truly accept the resettlement'. The suggestion here is that resettlement must be voluntary. However, Article 8 specifies that local authorities must provide a 'clear explanation and education process to those who have been impacted by the relocation to comprehend thoroughly the rationale and the necessity'; no mention is made of prior consultation to obtain villagers' consent. Similar actions are specified under Article 9 with regard to the members of destination communities, with the aim of preventing discrimination on the grounds of ethnicity or place of origin.

Article 7 defines criteria to determine suitable resettlement sites, which should possess sufficient land for housing and agriculture. Types of site suggested include land along roads or in other areas that is suitable for establishing 'focal development sites' or DVCs, as well as land that 'is already earmarked for tree plantations or cash crops'. The latter description again suggests a vision of resettled villagers providing labour for plantations.

A particularly contentious issue during VC and DVC establishment is the allocation of land, especially as most of the fertile arable land suited for paddy rice production has for many generations already been occupied, predominantly by Lao-Tai groups (World Bank 2008: 16). Resettled households have therefore often not had access to agricultural land that is suited to wet rice production, contributing to increased food insecurity and, often, forcing villagers to revert to shifting cultivation. Other livelihood and cultural impacts have also been observed as a consequence of VC and DVC establishment, as noted by Baird and Shoemaker (2007: 876) (see Section 4 for a detailed discussion of resettlement impacts). Baird and Shoemaker also claim that international aid is often used to encourage smaller communities to move into larger villages, even without donor approval. They cite as an example the 'Basic Education (Girl's) Development Project', supported by the ADB and Australian bilateral aid, during which 'funds have been used to build schools in resettlement areas in order to entice upland communities to relocate'.

The government's intention to continue with VC and DVC establishment is confirmed by the draft Seventh National Socio-Economic Development Plan (NSEDPP). The draft NSEDPP's Executive Summary contains a sub-section entitled 'Village and Focal Area Development' that declares the government's intention to '[e]ncourage dispersed populations to group in villages, in pre-decided locations and provide job opportunities for them to gradually reduce poverty' (MPI 2010: 28). A sub-section on poverty reduction states that 'village and village development groups (kum ban)' will be established for rural development, and that 'Village Development Plans have been drawn up for 92 village development groups in 61 poor districts' (Ibid.: 5). DVCs also have a role to play in agriculture and forestry initiatives, where one aim is to 'improve productivity through established extension centres in Kumbans, especially in districts where villages and/or people have been relocated' (Ibid.: 16).

### Focal Sites

Citing government policy (e.g. GoL 1998), Baird and Shoemaker (2007: 874-5) explain that Focal Sites are intended to: (i) alleviate poverty among rural populations in remote areas; (ii) provide food security; (iii) promote commercialization of agricultural production; (iv) eliminate shifting cultivation; and (v) improve access to development services. The Focal Site approach aims to concentrate resources in selected geographic areas, often with a heavy emphasis on infrastructure that can be attractive to donors seeking "concrete" outputs from their investments.

In 1994, the government established the Central Leading Committee for Rural Development (CLCRD, the forerunner of the present NLBRDPE), which played a key coordinating role with regard to Focal Sites. In 1998, the government announced that it planned to create 87 'national level' Focal Sites by 2002, bringing

together 1,200 villages and 450,000 people (12% of the population of Laos at the time), half of whom were expected to be displaced communities (GoL (1998: 26), cited in Evrard and Goudineau (2004: 945)).

Since the early 1990s, international aid donors have played a key role in the Focal Site strategy; for example, in the period 1998-2002, 83% of funding was mobilised from foreign sources (Evrard and Goudineau 2004: 946). Baird and Shoemaker (2007: 875) note that it was UNDP that was most strongly associated with the active promotion of the Focal Site concept, helping the government in the mid-1990s to draft 'a major appeal to international donors to support the concept of Focal Sites as the basis of their rural development assistance.' Following this, six UN agencies began supporting the concept, while the World Bank, ADB and other donors contributed to infrastructure development associated with focal sites.

Provincial and district administrations have also identified their own focal sites, following government policy. For example, Instruction 09/PBPCC of the Political Bureau of the Party Central Committee (GoL 2004) states that a 'district should have 2-3 or more pilot focal zones'. The administrations have then often encouraged donors and INGOs to work in the focal sites. Donors and INGOs have in some cases done so with little appreciation of the implications in terms of planned resettlement (Baird and Shoemaker 2007: 975).

Evrard and Goudineau (2004: 946) note the difficulty of evaluating the actual extent to which the Focal Site policy has been implemented, given that no national survey has been conducted since 1996 (Goudineau 1997). However, based on data available to them in 2003/4 (such as Romagny and Daviau (2003)), they concluded that the impact could be considerable and that in many cases up to 50% of the remaining upland district populations were 'in the process of relocation and regrouping downhill'.

The term 'Focal Site' is now somewhat less common in government discourse (having been superseded to a large extent by the Development Village Cluster concept and related initiatives), but the approach still underlies current policies, as demonstrated by the aforementioned draft Seventh NSEDP's use of the term 'Focal Area development'. The draft NSEDP also mentions the development of six 'focal areas' in Vientiane province and additional 'focal areas' in the southern provinces' (MPI 2010: 28). Furthermore, the recent Instruction 03/PBP (GoL 2011) makes repeated reference to 'focal areas' of various types.

The government's strategic medium term framework for fighting poverty (the National Growth and Poverty Eradication Strategy, NGPES) also refers to the government's adoption of an 'area-focused development approach', which involves both lowland and upland areas. In upland areas, the approach 'aims at providing a whole range of alternatives to remote communities. Area-focused development opportunities include livestock-based farming, non-timber-forest-products-based upland farming systems and other already devised upland development strategies, including more viable land allocation systems. In this way, people have options to choose from in order to improve their livelihood locally without having to move' (CPI 2004: 56). This is interesting, in that it specifically introduces the option of some communities developing in situ.

A little later in the NGPES, the option of resettlement is also raised: 'The development, both in the upland and lowland regions, of flatland areas is another development alternative pursued by the Government in response to movements of villages from areas where there is not enough carrying capacity. The Government does its utmost to prepare these focal areas in a systematic and organised manner to ensure that such moving villages, on a spontaneous or participatory and planned basis, have a chance to 'consolidate' in the best possible way' (Ibid.) (however, focal sites are often not adequately prepared in advance, leading to the type of detrimental impacts on resettlers' livelihoods and health that are discussed in Section 4). The government's dislike of unplanned population movement is also reflected: 'With a successful implementation of a focused, harmonised area-based development approach, the impact of wide-spread voluntary movements of people, undertaken without preparation and at great risks, can be mitigated successfully. For this reason, the Government gives great importance, in order to avoid people hardship, to discuss with them their movements and to prepare them in a participatory and consultative way' (Ibid.: 57) (the issues of participation and consultation are discussed in Section 3.2.1). Finally, this section of the NGPES

acknowledges that 'given limited public resources, both financial and human, implementation faces constraints' (Ibid.).

### Land and Forest Allocation

According to Ducourtieux et al (2005: 504-5), Land and Forest Allocation (LFA) was introduced experimentally in 1990 in two provinces, then extended to the whole country in 1994 under Prime Ministerial Decrees 169/PM (3/11/1993) and 186/PM (12/10/1994). The stated objectives of LFA are to promote sustainable management and use of natural resources, prompt reduction and gradual elimination of shifting cultivation (see next section), and encourage commercial agriculture production (World Bank 2008: 16). LFA involves a village-level planning exercise that includes: 'forest and agricultural land use zoning; land suitability assessments; demarcation of village boundaries; formulation of management regulations and hand-over of management responsibilities to villages; and plot measurement and allocation of permanently used land plots (e.g. paddy fields, gardens, orchards, plantations and residential areas) with temporary land use rights to individuals, villages and commercial organizations' (Ibid.).

Providing farmers with (more) secure land tenure can have major benefits, such as encouraging them to make the greater investments in their land that are required to make the transition to more intensive, sedentary forms of agriculture. Some farmers are benefitting in this manner, planting new types of cash crop and increasing their household income (see, for example, Cunnington et al (2008: 5)). However, many are finding themselves unable to make this transition for a range of reasons, including a lack of technical knowledge (on a range of issues, including environmentally sustainable practices) and financial capital, poor market access, price fluctuations, pests and livestock disease. Such farmers continue to practice shifting cultivation, but on areas of land that are inadequate to provide sufficiently long fallow periods to maintain soil quality. The detrimental consequences include soil degradation, increased weed infestations and associated increases in the demand for labour (often provided by women), and dramatic declines in yields that were often fairly meagre in the first place; the poorest farmers are often the worst affected (Ducourtieux et al 2005: 519). A vicious circle or downwards spiral of impoverishment is the result, such that LFA has often 'proven ineffective or even counterproductive to the political aims of poverty alleviation and environment preservation' (Ducourtieux et al 2005: 518). Affected farmers are left with the options of enduring increased food insecurity in their home village or relocating, either under their own initiative or as part of government schemes. In 2003, for example, Vandergeest noted that 'evidence is growing' that LFA is 'a primary cause of displacement and impoverishment in Laos' (2003: 51). Such relocation would be classified as 'induced' according to the definitions used in this report.

Although on paper LFA appears to be a highly participatory approach and 'is indeed exemplary in many ways' (Vandergeest 2003: 50), it has been implemented too rapidly in many areas, partly as a result of being target-driven. In addition, inadequate provision of technical assistance to shifting cultivators with little or no experience of paddy cultivation, insufficient consideration of soil and land capability, and the limited availability of paddy land have all exacerbated the situation. There are also 'widespread technical misunderstandings and issues in selecting adequate means for achieving set objectives' (World Bank 2008: 21).

LFA has been completed to varying degrees in different parts of the country, but 'is already far advanced in the Northern Uplands', with most of the provincial governments having almost completed the first round of LFA activities by 2008 (World Bank 2008: 45). The slowest progress was being observed in Phongsaly Province, with LFA having been implemented in about 50% of the upland villages by that year. More recent reports indicate that land allocation is already complete in 16 of the 47 poorest districts in the country, and will be completed in the remainder of these districts as well as the provinces of Vientiane and Luang Prabang in 2011 (Vientiane Times 2011c).

In urban and peri-urban areas, the World Bank-supported Lao land titling programme has been active since the mid-1990s, modelled on the Thai programme (Vandergeest 2003: 49). Vandergeest notes that accelerated land titling programmes globally have been justified by research conducted in Thailand (Feder et al 1998), on the grounds that this provides empirical support to the theory that secure land rights will

encourage farmers to invest productively in their land. However, Vandergeest cites a review by Maxwell and Wiebe (1999: 831) that suggests that evidence supporting this link is mixed (with the exception of the much-cited Thailand study). He also notes that other studies have shown that land titling may not be a key factor in increasing productivity or food security, and cites World Bank publications (e.g. Deininger and Binswanger 2001) that accept that the security necessary for stimulating investment can be provided by a variety of tenure arrangements, including customary tenure.

In 2003, Vandergeest (2003: 54) claimed that the problems with LFA were 'widely recognised' and that a search for an alternative, more flexible process had begun amongst some officials and development organisations. Barney (2010: 6-7) observes that the National Land Management Authority (NLMA<sup>11</sup>) and the MAF have released a new Participatory Land Use Planning (PLUP) Manual, which amongst other possibilities opens up the potential for communal land titling (though this is certainly not a panacea, as Li (2010) makes clear). However, Barney notes that 'it remains to be seen how the new PLUP manual will actually be funded [...] and how it will be implemented in practice'.

Although detailed discussion of this issue is beyond the scope of this report, aspects of LFA in Laos link with the global debate over land tenure and policies. Assies (2009: 573) notes that this debate tends to oscillate between 'a policy stressing private property and connecting people to markets on the one hand, and forms of use rights – to be built where possible on local, non-state regulations of land tenure – on the other'. Proponents of the former (which, it could be argued, would include the Lao government and some aid agencies such as the World Bank) regard land primarily as an economic asset, whereas supporters of the latter (probably including a good number of the INGOs active in Laos) adopt a human rights orientation and emphasise food, livelihood and shelter security. The latter approach is reflected to some extent in the 2004 *EU Land Policy Guidelines*, though Assies cites Bergeret (2008) as suggesting that the EU has been 'rather tepid' in advancing its position.

### Shifting cultivation stabilisation

Since the Fourth Party Congress in 1986, the stabilisation of shifting cultivation has been one of the Lao government's major priority programmes (Pholsena 2003: 13). Shifting cultivation stabilisation is also intended to contribute to the broader government objectives of improving food security in rural areas and transforming subsistence farming into sedentary market-oriented commercial agriculture (World Bank 2008: 16), both at a smallholder level and for agribusiness (Dwyer 2011: 8). As Baird and Shoemaker (2007: 873) note, aid agencies have played a significant role in supporting the operationalisation of policies to reduce or eradicate shifting cultivation. They cite as an example the first Lao National Conference on Forestry in 1989 (supported by the World Bank, UNDP and FAO) at which, as noted in Section 3.2.1, the government passed a resolution stating that by the year 2000, 60% of the country's 1.5 million people engaged in shifting cultivation should be established in permanent settlements (though this did not mean that all these people should be resettled, given that some would be able to establish permanent settlements in situ). The Tropical Forestry Action Plan (supported by FAO and UNDP) was subsequently launched the following year, confirming the government's commitment to reducing shifting cultivation but also stating 'the necessity of developing sustainable economic alternatives [...] in upland districts so that villagers could improve their standard of living' (Goudineau 1997a: 15).

In 1999, the government estimated that around 280,000 households were dependent on shifting cultivation (SPC / NSC 1999). Department of Forestry data cited in a World Bank report (2008: 41) states that the number of households practicing shifting cultivation was reduced from more than 140,000 in 2000 to less than 45,000 in 2005, and that the area under shifting cultivation had dropped from 118,900 hectares to 29,400 hectares over the same period. Rough though they may be, these figures reflect a rapid and substantial change in the livelihood systems of many households. Goudineau (1997a: 30) concluded that

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<sup>11</sup> The NLMA was recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011. It is not yet clear how these organisational changes will affect the discharge of the responsibilities formerly assumed by the NLMA. Some observers have suggested that some of the NLMA's former responsibilities might be assumed by the Department of Forestry within MAF, further complicating the picture.

policies to reduce shifting cultivation had been 'one of the principal reasons' behind resettlement, i.e. compulsory relocation in the terminology of this report. With regard to its effectiveness in reducing shifting cultivation, he concluded that in the three southern provinces surveyed, plus Xieng Khwang in the North, resettlement appeared to have contributed to a reduction in the percentage of families practising shifting cultivation. However, in the two other northern provinces of Oudomxay and Luang Nam Tha, the percentage had remained stable or even increased. He suggested that the main reason was that in these two provinces little land is readily available for paddy cultivation.

Shifting cultivation stabilisation policy – linked with LFA – has 'actually led to increased vulnerabilities and rice shortages in a number of upland areas' (World Bank 2008: 16) due to the problems resulting from inadequate fallow periods discussed above in relation to LFA, and has therefore, like LFA, also acted as a driver for the induced relocation of upland farmers.

There is an increasing recognition within government (particularly at the provincial level) of the problems caused by policies to reduce shifting cultivation (a recognition that has already become well-established amongst certain government officials at central level as well as the majority of development agencies). Some provinces are experimenting with different approaches to implementation: in Luang Phabang, for example, a village is declared 'free of shifting cultivation' if 70% of its households have 'stabilized' their cultivation patterns, thereby permitting some continuation of shifting cultivation. In Phongsaly, swidden agriculture will be allowed to continue in remote locations because 'it is well understood by local authorities that there is currently no alternative' as regards livelihood and food security (World Bank 2008: 46).

### Opium eradication

Opium's suitability for the agro-ecological environment, high value-to-weight ratio and ease of storage make it the ideal cash crop for upland areas (Epprecht 2000: 20). It has therefore long been cultivated by certain upland peoples for this purpose, as well as for medicinal use. Although Laos' opium production was a fraction of that of Myanmar or Afghanistan and less than 10% was actually exported (Ibid.: 16), in 2001 the government implemented an Opium Eradication Policy that rapidly reduced the quantity of opium being produced. Political pressure, as well as generous funding (either through projects or via UNODC), from certain members of the international community encouraged the process. Baird and Shoemaker (2007: 871) cite *The Economist* (2004) as estimating that around 25,000 highland people had been displaced due to opium eradication policy by early 2004, a phenomenon that involved both compulsory and induced relocation.

In June 2005, the government proclaimed Laos to be opium-free (Ibid.), an ambitious claim that was echoed in 2006 by UNODC's global director. What is certain is that the rapid removal of a critical livelihood strategy and the lack of any viable replacement in most cases had severe impacts on the livelihood status of Hmong and other opium cultivators (such as the Akha), leaving relocation to the lowlands as the only viable option for many communities. As this issue became more widely known, the government introduced another policy – 'The Balanced Approach to Sustaining Opium Elimination in the Lao PDR (2006-2009)' – that aimed to complement the eradication of opium production with measures to build capacity, improve household incomes and road access, provide economic and social services, and encourage sustainable management of the environment. However, plans to support affected populations to develop alternative livelihood strategies have proven to be extremely challenging (Cohen 2009: 3). In recent years, opium production has been on the rise again, as farmers respond to higher prices and the continuing lack of any competitive alternative (Economist 2009).

### Security

As noted in Section 3.1, security concerns were certainly an important driver of compulsory relocation up until the late 1980s. Baird and Shoemaker (2007: 871) conclude that security is 'no longer the primary motivating factor for most resettlement in Laos, although it is relevant in some areas, and with regard to some ethnic groups'. In recent years, a different set of security issues related to 'unregulated internal

migration' appear to have become more important as a rationale for compulsory relocation (see Section 3.2.1).

### Acculturation aims

Baird and Shoemaker (2007: 872) claim that 'one of the government's long-standing priorities has been integrating minorities into the dominant Lao culture, by encouraging them to adopt ethnic Lao livelihoods, practices and language. Cultural integration has therefore been an important motivation for resettlement.' Goudineau (1997a: 35-36) is a little less definitive in his conclusions, noting that 'integration is occurring naturally [and gradually] across the young generations' but suggesting that resettlement is '*perhaps* envisaged as a method of rapid integration into the national culture' [italics added]. However, he does express a concern that resettlement may represent in many cases a 'cultural rupture'. High (2008: 546), however, challenges such notions, suggesting that the process of 'Lao-ization' perceived by some analysts may not be an instance of cultural integration so much as a reflection of people's quest for their particular local image of modernity (which, in Laos, tends to be associated with Lao-Tai cultural markers).

What is undeniable, however, is that the experience of resettlement involves profound social and cultural impacts, as well as economic ones, and that these impacts are probably magnified when resettlement is not voluntary. Citing Goudineau (2000), Evrard and Goudineau (2004: 938-9) describe resettlement as involving a double process: '*deterritorialisation*, which not only means leaving a territory, but for many villagers also entails changing their whole traditional way of life (ecological, cultural, technical); and *reterritorialisation*, which implies not only settling in a new environment but also accepting and integrating into the cultural references that are bound up with it.' They go on to note that because of the complexity of these processes, the social impacts caused by deterritorialisation vary from case to case, just as reterritorialisation is achieved with varying degrees of success. Since the state cannot control all aspects of these processes, they sometimes generate unplanned or unexpected migrations, which could be called 'resettlement-induced forms of mobility' (Evrard, 2002). This last point is discussed further below.

### Resettlement linked to certain government rural development policies or poverty eradication strategies: to what degree is it voluntary?

This question has been much debated in the existing research on resettlement linked to government rural development policies or poverty eradication strategies, e.g. High (2008), High et al (2009) (note that resettlement due to public and private sector development projects is discussed separately in Section 3.2.2 below, as such resettlement is covered – at least in theory – by specific legislation such as PM Decree 192 (GoL 2005)). Population movements due to Village Consolidation, Development Village Cluster formation and Focal Site establishment would generally be classified as compulsory relocation, though there are cases of voluntary resettlement where villages have initiated the process themselves in the hope of obtaining access to better resources and services. For example, in the small survey of 16 EU-funded INGO projects conducted as part of this assignment, 1.3% of target villages were reported as having resettled voluntarily<sup>12</sup> during the course of the projects, compared to 5.3% that had been resettled due to government policies and 0% that had been resettled as the result of private sector development projects.

However, in many cases the divide between 'compulsory' and 'voluntary' is not in fact as clear-cut as these definitions would suggest. Although Article 4.2 of PM Executive Order 36 (GoL 2009) states that persons to be resettled must be volunteers, reports of villagers moving under the direct threat of force do exist, such as those in Baird and Shoemaker (2005: 32). Such instances would certainly constitute violations of basic human rights.<sup>13</sup> However, because of the lack of nationwide studies (see Section 1.4) it is not possible to reliably estimate the number or proportion of resettled villagers who have moved for this reason. Goudineau

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<sup>12</sup> The guidance notes accompanying the survey form stated that villages should only be included in the category of 'voluntarily resettled' if INGOs are 'certain that villagers were not significantly influenced in their decision [to move] by government policy implementation or private sector development initiatives'.

<sup>13</sup> For example, Article 1(2) of the International Covenant on Economic, Social and Cultural Rights specifies the right to traditional and customary land and the right to be secure in the means of subsistence, while Articles 1(1), 1(2) and 11 refer to the right to be free from involuntary resettlement. Clause 2 of Article 17 of the Universal Declaration of Human Rights states: 'No one shall be arbitrarily deprived of his property.' Article 40 of the Lao Constitution (amended in 2003) recognises the freedom of settlement and movement, though with the caveat 'as provided by laws'.

(1997a: 19) reports that of the 1,000 families his team interviewed, less than 12% considered their displacement to have been 'obligatory'. However, he acknowledges that in the Lao context, the room for manoeuvre of villagers faced with insistent official demands 'is not easy to evaluate'. Another salient point is that villagers may also have been reluctant to state in interviews that they were compulsorily resettled.

It is suggested here that much resettlement lies somewhere along a spectrum between the above two extremes, i.e. purely voluntary<sup>14</sup> and absolutely compulsory. Goudineau (1997a: 19) notes that most resettlement appears to be the result of negotiations between the provincial/district authorities and villagers, with such negotiations lasting from a few months up to several years. He suggests that 'frequent schisms within villages, with some families choosing to move and others preferring to stay on the former site, prove that real debate, leading to varying decisions, is held among those involved'. However, he acknowledges that the authorities may 'place gradual pressure on villagers, followed eventually by stronger arguments [such as penalties for non-compliance with government regulations], but only after lengthy consideration and discussion amongst villagers and families'.

The degree of pressure applied by the authorities varies considerably from province to province and from district to district. As discussed earlier, villagers' livelihoods may be undermined (unintentionally or intentionally) to such an extent by government policies such as shifting cultivation stabilisation, Land and Forest Allocation and opium eradication that they have little choice but to relocate. In some cases, very significant pressure is deliberately applied, as described by Daviau (2006) in his report on Nalae District in Luang Nam Tha. He concluded that 'all [resettled] communities share one thing: they had to resettle and all have been pressured in various ways and all had been given a deadline that they all respected in implementing their resettlement. Remaining in their old village was not an option' (Ibid: 13). Pressure was applied in various ways: 'every Government representative going to the field acts as an agent reinforcing Government policy and proposing resettlement. Resettlement agents also visit the communities targeted for resettlement schemes, sometimes staying in the village at the community's expense until the village moves. The removal of mass organisations and administration and the dismantlement of public infrastructure are also usual means of pressure put on communities. Some were also threatened by the authorities' (Ibid: 5). In addition, support from international organisations may be promised to villagers as an incentive to move, even though these organisations may be unaware of this or may even have explicitly stated their opposition to resettlement. For example, Daviau (2006: 14) cites a document sent from the Nalae District Party Committee to one village head that mentions that international agencies will provide support in the village's new location, namely 'that ACF will provide clean water and [GTZ's] RDMA<sup>15</sup> a road from Saphim to the new site'. GTZ had already made clear its opposition to forced resettlement in meetings with authorities, yet the project had clearly 'sometimes been used by the Government as a means to motivate communities to resettle' (Ibid: 5).

However, Evrard and Goudineau (2004: 947) emphasise that villagers also develop and apply their own strategies. These may include negotiating to stay where they are or selecting alternative resettlement sites better to their liking. This tallies with the consultant's own experiences, for example during village fieldwork in Oudomxai Province in 2007/8 (see box below).

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<sup>14</sup> Although High (High et al 2009: 619) is surely correct when she notes the impossibility of any action being completely voluntary (in the sense of being completely free from any external context).

<sup>15</sup> GTZ's Rural Development in Mountainous Areas programme.

### Resettlement negotiations

Villagers [in Ban (village) A] have thus far rejected relocation options presented by the district and presented counter-proposals of their own (although the result seems to be an impasse). In a conversation involving both members of the village committee and district and provincial counterparts, it emerged that the district has made five attempts to persuade the villagers to resettle. On each of these occasions, district staff have come to the village to meet with villagers; only men attended the meetings. On the first three occasions, the villagers did not wish to go to inspect the area to which it was suggested that they move (initially to Ban B, then later to an area near Km 41 on NR 13 North). On two later occasions (the most recent being in March 2007), however, some village men (but no women) did go to inspect the site and quickly realised that there was inadequate land available. They decided not to move. The district made a counter-proposal that they leave their houses in the current location and establish a new settlement in the proposed relocation area, but continue to cultivate their current lands. This was rejected by the men as being impractical.

Villagers in Ban A, as elsewhere, are not unaware of the potential benefits that relocation could bring in terms of improved access to services and markets. However, they are acutely aware of the need to ensure that they will be able to secure a livelihood in the new location. As the Deputy Village Chief said, 'We'd be prepared to move as long as we are confident we'll have a livelihood [in the new location].... If we have land allocated to us for sedentary agriculture where we can plant rubber, grow tea - OK.' Villagers have made a counter-proposal to the District, whereby they suggested that other villages should be relocated to, or consolidated with, Ban A and given a share of the village's natural resources and land. An access road should be constructed to link Ban A with NR 13 North. Participants in the women's FGDs [focus group discussions] also mentioned this as their preferred option, when the issues related to relocation were discussed with them. This option is worthy of further investigation. Ban C presents a similar example, which implies that in at least some cases, relocation plans are negotiable to some degree. The village rejected a plan for it to move to Ban D in 1997, but then later accepted an alternative proposal to move to its current location in 2000/1.

*Source: Cunnington et al (2008: 47-8). The villages' real names have not been given here.*

The process by which decisions are actually reached within a village can also be very complex. Goudineau (1997a: 19) observes that unanimous agreement is seldom reached spontaneously, but rather that 'influential village or clan figures often shape village opinion and lead to a collective acceptance (or rejection)'. This is how village decision-making normally works, of course, with the views of less influential villagers in general, and women in particular, carrying significantly less weight. Evrard and Goudineau (2004: 947) stress that villagers' attitudes towards resettlement are by no means uniform, with variables such as gender and age influencing people's views. In the abovementioned Oudomxai study, for example, some young women in Ban (village) A appeared to be more enthusiastic about moving to a new, more accessible location than their male peers; however, it was notable that in relocated villages, women were generally not consulted before the decision was made to relocate (Cunnington et al 2008: 48-9). In some cases, villages may split into a number of groups (perhaps along lineage lines), with each group following a different course of action.

In some cases villagers themselves may take the initiative and open negotiations on resettlement with the authorities, with a view to obtaining better access to land and/or services. The consultant recently observed this in a village in Long District, Luang Nam Tha province. Doussantousse (2010: 5) also notes the same phenomenon in Thatom District, Xieng Khwang Province, where although resettlement 'began as a Government initiative, resettlement became more and more an activity planned and implemented by the settlers themselves. In many cases, they chose the place where they would relocate and if they were not satisfied with the conditions, they moved on.' A number of informants interviewed for this assignment also mentioned this issue, noting that it is now quite common for individual households to relocate, moving to join relatives in villages where land is available.

### 'Resettlement-induced forms of mobility'

Evrard and Goudineau (2004: 948) note that inadequate planning and resource provision for resettlement sites, as well as the long history of population movements in Laos and the social organization of certain ethnic groups, can provoke further spontaneous shifts of resettled populations that are not envisaged in any plan; Evrard (2002: 45-61) calls such shifts 'resettlement-induced forms of mobility'. Paradoxically,

therefore, government resettlement programmes that are intended to promote a stabilisation process in the country can 'cause increased and diversified rural mobility' (Evrard and Goudineau 2004: 954).

Evrard and Goudineau (Ibid: 950-8) discuss three types of 'resettlement-induced migration': alternating shifts, chain reactions and resettlement networks.

#### *i. Alternating shifts*

As discussed in Section 4, many government resettlement actions have had a severe negative impact on health and livelihoods. In response, villagers may return to their original location or, in a very common approach, remain 'officially' in the new location while retaining their agricultural land and field houses at the original site. This 'double-housing' system, which as noted in Section 2.1 is a traditional feature of some Mon-Khmer groups, thus remains intact despite resettlement.

#### *ii. Chain reactions*

In this case, detrimental impacts on wellbeing caused by resettlement result in villagers moving again (perhaps more than once), but within the lowlands rather than by returning to the highlands. A community may split as a result, or households from different communities may coalesce together.

#### *iii. Resettlement networks*

Migrations of highland people to the lowlands often use existing networks; for example, people who have already been resettled in the plains may support the later migration of relatives or lineage members. Later migrants may also be able to draw on the patronage of relatives in high positions to obtain permission to settle in favourable areas, obtain economic support from the authorities and from aid agencies. Linkages amongst people from the same ethnic group may draw people together from different parts of the country. Evrard and Goudineau (2004: 958) suggest that such highland-lowland migrations are 'reshaping the classical relationships between lowland and upland areas, and between Tai populations and ethnic minorities. These relations, previously based on complementary economic exchanges and separate livelihoods, are now more concerned with the dynamics of integration and economic competition in which land tenure formalisation is a crucial issue'.

#### 'Unregulated internal migration'

'Unregulated internal migration' was discussed at a meeting of provincial governors and the Cabinet on 19 August 2009, with the Vientiane Times carrying a report on the meeting the following day (Vientiane Times 2009). The problem was described as involving people from rural upland areas migrating to lowland and urban areas 'after facing difficulties in earning a living'. The governor of Houaphan Province was quoted as saying that 'large numbers' of people were moving from his province to Vientiane and Bolikhamxai, and that one of the main causes was 'strict enforcement of government policy to stop unregulated slash and burn cultivation' and the subsequent problems faced by farmers in adapting to new livelihood systems. In some areas, this is a very longstanding issue: for example, Evrard (2007: 23) cites the case of the head of Vieng Phu Kha District in Luang Nam Tha Province saying in 1996 that 'his problem was less to convince the villagers to settle in the lowlands than to avoid too many spontaneous migrations from already partly depopulated upland areas'.

Partly in response to the issue, Prime Ministerial Executive Order 36 (GoL 2009) was issued, as discussed above; the issue is also raised in the NGPES.

### **3.2.2 Resettlement linked to public and private sector development projects**

#### Context

Foreign Direct Investment (FDI) has grown significantly over the past decade, albeit with a slowdown in 2009 as a result of the global economic crisis. Chinese investment has been increasing particularly rapidly, making China the largest foreign investor in Laos in 2010, followed by Thailand and Vietnam (based on investments made over the period 2000-2009) (Vientiane Times 2010). However, Vietnam took the number one spot in 2011 (based on investments made over the period 2000-2010), though the ranking was somewhat skewed by a single very large investment (a one billion dollar golf course in Vientiane) (Vientiane Times 2011d). FDI, linked with Laos' ongoing incorporation into the regional and global economy, is the driving force behind the country's high growth rate (estimated by the World Bank to have reached 8.5% in 2010). The natural resources sector is projected to have contributed about 4 percentage points of economic growth; Nam Theun 2 hydropower operations alone are estimated to have contributed 3 percentage points (World Bank 2010: 2).

As UNDP Laos' Chief Economist recently noted, the Seventh NSEDP (2011-15) will rely much more heavily than its predecessors on FDI, programming a very high foreign investment expenditure rate of 18% of GDP per annum over five years. While FDI can play a critical catalytic role in development, there are reports of mining, concession, contract farming and other FDI schemes causing negative social, economic and environmental impacts. In addition, many of the FDI schemes seem to have been poorly negotiated; for example, many land concessions have been agreed at very low prices (Vientiane Times 2011b; Glofcheski 2010). The World Bank's *Lao PDR Development Report 2010* noted that it has recently become clear that 'natural resource projects are being developed too fast to qualify as carefully planned and thoroughly assessed long-term investments' (World Bank 2011c.: 14). In the coming years, it is likely that FDI will be transformational for Laos, 'either positively or negatively, and in some cases irreversibly' (Glofcheski 2010). It is therefore critical that a wide range of regulatory challenges related to FDI be addressed, including: managing revenues transparently and effectively; managing the natural resource base equitably and sustainably; managing social impacts; improving the legal framework governing FDI and ensuring its consistent application and enforcement; diversifying the economy away from its current heavy dependence on the natural resource sector.

Laos' integration into regional and global markets is being facilitated through a number of means, including free-trade agreements such as the ASEAN Free Trade Agreement (AFTA) and the China-ASEAN Free Trade Agreement (CAFTA); Laos is also working towards World Trade Organisation (WTO) membership. Another means involves the economic corridors that are a key element of the strategy of the ADB and others to further integrate the economies of Greater Mekong Subregion (GMS) member states, with Laos being traversed by three such corridors. Large-scale transport infrastructure projects, such as the high-speed rail line to be 70% funded by China<sup>16</sup> (Vientiane Times 2011e), represent one high-profile component of regional integration trends. Various regional development plans, often combining both public and private sector development projects, are also likely to be influential. With Chinese technical assistance, a 'Northern Plan' has been drafted with the aim of developing the industrial sectors in northern Lao PDR through 2020 (though most of the plan's activities remain unfunded). In Southern Laos, the government is participating in at least two "development triangles", which involve tripartite agreements to focus investment on certain border provinces. The Cambodia-Laos-Vietnam Development Triangle (CLVDT) includes Salavan, Attapeu and Sekong Provinces in Laos, while the Emerald Triangle covers Champassak Province in Laos and neighbouring areas of Cambodia and Thailand.

All of the above agreements and plans are likely to influence village relocation processes, intentionally or unintentionally, but further research is required into how these plans and processes are likely to play out. For example, the Northern Plan views village relocation as a poverty reduction strategy; in the Plan, 'policies on village resettlement and industrialization have become more intertwined and mutually supportive', and the Plan 'emphasizes developing and enforcing effective compensation schemes for villagers who are displaced by large industrial projects' (Weiyi Shi 2009: 13). Overall, the Plan seems likely to increase various forms of relocation as a result of the creation of transport infrastructure, hydropower schemes, plantations or industrial areas and the growth of employment opportunities in increasingly urbanised settings. As

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<sup>16</sup> The Lao government will contribute 30%, which is intended to cover all the compensation required.

discussed below, evidence has also emerged – in both Northern and Southern Laos – of intentional linkages between private agricultural concession projects and government resettlement programmes.

Urban development projects are becoming increasingly important causes of involuntary resettlement. Recent high-profile cases include that of Don Chan island in Vientiane, where a Chinese investor has been awarded a 50 year concession to develop 25 hectares of land, with the possibility of extension for another 40 years. The scheme involves property development, including the construction of 50 houses for use by heads of states and their entourages during the Asia-Europe Meeting (ASEM), to be hosted by Laos in November 2012. Concerns were expressed by some residents about the level of compensation likely to be paid (Vientiane Times 2011f), concerns echoed by individuals likely to be resettled as a result of the construction of the China-Laos high-speed rail link (Vientiane Times 2011e). These two schemes represent just a small sample of ongoing and proposed projects that will involve involuntary resettlement in urban areas.

As noted above, the natural resources sector is a very important one for Laos. Mining and hydropower development will continue to be particularly significant forms of private sector investment in this sector. Revenues from mining and hydropower already constitute around 20% of total government revenues, having overtaken those from grants in 2006, and are projected to rise to more than 5% of GDP a year by 2020 (World Bank 2011c: 1, 12-3). Only 10% of nearly 200 proposed hydropower and mining schemes have come on stream to date (Ibid.: 1). The following sections discuss in turn hydropower and mining, followed by another form of private sector development with potential implications for resettlement: agricultural and forestry concessions.

#### Implications of hydropower schemes for resettlement

Rigorous data on people resettled due to hydropower schemes is generally scarce, with the exception of a limited number of high-profile schemes such as Nam Theun 2 (NT2). However, a recent World Bank technical note provides some interesting projections (World Bank 2011). The technical note was prepared under various constraints, including the fact that GIS information on the reservoir size is available for only 42 out of 90 current or planned hydropower schemes, hence only these 42 projects could be analysed with respect to their likely impacts on the local population. An additional 63 projects that currently lack an MoU with the Ministry of Energy and Mines (MEM) were also excluded from the analysis. Nevertheless, the technical note concluded that 293 villages will be inundated by the projects analysed, affecting a total of around 100,000 people (Ibid.: 7). If the projects for which information is unavailable are of a similar size, around 280,000 people will eventually need to be involuntarily resettled as a result of hydropower projects. In addition, 49,000 people live within one hour's walk of a current or planned reservoir, some of whom will be affected by direct or indirect downstream effects. Even when substantial resources are available, involuntary resettlement is a very challenging process to manage, as the box below suggests.

### 'State-of-the-art' resettlement in the NT2 project

The stated aim of the USD 1.3 billion Nam Theun 2 project is 'to generate revenues that can be targeted to poverty reduction and environmental protection programs' (World Bank 2011b). The project is jointly implemented by the Nam Theun 2 Power Company (NTPC) and the Government of Lao PDR, supported by financing from 27 parties, including the World Bank and Asian Development Bank. The project has attracted a great deal of attention, from international environmental NGOs and others. This is partly because of its large size and its location in an area of globally significant biodiversity, but also because it took place amidst what two World Bank staff members who were closely involved with the project describe as the 'dam debate of the 1990s, [...] the Asian financial crisis of 1997, the strengthening of environmental and social safeguard policies and practices at the World Bank and other financial institutions, and the greater scrutiny of governance arrangements for the transparent use of natural resource rents by countries' (Porter and Jayasankar 2011: 1). The fact that the project has become the basis for ambitious claims on the part of the World Bank is exemplified by these authors' contention that the project 'demonstrates that hydropower projects can be designed and implemented to deliver sustainable outcomes through state-of-the-art environmental and social practices and strengthened public financial management systems, but this takes a long time' (Ibid.: 2). However, even Porter and Jayasankar admit that there are concerns as to whether the 'best practices' promoted by Nam Theun 2 are being embraced by the government and others (Ibid: 158-9).

The project has involved the resettlement of 6,200 people from the reservoir site, who after over a decade of consultations decided to stay close to their original location due to spiritual considerations (World Bank 2011b). According to the Bank, this presented a greater challenge for the project, as the villagers' original location is known for its poor soils. However, villagers' wishes were respected and the project 'designed to maximize the chosen location', although partly as a consequence the resettlement process overran its budget (Porter and Jayasankar 2011: 167). The project's aim is to increase the living standard of the resettled villages by doubling their income in the five years following relocation (i.e. by 2012/13). To do this, 'villagers need to transition from living as hunter-gatherers, to a market-based system', clearly a major transition. NTPC and the government are providing technical support in this regard, and resettled households have been provided with new homes and related infrastructure.

According to recent socioeconomic monitoring surveys, a majority of resettler households (over 80%) report that life is now 'much better' than before resettlement (World Bank 2011a). People report being satisfied with the resettlement process and their new living conditions and environment. Yearly incomes have almost doubled and the median value of household assets increased from \$US120 in August 2006 to \$480 by May 2009. In terms of livelihoods, sources of income and livelihoods for the resettlers have evolved over the three years of the project. Fisheries have grown in importance following the creation of the reservoir, though it should be noted that resettlers' current exclusive access will be limited to a 10 year period. Forestry (for timber products) has nearly halved as a source of income, while non-farm income has also declined. Community forestry is described as a 'key livelihood pillar', but the establishment of Village Forestry Associations (VFAs) faces a number of challenges. External threats from logging and mining interests continue to be a serious problem. Addressing the problem of the poor soils in the area is possible but will require significant efforts, as noted in the most recent Panel of Experts (POE) Report (McDowell et al 2010: 22-23). The POE also expressed their concern about the Northern Cluster of resettled villages, where the carrying capacity of the natural resource base may already have been exceeded due to government consolidation and clustering of too many villages in one area.

A key conclusion from all this is that even with the application of copious technical and financial resources, resettlement is an extremely challenging process. This concurs with the findings of a global study conducted by a member of the POE, which found that of the 44 cases of dam-induced resettlement for which sufficient data for statistical analysis existed, 36 (82%) were characterised by a 'failed resettlement process' (Scudder 2005).

### Implications of mining schemes for resettlement

The World Bank's technical note observes that it is more difficult to estimate the area of land and the numbers affected by mining projects. The eventual area exploited by a mine is usually small (averaging around 38 km<sup>2</sup>), hence the population physically resettled is usually very small (World Bank 2011: 7-8). The note indicates that fewer than 20,000 people are located within concessions at the exploitation stage, and it is unclear what proportion of these people will need to be resettled.

The note reports that around 600,000 people live within mining concessions at the exploitation *or* general survey stage. However, it must be stressed that unlike households located within the inundation area of a reservoir, these people may or may not be affected by the mining projects, depending on how the company ultimately decides to prospect for mineral resources. Of these 600,000 people, around 114,000 are

estimated to live in what will eventually become exploitation concessions, though the note's authors emphasise that this estimate involves a large degree of inaccuracy and is based on untested assumptions.

The note points out that the households that will be affected by future hydropower and mining development are amongst the poorest households in the country, are disproportionately likely to be illiterate and to belong to a non-Lao-Tai ethnic group. Many mining concessions overlap with current or planned hydropower projects, raising the possibility of cumulative impacts on some households.

#### Implications of agricultural and forestry concessions for resettlement

Barney (2010: 6-7) notes that the vast majority of concession projects in Laos will be located within village territories, and that, formally, the process for securing such land for concession development must involve community consultations and a full participatory land use planning (PLUP) process. However, he notes that adherence to the FPIC ("full prior informed consent") principle 'has been completely lacking' and that at times 'even basic community consultation has been completely absent'. Regarding Environmental and Social Impact Assessment (ESIA), which should be overseen by the Water Resources and Environment Agency (WREA<sup>17</sup>), he observes that Article 11 of PM Decree No. 135 states: 'Anyone who wants to lease state land must create a business feasibility study and a social and environmental impact assessment certified by the concerned sectors.' However, he notes that it is unclear if there are concession area thresholds that would trigger an ESIA and that, in any case, 'many concession projects have proceeded to an implementation phase without any apparent submission of an ESIA document'. He cites the examples of the 50,000 ha Birla Lao Pulp & Plantations Co. Ltd. in Savannakhet and the 10,000 ha Hoang Anh Attapeu Agriculture Development Company rubber project in Attapeu.

Reliable data on the extent of concessions in Laos is scarce: Barney (2010: 5) cites a GTZ estimate that 2-3 million ha are currently covered by land concession agreements (including both active and planned projects, and including timber and mining concessions), covering 10-15% of the total area of the country (Schoenweger and Ullenberg 2009: 18). A GIZ project has reportedly recently completed a database on concessions nationwide for the NLMA, which should provide more accurate information; however, it is not known whether this resource will be made accessible to the public. Clearly, governance of concession management is poor: Barney (2010: 5) refers to 'an unruly and chaotic land sector, as well as a likely sharp under-pricing of access to forest-land by external investors'.

One written report mentioning village resettlement in connection with the establishment of a concession was brought to the consultant's attention, concerning the case of Ban Thongchanh in Bachieng District, Champassak Province. This village was located in an area in which a Vietnamese state enterprise has been granted authorisation to establish a 10,000 ha rubber plantation, following high-level negotiations between the Lao and Vietnamese governments (ESL 2007: 6). According to the report, the provincial authorities reportedly requested financial support from the Viet-Lao Rubber Company (VLRC) for the resettlement of the village, although the inhabitants preferred to stay where they were (ESL 2007: 24); it is not clear whether the village was ultimately resettled. However, on a national scale it appears that involuntary resettlement caused by agricultural or forestry concession establishment has to date been rare, a conclusion supported by comments from other researchers familiar with concessions in Laos.

What is clear, however, is that concession establishment often results in a rapid reduction in local villagers' access to natural resources within their villages' territories, due to the aforementioned neglect of consultation and PLUP processes. For example, in the VLRC case mentioned above, a total of 33 villages were affected by the project and lost a total of 83% of their land, with severe negative impacts on household income and food security (Ibid.: 22-24). Compensation requirements, as laid out in PM Decree 192 for example, were not met. Similar negative impacts are reported in the case of a rubber plantation in Attapeu Province by Kenney-Lazar (2010: 7), who succinctly summarises some common issues concerning compensation:

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<sup>17</sup> WREA was recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011. It is not yet clear how these organisational changes will affect the discharge of the critical responsibilities formerly assumed by WREA.

*Both communally used forest land and individually tenured agricultural land were conceded to the plantation. However, communal lands that were previously allocated to the village for use were not compensated because the village did not have legal tenure over such lands. Individual agricultural land was compensated because households had land titles to such land. However, compensation rates were far below the necessary amount for households to buy new land of the same size and quality. Additionally, the compensation process was completely unregulated by the government and compensation guidelines were not followed. The process solely consisted of a negotiation over the compensation rate between company representatives and heads of households, which was disadvantageous to the household due to the vast difference in bargaining power.*

The loss of access to village resources resulting from the types of processes described above can undermine livelihoods to such an extent that villagers have few options other than to “choose” to move elsewhere (as discussed earlier in this report, similar consequences can result from government rural development policies such as those concerning LFA, shifting cultivation stabilisation and opium eradication). In other words, they are subject to induced relocation. Another consequence may be the migration of individual household members in an effort to diversify household livelihood strategies. As Barney (forthcoming: 24-25) puts it, ‘contemporary migrations from many parts of rural Laos can be considered to contain forms of coercion, in that the regulatory process for large-scale resource sector investment does not recognize the true extent of traditional property claims, and fails to effectively compensate villages for losses and damages incurred.’

Evidence has emerged of more explicit linkages between agricultural concession projects and government resettlement programmes. As noted in Section 3.2.1, Article 3 of PM Executive Order 36 (GoL 2009) specifically identifies individuals who are able to provide labour for industrial schemes, agricultural plantations or Special Economic Zones as being one type of person suitable for resettlement. Furthermore, Article 7 suggests that land ‘already earmarked for tree plantation or cash crops’ would be a suitable location to which people could be resettled. An example of these guidelines being applied in practice is provided by an article in the Vientiane Times (2011a) that reports on cooperation between the provincial authorities in Attapeu Province and the Hoang Anh Gia Lai Company (HAGL), the latter having been granted concession rights to establish a rubber plantation in the province. The article reports that the ‘provincial authority is working with the company to relocate residents of small villages containing scattered houses to planned bigger settlement villages with more favourable living conditions’. Although plans are reported to include ‘developing farmland for agricultural and animal husbandry purposes, and building houses in line with public agreement’, it is clear from the article that at least one new village will be established near HAGL’s plantation, thereby ‘offering favourable conditions’ to work at the plantation. Dwyer (2011a) provides an example from Vieng Phou Kha District in Luang Nam Tha Province, where he reports that a ‘tree-sharing’ arrangement with a Chinese rubber company was deliberately selected from a range of possible contractual arrangements for three Lahu communities. The aim was to keep the Lahu in government-established villages along the road, as opposed to their traditional practice of swiddening in remoter areas. Chinese investment was thus being used as ‘a way to anchor the villages of western Vieng Phou Kha into their appointed places’ in resettled villages.

It therefore seems clear that agricultural concession projects are being deliberately utilised by some government planners to provide alternative livelihoods for resettled villagers, a practice that may become more common in future due to the anticipated increase in FDI. Foley (2009: 42-3) also raises the possibility that the movement of young people in Phongsaly, Luang Nam Tha, Oudomxai and Bokeo Provinces to work as labourers on rubber plantations may be accelerated by the government deciding to resettle villages closer to plantations, in order to expand the supply of labour and better provide services to these new areas of economic growth. There is nothing essentially wrong with this utilisation of agricultural concessions to provide alternative livelihoods for resettled populations, provided that resettlement entails the full prior informed consent of those who move (with all the associated caveats; see Section 3.2.1), that contractual arrangements are fair and that relevant laws and regulations are followed (notably regarding ESIA, compensation and working conditions). The problem, however, is that such conditions are often not observed.

### Regulatory issues related to public and private sector development projects

The Lao legal framework governing natural resource management has been described by a recent World Bank study as 'mostly adequate' (World Bank 2011c: 3). Legislation governing public or private development project-related loss of land, home and/or the means to earn a livelihood has improved significantly in recent years, with key instruments including: PM Decree 192/PM on the Compensation and Resettlement of People Affected by Development Projects (GoL 2005); PM Decree 112/PM on Environmental Impact Assessment (GoL 2010); Regulation No. 699/PMO.WREA on the Endorsement and Promulgation of the Technical Guidelines on the Compensation and Resettlement of People Affected by Development Projects (WREA 2010a), and the Technical Guidelines themselves (WREA 2010). However, implementation and enforcement of existing laws and regulations needs to be greatly strengthened. For example, WREA's 2010 *Technical Guidelines on Compensation and Resettlement of People Affected by Development Projects* are technically acceptable but WREA needs to strengthen its capacity to apply the guidelines, particularly as regards social impact assessment and management.<sup>18</sup> Awareness of relevant legislation at provincial and district level is often low, as is the capacity to apply it; taking WREA as an example again, informants commented on the large difference in capacity between staff in Vientiane and those in the provinces. This is a particularly important issue because WREA reportedly views resettlement as a provincial responsibility. In addition to capacity shortfalls, there often appears to be a lack of will to apply existing legislation consistently and/or to its full extent. This manifests itself in what the World Bank refers to as the application of 'arbitrary or discretionary power' (Ibid.: 24) at all administrative levels, contributing to what Barney (forthcoming: 27) observes is 'the opportunity for resource rent capture, and "extra-normal" profits for project developers'.

Dwyer (2011: 12) demonstrates (in the context of land grabbing) that natural resource management issues in Laos are linked to a broad range of ongoing processes including the agrarian transition, industrialisation, infrastructure development and the extension of property rights. Partly for this reason, therefore, improving natural resource management requires broader governance reforms that aim to improve planning performance, transparency, accountability and public participation in general.

Companies reliant on financing from international financial organisations (e.g. the Nam Theun Power Company (NTPC) and the Theun Hinboun Power Company (THPC)) are encouraged to adhere to Lao and international regulatory frameworks by a variety of formal and informal institutions. For example, international financial houses – encouraged by global agreements such as the Equator Principles<sup>19</sup> – often demand that companies provide agreed monitoring data on their activities. There may be a condition that this data be made public, as is the case with the Theun Hinboun Extension Project, which is required by its financiers to publish data from Year 3 of the project onwards (i.e. from March 2011). Companies are also encouraged to maintain standards by close monitoring of their activities conducted by INGOs, amongst others. In addition, such companies' policies increasingly stress voluntary compliance as part of Corporate Social Responsibility initiatives, such as the Sustainable Development Framework established by the International Council on Mining and Metals (ICMM) (to which the MMG Sepon mine is committed<sup>20</sup>). This is not to say, however, that such companies are above criticism; see, for example, Barney's work in relation to THPC and Oji LPFL (Barney (forthcoming; 2007)).

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<sup>18</sup> One informant with significant experience of WREA noted that they had yet to meet someone in the Agency who identified themselves as a social development specialist (whereas they had worked with numerous environmental specialists).

<sup>19</sup> The Equator Principles are 'a voluntary set of standards for determining, assessing and managing social and environmental risk in project financing' (Equator Principles 2011).

<sup>20</sup> See: <http://www.icmm.com/members/member-companies>

## 4. Impacts of resettlement on resettled and host populations

### 4.1 Extent of resettlement

With regard to resettlement related to certain government rural development or poverty reduction policies, the lack of reliable nationwide data makes it impossible to accurately estimate the total number of people who have been resettled or relocated (or, for that matter, the number of people in recipient communities whose livelihoods have been impacted by the arrival of resettled communities). The only large-scale study that has been conducted (covering 1,000 families in 67 villages, spanning 22 districts and six provinces) took place in 1996 and hence provides limited insight into trends over the past 15 years (Goudineau 1997a). Estimates gathered by the study team at the national level of the number of people to be displaced in the coming years were 'spectacular, even if rather vague', ranging from 100,000 to 800,000 people, with some provincial reports indicating that over 50% of the upland population would be moved in the coming five years, i.e. 1996-2000 (Ibid.: 21). Goudineau admitted that these forecasts were likely to be 'working hypotheses', but warned that 'even if the forecasts are only indicative and often seem unrealistic within the prescribed time, it should be expected, in any case, that a new wave of displacements of great significance all over the country will occur in the short term' (Ibid.).

Government plans announced two years after the Goudineau study indicate that the government was pressing ahead with its plans, at least on paper: in 1998, the government announced the creation of 87 focal sites by 2002, gathering together 1,200 villages and 450,000 people (12% of the rural population of the Lao PDR), half of whom would come from displaced communities (GoL 1998: 26). However, since no study on a comparable scale to the Goudineau report has been conducted since 1996, the extent to which the government's plans have actually been executed is uncertain.

Nevertheless, research conducted at the local level does provide some valuable insights and shows that 'the impact could be considerable' (Evrard and Goudineau 2004: 946). For example, ACF research (Romagny 2004: 19, 119) shows that in 2002 in Long District, Luang Nam Tha Province, local authorities were planning to resettle 50% of the approximately 130 villages (6,000 people) in the district by 2005. However, a dialogue between ACF and the district authorities resulted in this being reduced to 28% of the villages, with the fate of another 13% being uncertain.<sup>21</sup> In Nalae District of the same province, Daviau (2006: 12) reports that according to the district authorities, 28 villages (7,375 people) were resettled during the period 2001-5, out of a total population of 23,330 (i.e. 32% of the population). As noted in Section 3.2.1, *The Economist* (2004) cited an estimate that around 25,000 highland people had been displaced by early 2004 due to opium eradication efforts.

According to a small survey of EU-funded INGOs conducted as part of this assignment (see Section 4.2 for an overview), 5.3% of target villages (28 villages, 8,232 persons) have been resettled due to certain government rural development or poverty reduction policies. No target villages were resettled due to private sector development projects. 1.3% of target villages (7 villages, 1,030 persons) resettled on villagers' own initiative, reportedly in order to gain access to better land, water sources and/or to improved health,

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<sup>21</sup> According to an interviewee familiar with the project, ACF – having seen the negative impacts of an earlier wave of resettlement – decided to try to make a case to the district that selected villages had good development potential in situ if supported to construct water systems and irrigated paddy in their current locations, plus access tracks. Although no explicit guarantee was given by the district that the villages would not be resettled, some district staff had been sufficiently concerned by earlier resettlement impacts to make ACF's proposals appear attractive. In addition, when district staff saw that high quality results were being achieved, the chances of the villages concerned being resettled were further reduced. Ultimately, when the interviewee returned to visit the district some four years later, few if any of the villages targeted by this ACF action appeared to have been resettled. However, when the interviewee was later involved in a similar effort in another province, villages that engaged in project activities were in fact resettled despite considerable investment. This suggests that the local context is both highly specific and influential in terms of actual resettlement outcomes.

education and market services. All the target villages of one project (populated by around 13,000 people) had been resettled at some point between three and fifteen years prior to the start of the project.

Baird and Shoemaker (2007: 885) concluded that 'tens of thousands' of vulnerable people had been negatively affected by resettlement initiatives linked to certain government rural development and poverty reduction policies over the preceding decade. The consultant believes that this is as accurate an estimate as it is currently possible to make, given the limited data available. No estimates are available of the number of people in recipient communities whose livelihoods have been affected by incoming resettled populations, but as discussed in Section 4.2, significant detrimental impacts have been experienced.

Looking to the future, it seems certain that resettlement will continue to form an important part of government rural development strategy. As noted in Section 3.2.1, the government's intention to continue with Village Consolidation (VC) and Development Village Cluster (DVC) establishment is confirmed by the draft Seventh National Socio-Economic Development Plan (NSED), the Executive Summary of which declares the government's intention to '[e]ncourage dispersed populations to group in villages, in pre-decided locations and provide job opportunities for them to gradually reduce poverty' (MPI 2010: 28). The Summary notes that 'Village Development Plans have been drawn up for 92 village development groups in 61 poor districts' (Ibid.: 5), while the NLBRDPE's plan for the period 2011-2015 involves 176 locations, which could be individual villages or DVCs<sup>22</sup>.

As discussed in Section 3.2.2, data on involuntary resettlement caused by public and private sector development projects to date is also scarce, with the exception of major schemes such as NT2. It is clear, however, that mining and, in particular, hydropower schemes will in future involve significant resettlement, with the number of people projected to be resettled as a direct result of hydropower schemes ranging from 100,000 to 280,000 (although it should be stressed there is a significant degree of uncertainty surrounding these estimates) (World Bank 2011: 7). Available evidence suggests that agricultural and forestry concessions will involve a significant amount of induced relocation.

## 4.2 Impacts on resettled and host populations

This section focuses on resettlement linked to certain government rural development and poverty reduction policies, as it is this type of resettlement that has most been affecting the target populations of EU-funded development projects in Laos to date.

Some researchers do report some positive impacts on resettled communities; for example, Daviau (2006: 28) lists alongside negative impacts (discussed later in this section) a number of positive ones reported by interviewees, including better access to clean water and education and health services, increased trading and wage labour opportunities, and easier access to basic products such as salt. Similarly, Goudineau (1997a: 29) notes that 'some undeniable progress has also been registered' as a result of resettlement, notably as regards the more effective circulation of information from the provincial health services (resulting in limited improvements in hygiene practices) and improved access to health services, especially vaccination (though access still remains limited) (Ibid. 29).

However, most of the available research indicates that negative impacts have significantly outweighed positive ones, particularly in the first few years after resettlement<sup>23</sup> (though Baird and Shoemaker (2007: 885) suggest that such impacts can result in people remaining impoverished 'long into the future'). Goudineau (1997a: 28) found that the first three years after resettlement are often marked by epidemics or the aggravation of endemic diseases, particularly malaria, dysentery and measles. Death rates are high: 'some villages surveyed had literally been decimated (with up to 30% dying, most usually due to malaria)'. He also reported that many resettled households find the transition from shifting cultivation to paddy rice cultivation very challenging, resulting in 'fairly mediocre rice yields' (particularly in the early years following

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<sup>22</sup> Though not all of these Village Development Clusters/Groups or locations will necessarily involve resettlement, it is likely that a significant proportion will.

<sup>23</sup> Unfortunately, longitudinal research studies tracking the fortunes of resettled villages over longer time periods are lacking.

resettlement) and, hence, tempting resettled households to revert to shifting cultivation<sup>24</sup> (Ibid.: 30-3). Success with cash crops has often been limited, and food insecurity is a common problem, with many resettled villagers being less likely to be able to access NTFPs as a coping mechanism than in their original locations. Reduced access to traditional forest resources may well also result in poorer nutritional status (particularly regarding the intake of iron, zinc, calcium, B-vitamins, fat and protein), as noted by Krahn (2003).

The nationwide Second Participatory Poverty Assessment (PPA) (NSC / ADB 2006: 10) reported that the primary cause of poverty identified by villagers remained the same as that reported in the first PPA six years earlier, i.e. 'limited access to cultivation land, especially for rice production.' Villagers reported that this situation was due to 'attempts by local officials to carry out land reform, consolidate villages, and to reduce or eradicate swidden cultivation.' The second PPA concluded that 'although development policies that involve relocation, such as Land and Forest Allocation, village consolidation, opium eradication, and eradication of swidden agriculture may be well-intentioned, their poor implementation has contributed to adverse effects on human health, livestock disease, and shortage of land for cultivation.'

Additional evidence of negative impacts is presented by a range of reports related to the work of various INGOs, often EU-funded. Amongst these INGOs, ACF was particularly active in researching the issues in relation to its work in Long District, Luang Nam Tha Province (ACF has since closed its operations in Laos). Building on earlier work for ACF (e.g. Daviau 2001), a paper presented at the 2004 NAFRI uplands workshop reported that resettled villages experience 'great difficulties', including a 70% increase in the mortality rate in resettled villages over at least the first five years following resettlement (Romagny 2004: 126). The mortality rate in resettled upland villages averaged 3.99%, compared to 2.3% in unresettled upland villages and the national rate of 1.4%. For certain villages, the mortality rate reached 20% in the first year following resettlement. Other negative impacts include the loss of assets such as land, forest and livestock (the lattermost due to disease).

In his study on Nalae District in Luang Nam Tha province, Daviau (2006: 30) concludes that the transition period required by the resettled populations in order to reach acceptable living standards is two to three years with regard to housing and over five years with regard to food security. He notes that every resettled community suffered from fragmentation (undermining traditional cooperation mechanisms and mutual assistance patterns), that resettlement imposes great demands on labour and that household vulnerability is often increased (particularly for the poorest households). Reduced community cohesion, as well as conflicts between older and more recent settlers, was reported by Romagny (Ibid.). A GTZ study into land conflicts found that one of the main areas of land conflict in rural villages concerned compensation for village relocation (Mahaphonh et al 2007: 2).

Broader social impacts can also result from resettlement. For example, research has shown that children from certain ethnolinguistic groups (Mon-Khmer and Tibeto-Burman) are over-represented in the number of human trafficking victims in Laos, and that the majority of non-Lao-Tai trafficking victims come from villages that have been resettled or relocated (UNICEF / MLSW 2007: 9). Other problems associated with resettlement can include new forms of drug addiction, especially with methamphetamines (as reported by Lyttleton (2004) with regard to Akha communities in Luang Nam Tha).

As would be expected, the people most harshly affected by resettlement are generally the most vulnerable: the poorest, the old, single- (particularly female-) headed households and households otherwise lacking labour (see, for example, Daviau 2006: 20). Petit (2008: 136) notes the importance of family networks and

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<sup>24</sup> As discussed in Section 3.2.1, Goudineau (1997a: 30) concluded that policies to reduce shifting cultivation were 'one of the principal reasons' behind resettlement. With regard to the effectiveness of resettlement in reducing shifting cultivation, he observed that in the three southern provinces surveyed, plus Xieng Khwang in the North, resettlement appeared to have contributed to a reduction in the percentage of families practising shifting cultivation. However, in the two other northern provinces of Oudomxay and Luang Nam Tha, the percentage had remained stable or even increased. He suggested that the main reason was that in these two provinces little land is readily available for paddy cultivation.

social capital in determining resettlers' success, and also emphasises the critical importance of access to land. Some households are successful in securing access and consequently prosper, while others fail and fall into a descending spiral of poverty. There is thus an 'increasing risk of a growing dichotomisation of the village economy', which he notes is a common consequence of resettlement processes.

Not only those who resettle are affected by the process. In many if not most cases, resettled villagers move to already populated areas, where the impacts upon the local inhabitants and natural resources can be severe. For example, a report by the government's National Agriculture and Forestry Research Institute (NAFRI) found that the resettlement of people to villages where land allocation had previously been undertaken had a number of negative consequences, including: confusion over land occupancy and use; a decline in land and soil quality on sloping lands; land trading practices that were in conflict with regulations, and increasing inequities in access to land. The report concluded that the 'relocation of families to villages in which land allocation has been undertaken renders previous land allocation virtually worthless because of the high incidence of informal land parcel exchanges' (NAFRI 2007: 1-2). Alton and Rattanavong (2004: 13) note the negative impacts of in-migration, notably on land availability and health, amongst Akha communities in Luang Nam Tha and Katu communities in Sekong. A further example taken from the consultant's own fieldwork in Oudomxai Province in 2007/8 is presented in the box below, and demonstrates negative impacts on health, natural resources (notably land and NTFPs) and food security.

#### **Negative impacts experienced in a destination for resettled communities in Nga District, Oudomxai Province**

Ban (village) Z is located about 1 km's walk from the eastern branch of the recently-cut access road, around 76 km (4 hours 20 minutes' drive in the dry season) from Nga District township and around 6 km from the Mekong River. The village currently consists of 1,020 Khamu Rok people living as 173 households. It was founded in 1976 by people from a nearby village, who initially started cultivating paddy fields in the valley and then eventually decided to move their homes to the site. Since 1979 (when the village had just 17 households), Ban Z's population has grown dramatically due to the resettlement of households from a number of villages in the vicinity. Two villages have resettled in their entirety to Ban Z, as well as some households from four other villages. The bulk of the resettlement took place after 1997, with 2002/3 being the peak period; however, further arrivals are likely. Villagers generally gave government policy as the reason for the resettlement.

[...] In 1999, a diarrhoea epidemic struck the village, killing 25 people over a one month period. Rapid population growth due to resettlement, in a context featuring inadequate water sources and no latrines, has made the population vulnerable to future outbreaks of diarrhoeal disease.

Many resettled households continue to cultivate land in their former villages due to there being insufficient land available in Ban Z. Such households noted that in their former villages, fallow periods for swidden fields often remain five to six years or more in length, whereas in Ban Z fallows are no longer than three years, and are often less. Households farming in Ban Z noted that the productivity of upland rice fields is declining. Considering only rice that they produce themselves, around 52% of all households lack rice for three or more months in a typical year. This indicates serious deficits, particularly as the poorest households' income sources are both limited and, in many cases, based on diminishing assets (notably NTFPs) or the uncertain labour market. It is notable that the poorest households have seen the number of their income sources diminish over the past ten years, suggesting that their vulnerability to shocks may actually have increased over the last decade. The outlook for the food security and overall livelihoods of these households is therefore poor unless they can adopt new livelihood strategies in the near future.

*Source: Cunnington et al (2008: 28).*

### **4.3 Impacts on EU-funded INGO development projects and their participants**

A small survey of the experiences of EU-funded INGOs regarding resettlement was conducted, and a brief overview of the survey's findings is provided here. The survey sample size was small (12 INGOs responded, accounting for 16 completed or ongoing projects, the earliest of which started in January 2007), so one needs to be very cautious in drawing conclusions and extrapolating them to the country as a whole. However, the survey findings are generally in-line with the existing research discussed elsewhere in this report.

The survey findings indicate that 5.3% of target villages (28 villages, 8,232 persons) have been resettled during project implementation due to certain government rural development and poverty reduction policies (including Village Consolidation, Development Village Cluster formation and Focal Site establishment), with the percentage of villages resettled in an individual project ranging from a maximum of 25% to a minimum of 0%. No target villages were resettled due to private sector development (PSD), although one INGO reported that villages in other areas of its target provinces were being resettled as a result of PSD, sometimes on a large scale. 1.3% of target villages (7 villages, 1,030 persons) resettled on villagers' own initiative, reportedly in order to gain access to better land, water sources and/or to improved health, education and market services.

Of target villages resettled due to government policies, 64.3% were resettled due to Village Consolidation (VC) and 10.7% due to Development Village Cluster (DVC) or Focal Site (FS) establishment. 21.4% were resettled due to efforts to improve access to markets and public services that were not part of broader VC, DVC or FS initiatives (for example, by moving individual villages to a roadside). 3.6% were resettled due to Land and Forest Allocation / stabilisation of shifting cultivation policies. These findings suggest that the main government policy drivers of resettlement in EU-funded INGO projects over the past four years have been those related to VC or DVC / FS establishment, as well other efforts to improve access to markets and services. However, the various government policies that can act as drivers of resettlement are often inter-linked, and it can therefore be very difficult to disaggregate their respective levels of influence on the resettlement process.

Reported impacts on resettled populations were mostly negative, though some positive impacts were reported, including increased opportunities for employment as labourers and better access to markets and services. Key negative impacts included:

- Inadequate water supply and sanitation infrastructure, resulting in detrimental impacts on health.
- Inadequate land availability (in terms of both quality and area), forcing people to continue to farm their old lands where possible. This has consequences in terms of wasted time and labour and reduced community cohesion.
- A considerable amount of effort was required to prepare available land for cultivation, and people had to adapt to a new agro-ecological environment for which they often did not have the requisite skills. Reduced food security was the result, at least in the initial years after resettlement.
- Access to NTFPs (for food and income) was more difficult in the new locations, leading to poorer nutritional status.
- Children from resettled families sometimes did not continue their schooling in the new location.
- Government promises to provide infrastructure and/or land were sometimes not kept.
- In some cases where people were resettled to join with an existing village, conflict between the existing village inhabitants and the newcomers occurred.

These findings are in-line with existing research (see Section 4.2).

Although INGOs were invited to submit data on the gendered impacts of resettlement, such data was not forthcoming. This reinforces a finding from the review of existing literature, in that there appears to be a lack of research into this important issue. This is despite the fact that it is highly probable that women suffer disproportionate impacts from resettlement processes, given that the high labour demands of resettlement, as well as the additional challenges of sourcing water and food for the household in an unfamiliar location, are all likely to exacerbate what is often already an inequitable gender division of labour. Further research into these issues is strongly recommended.

Eight of the 16 projects surveyed (50%) reported impacts on project implementation from resettlement linked with certain government rural development and poverty reduction policies. No projects reported resettlement linked to private sector development schemes. Two projects (12.5%) reported resettlement that occurred on villagers' own initiative, though no impacts on project implementation were associated with

this resettlement. Key reported impacts from the resettlement linked with government policies on project implementation included: an inability to achieve specified project objectives; retarded implementation due to conflicts between resettled and local people; disrupted implementation due to an influx of resettled people into target villages, which also puts pressure on available financial resources; uncertainty over resettlement plans causing both project management and villagers to be reluctant to begin project activities.

## 5. Conclusions

Historically, the people of what is now the Lao PDR have demonstrated significant mobility, particularly in relation to various types of livelihood strategy in the pre-colonial period and more recently as a consequence of the Second Indochina War. Evrard and Goudineau (2004: 943) calculate that the various types of post-war population movement (including the return of refugees) resulted in very high levels of village mobility in the period 1975-1990: at least 50% for Luang Nam Tha Province as a whole (rising to 85% in some areas), with similar levels in the other five provinces surveyed by a 1996 UNESCO/UNDP study (Goudineau 1997).

For the purposes of analysis, resettlement in Laos since around 1990 can be divided into two broad classes: resettlement linked to certain government rural development and poverty reduction policies, and resettlement linked to public and private sector development projects. Practically speaking, the former class is not covered by PM Decree 192 on Compensation and Resettlement (GoL 2005) and associated legislation, whereas the latter is (or at least should be).

### ***Resettlement linked to certain government rural development and poverty reduction policies***

It should be emphasised that the Lao government has never promulgated a formal resettlement policy per se. Since around 1990, however, resettlement has emerged as a key strategy to facilitate the implementation of a range of rural development and poverty reduction policy initiatives. Such policies are reflected in the Lao phrase *chatsan asib khong thi*, which is perhaps best translated as “the establishment of permanent occupations” and reflects government aims to oversee a transition of upland shifting cultivators to sedentary livelihoods increasingly linked with the market economy. The government has claimed in policy documents that its fundamental aim is not to move settlements but ‘to create permanent conditions that will ensure the livelihood of “unsettled” families’ (GoL 2001: 33). Indeed, some policy documents – such as the NGPES (CPI 2004: 56) – specifically mention the option of upland communities developing in situ. Resettlement, in the form of induced relocation, has also been a *consequence* of certain government policies.

Government policy initiatives that are, or have been, closely linked with resettlement include the following:

- *Village Consolidation (VC) and Development Village Clusters (DVCs)*  
In addition to aiming to strengthen government control at the grassroots, VC and DVCs represent the government’s approach to making public services available to remote upland communities. VC and DVCs often (but not always) involve village relocation, in line with the belief that it is more efficient to move villagers from remote areas to areas where services can be delivered, rather than to deliver services to them in situ. The apparently simple logic of such a statement, however, is often undermined by the tendency to underestimate people’s reliance on local natural resources and the challenges involved in making a transition to new livelihood systems, as well as by poor policy execution. The provision of inadequate infrastructure (particularly regarding water and sanitation) and land, as well as social tensions, are problems that have frequently emerged from VC and DVCs (as has also been the case with Focal Sites). In the terminology of this report (see Section 1.1), the population movements associated with VC and DVC (as well as Focal Sites) would generally be classified as compulsory relocation, although in practice the situation is often not as clear-cut as this (as discussed below).
- *Focal Sites (FS)*  
The Focal Site approach aims to concentrate resources in selected geographic areas, with people then being relocated from more remote areas in order to benefit from the services that, in theory, will be available at the Focal Site. International aid donors (led by UNDP) played a key role in supporting Focal Sites, providing 83% of the funding in the period 1998-2002 (Evrard and Goudineau 2004: 946). The term ‘Focal Site’ is now less common in government discourse (having been superseded to a large extent by the DVC concept), but the approach still underlies current policies, as demonstrated by the draft Seventh NSEDP’s use of the term ‘Focal Area development’.
- *Land and Forest Allocation (LFA)*

The stated objectives of LFA are to promote sustainable management and use of natural resources, prompt reduction of shifting cultivation and encourage commercial agricultural production. Providing farmers with (more) secure land tenure can have major benefits, but many are finding themselves unable to make the transition to more intensive, sedentary forms of agriculture for a range of reasons, including a lack of technical knowledge and financial capital. Such farmers (often the poorest) continue to practice shifting cultivation, but on areas of land that are inadequate to provide sufficiently long fallow periods to maintain soil quality. A downwards spiral of impoverishment is often the result, and affected farmers are left with the options of enduring increased food insecurity in their home village or relocating. Under the latter option, they can be said to have become subject to induced relocation.

- *Shifting cultivation stabilisation*

The stabilisation of shifting cultivation is intended to contribute to the broader government objectives of improving food security in rural areas and transforming subsistence farming into sedentary market-oriented commercial agriculture. Development agencies have played a significant role in supporting the policy, particularly in its early years. Shifting cultivation stabilisation policy – linked with LFA – has ‘actually led to increased vulnerabilities and rice shortages in a number of upland areas’ (World Bank 2008: 16) due to the problems resulting from inadequate fallow periods discussed above, and has therefore, like LFA, acted as a driver for induced relocation. In addition, shifting cultivation stabilisation policies have at times involved the compulsory relocation of villages to lowland areas, often as part of Focal Site establishment.

- *Opium eradication*

Although Laos’ opium production was a fraction of that of Myanmar or Afghanistan and less than 10% was actually exported (Epprecht 2000: 16), since 2001 the government – with substantial international financial support – has implemented a policy to reduce the quantity of opium being produced. The rapid removal of a critical livelihood strategy and the lack of any viable replacement in many cases has had severe impacts on the livelihood status of Hmong and other opium cultivators, thus acting as a driver for induced resettlement. Compulsory relocation has also played a role in opium eradication efforts.

- *Security*

Security concerns were an important driver of resettlement up until the late 1980s but then became much less significant. In recent years, a different set of security issues related to ‘unregulated internal migration’ appear to have become more important as a rationale for compulsory relocation.

#### Resettlement linked to certain government rural development policies or poverty eradication strategies: to what degree is it voluntary?

This question has been much debated in the existing research on resettlement linked to government policies. As noted above, population movements due to Village Consolidation, Development Village Cluster formation and Focal Site establishment would generally be classified as compulsory relocation, though there are cases of voluntary resettlement where villages have initiated the process themselves in the hope of obtaining access to better resources and services. For example, in the small survey of 16 EU-funded INGO projects conducted as part of this assignment, 1.3% of target villages were reported as having resettled voluntarily during the course of the projects, compared to 5.3% that had been resettled due to government policies and 0% that had been resettled as the result of private sector development projects.

However, in many cases the divide between ‘compulsory’ and ‘voluntary’ is not in fact as clear-cut as these definitions would suggest. Although Article 4.2 of PM Executive Order 36 (GoL 2009) states that persons to be resettled must be volunteers, reports of villagers moving under the direct threat of force do exist (e.g. Baird and Shoemaker 2005: 32), and such instances would certainly constitute violations of basic human rights. However, because of the lack of nationwide studies (see Section 1.4) it is not possible to reliably estimate the number or proportion of resettled villagers who have moved for this reason. Goudineau (1997a: 19) reports that of the 1,000 families his team interviewed, less than 12% considered their displacement to have been ‘obligatory’. However, he acknowledges that in the Lao context, the room for manoeuvre of villagers faced with insistent official demands ‘is not easy to evaluate’.

It is suggested here that much resettlement lies somewhere along a spectrum between the above two extremes, i.e. purely voluntary<sup>25</sup> and absolutely compulsory. The processes surrounding the action of resettlement are extremely complex and varied, and available research as well as the consultant's own field experience suggests that most resettlement is the result of negotiations between the provincial/district authorities and villagers, with such negotiations lasting from a few months up to several years. In some cases the authorities may exert varying degrees of pressure on villagers to move, and support from international organisations may be promised to villagers as an incentive to move, even though these organisations may be unaware of this or may even have explicitly stated their opposition to resettlement. Induced relocation also plays a role, particularly as a consequence of shifting cultivation stabilisation and LFA. However, villagers also develop and apply their own strategies, which may include initiating negotiations on resettlement, negotiating to stay where they are or selecting alternative resettlement sites better to their liking. The process by which decisions on resettlement are actually reached within a village can also be very complex, with influential figures often shaping opinion and leading villagers to a collective decision (though the views of less influential villagers in general, and women in particular, generally carry significantly less weight). Attitudes towards resettlement may vary considerably amongst a community, with variables such as gender and age influencing people's views. The complexity and variability of these processes is the reason why the consultant believes that attempting to classify resettlement events under discrete categories is inadvisable and possibly counter-productive, as each case needs to be understood in its own particular context.

'Unregulated internal migration', as the government calls it, is viewed by the authorities with concern. The phenomenon involves the independent migration of households, mostly from poor rural areas to better-off rural or urban locations. It can be driven by a range of factors, including shifting cultivation stabilisation policies, failed resettlement schemes and individuals' quest for land and other natural resources. Such migration is not resettlement, although resettlement (compulsory relocation) is one of the responses proposed by the government in Prime Ministerial Executive Order 36 (2009), promulgated to address the issue. However, little research is available on the issue, which is a gap that urgently needs to be filled if the development community is to be able to formulate an appropriate position on the matter.

The survey of EU-funded INGOs conducted as part of this assignment<sup>26</sup> found that VC and DVC/FS establishment together accounted for 75% of the cases of resettlement linked with government rural development and poverty reduction policies. An additional 21.4% of the cases were due to other efforts to improve access to markets and services, such as the relocation of individual villages to a roadside. The remaining 3.6% of cases were caused by LFA and efforts to stabilise shifting cultivation. The small survey sample size limits the degree to which the results can be extrapolated with confidence. However, the results do suggest that the primary government rural development / poverty reduction policies currently driving resettlement are those linked to VC, DVC/FS establishment and other efforts to improve access to markets and services.

### ***Resettlement linked to public and private sector development projects***

The government's economic development strategy (as envisaged by the draft Seventh NSEDP (2011-15)) makes it clear that the rapid growth in Foreign Direct Investment (FDI) that has been a feature of the past decade will accelerate further. Laos' integration into regional and global markets (partly through the execution of large-scale infrastructure projects) will continue, and regional development plans (often combining public and private sector projects) are also likely to be influential, including the 'Northern Plan' for developing the industrial sectors in Northern Lao PDR, as well as the two "development triangles" in which the government is involved in Southern Laos. All of these policies and plans are likely to influence village relocation processes, intentionally or unintentionally, but further research is urgently required into how these plans and processes are likely to play out. In addition, urban development projects are becoming

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<sup>25</sup> Although High (High et al 2009: 619) is surely correct when she notes the impossibility of any action being completely voluntary (in the sense of being completely free from any external context).

<sup>26</sup> See *Consultancy Report* for details.

increasingly important causes of involuntary resettlement, with complaints over inadequate planning processes and compensation frequently emerging.

The natural resources sector is a particularly important one for Laos, having contributed around 4 percentage points of economic growth in 2010 (against an overall growth rate of around 8.5%), yet the World Bank's *Lao PDR Development Report 2010* noted that it has recently become clear that 'natural resource projects are being developed too fast to qualify as carefully planned and thoroughly assessed long-term investments' (World Bank 2011c: 14). Estimates of the number of people likely to be involuntarily resettled as a direct result of future hydropower schemes<sup>27</sup> range from around 100,000 to 280,000, with the number likely to be resettled due to mining schemes being much smaller (World Bank 2011). These people are amongst the poorest households in the country, are disproportionately likely to be illiterate and to belong to a non-Lao-Tai ethnic group. Many mining concessions overlap with current or planned hydropower projects, raising the possibility of cumulative impacts on some households.

Agricultural and forestry concessions represent another form of private sector development project with implications for resettlement. On a national scale it appears that involuntary resettlement caused by agricultural or forestry concession projects has to date been rare, not least because pertinent laws and regulations requiring well-managed involuntary resettlement are often ignored. However, concession establishment often results in a rapid reduction in villagers' access to natural resources that can undermine livelihoods to such an extent that villagers have few options other than to "choose" to move elsewhere. In other words, they are actually subjected to induced relocation. Another consequence may be the migration of individual household members in an effort to diversify household livelihood strategies.

Evidence has emerged of more explicit linkages between agricultural concession projects and government resettlement programmes (e.g. Vientiane Times 2011a; Dwyer 2011a). PM Executive Order 36 (GoL 2009) specifically identifies individuals who are able to provide labour for industrial schemes, agricultural plantations or Special Economic Zones as being amongst those suitable for resettlement (Article 3), and states that land that is 'already earmarked for tree plantations or cash crops' would be a suitable location to which people could be resettled (Article 7). It seems clear that agricultural concession projects are being deliberately utilised by some government planners to provide alternative livelihoods for resettled villagers, thereby also meeting the concessions' demand for labour. This is a practice that may well become more common in future due to the anticipated increase in FDI in general and, in areas where rubber has been planted extensively, the rapid increase in demand for labour as trees mature. In a different sector, the Northern Plan envisages linkages between government resettlement schemes and industrialisation initiatives. A mutually facilitative relationship between government resettlement strategy and private sector development projects, especially those involving FDI, therefore appears to be emerging in some areas.

The Lao legal framework governing natural resource management (NRM) has been described by a recent World Bank study as 'mostly adequate' (World Bank 2001c: 3). Legislation governing public or private development project-related loss of land, home and/or the means to earn a livelihood has improved significantly in recent years. However, implementation and enforcement of existing legislation needs to be greatly strengthened, which will require significant capacity-building at central, provincial and district levels as well as commitment on the part of the government. Building the capacity of the Water Resources and Environment Agency (WREA<sup>28</sup>), which has key responsibilities with regard to ensuring that environmental and social impact assessments (ESIAs) are carried out satisfactorily and that compensation regulations are observed, is a particularly urgent requirement. More broadly, improvements to NRM must be seen in the context of wider ongoing governance reforms that aim to increase transparency, accountability and public participation in general.

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<sup>27</sup> That is, excluding populations that will be affected by downstream impacts.

<sup>28</sup> WREA was recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011. It is not yet clear how these organisational changes will affect the discharge of the critical responsibilities formerly assumed by WREA.

## ***Impacts of resettlement***

With regard to resettlement linked to certain government rural development or poverty reduction policies, the lack of reliable nationwide data makes it impossible to accurately estimate the total number of people who have been resettled or relocated (or, for that matter, the number of people in recipient communities whose livelihoods have been impacted by the arrival of resettled communities). The only large-scale study that has been conducted took place in 1996 and hence provides limited insight into trends over the past 15 years (Goudineau 1997a). Estimates gathered by the study team of the number of people to be displaced in the coming years ranged from 100,000 to 800,000 people, with some provincial reports indicating that over 50% of the upland population would be moved (Ibid.: 21). Goudineau admitted that these forecasts were likely to be 'working hypotheses', and the lack of any comparable follow-up study means that the extent to which these plans were actually implemented is unknown.

However, research conducted at a smaller scale does provide some insights: for example, ACF research (Romagny 2004: 19, 119) shows that in 2002 in Long District, Luang Nam Tha Province, local authorities were planning to resettle 50% of the approximately 130 villages (6,000 people) in the district by 2005.<sup>29</sup> In Nalae District of the same province, Daviau (2006: 12) reports that 28 villages (7,375 people, equivalent to 32% of the district population) were resettled during the period 2001-5. *The Economist* (2004) cited an estimate that around 25,000 highland people had been displaced by early 2004 due to opium eradication efforts. According to the survey of EU-funded INGOs, 5.3% of target villages (28 villages, 8,232 persons) have been resettled due to government rural development or poverty reduction policies during project implementation, while all the target villages of one project (populated by around 13,000 people) had been resettled at some point between three and fifteen years prior to the start of the project. Baird and Shoemaker (2007: 885) concluded that 'tens of thousands' of vulnerable people had been negatively affected by resettlement initiatives in Laos over the preceding decade. The consultant believes that this is as accurate an estimate as it is currently possible to make, given the limited data available.

Some researchers into resettlement linked with certain government rural development or poverty reduction policies have reported positive impacts on those affected, typically including improved access to education and health services, wage labouring opportunities and markets. However, most of the available research indicates that negative impacts have significantly outweighed positive ones, particularly in the first few years after resettlement (unfortunately, longitudinal research studies tracking the fortunes of resettled villages over longer time periods are lacking). For example, Goudineau (1997a: 28, 30-33) found that the first three years after resettlement are often characterised by disease outbreaks, with death rates of up to 30%. He also reported that many resettled households find the transition from shifting cultivation to paddy rice cultivation very challenging, that success with cash crops has been limited, and that food insecurity is thus a common problem, with resettled villagers being less likely to be able to access NTFPs as a coping mechanism than in their original locations. Reduced access to traditional forest resources may also result in poorer nutritional status. Other research has echoed these findings, such as the aforementioned ACF study that reported a 70% increase in the mortality rate over at least the first five years following resettlement (Romagny 2004: 126). Other social impacts, such as reduced social cohesion, increased vulnerability to human trafficking and new forms of drug addiction, have been associated with resettlement by researchers. Daviau (2006: 30) concluded that the transition period required by the resettled populations he studied in order to reach acceptable living standards was two to three years with regard to housing and over five years with regard to food security.

There appears to be a lack of research into the gendered impacts of resettlement. This is despite the fact that it is highly probable that women suffer disproportionate impacts from resettlement processes, given that the high labour demands of resettlement, as well as the additional challenges of sourcing water and food for the household in an unfamiliar location, are all likely to exacerbate what is often already an inequitable gender division of labour.

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<sup>29</sup> Though this was eventually reduced to 28% as a result of ACF's negotiations with the district.

Resettlement also has significant impacts on the implementation of development projects. Eight of the 16 EU-funded projects surveyed (50%) reported impacts on project implementation from resettlement linked with certain government rural development and poverty reduction policies. Key impacts included: an inability to achieve specified project objectives; retarded implementation due to conflicts between resettled and local people; disrupted implementation due to an influx of resettled people into target villages, which also puts pressure on available financial resources; uncertainty over resettlement plans causing both project management and villagers to be reluctant to begin project activities.

## 6. General recommendations

Specific recommendations for the EU Delegation are presented in a separate document. The following section presents recommendations that may be more widely applicable to the development community at large.

### *i. Support further research*

The limited geographical scale and sample size of existing studies, as well as the lack of longitudinal studies investigating impacts over ten- to fifteen-year time periods in selected resettled communities, means that it is difficult to rigorously assess the relative distribution of positive and negative impacts. The insufficient availability of research also represents a constraint to the development of appropriate policies and advocacy strategies by the development community, and it is therefore recommended that members of the community commission research to address these gaps. The use of Geographical Information Systems (GIS) to analyse and display data, where appropriate, should be considered. Specific recommendations for future research include the following:

- A survey into the incidence and impacts of resettlement on a similar or larger scale to the 1996 UNESCO / UNDP study (Goudineau 1997), which covered 1,000 households in six provinces. With the collaboration of provincial administrations (because much of the required data is only likely to be available at provincial level or below), the study could be extended to cover the entire country.
- Complementary qualitative research to investigate the impacts of resettlement in more depth, including the likely gendered nature of impacts. Ideally, some of this research should involve revisiting communities targeted by earlier research work (e.g. Goudineau 1997; Daviau 2001, 2006; Romagny 2004) in order to see how their livelihood situation has changed after more time has elapsed since their resettlement.
- Research into other forms of population movement, notably what the government calls 'unregulated internal migration'<sup>30</sup>. Such migration appears to have emerged in recent years as a driver of resettlement, in that resettlement (compulsory relocation) is one of the responses proposed by the government to address the issue.

### *ii. Develop clear organisational positions on resettlement*

The official position of many development organisations with regard to the various types of resettlement is not very clear, with most organisations lacking a written policy or guidelines. The development of a clear organisational position is an essential first step towards increased effectiveness.

### *iii. Strive to reinvigorate dialogue with government, aiming at mutual agreement upon a set of principles and an approach to resettlement linked with certain rural development and poverty reduction policies*

It will be important for the development community to present the resettlement issue in its broader rural development context, and to demonstrate an understanding of the challenges faced by government and a willingness to explore ways in which the two parties can work together to achieve better outcomes. The Northern Uplands Development Programme (NUDP) would provide an ideal platform for such an approach.

### *iv. Develop a set of criteria (ideally in consultation with the NLBRDPE and other government agencies) that can be practically applied in order to ascertain whether a government rural development policy-driven resettlement initiative is acceptable*

It is suggested that government resettlement actions should meet all of the following criteria, which have been adapted from the current EU Country Strategy Paper (EC 2007: 23) and augmented with some additional points:

- The choice of development option should fit within a long-term vision of sustainable development which is based on the results of sound research.
- The choice of development option should be based on participatory assessment of the current situation, possible alternative options and the social, economic and environmental viability of those

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<sup>30</sup> This involves the independent migration (i.e. not resettlement) of households, mostly from poor rural areas to better-off rural or urban locations. It can be driven by a range of factors, including shifting cultivation stabilisation policies, failed resettlement schemes and individuals' quest for land and other natural resources.

alternatives. Villagers should be well-briefed by local government staff on all aspects of these alternatives, both positive and negative (e.g. the potential challenges of adapting to a very different agro-ecological environment), so that they are able to make a well-informed final decision. INGOs and Lao CSOs may have a role to play here, both in terms of building villagers' awareness and in a monitoring role.

- The long-term potential for development of the village in situ should always be one of the options investigated.
- Any resettlement should require the free, prior and informed consent of the members of the community concerned. Ideally, such consent should be expressed by a majority of the adult members of the community; however, traditional community decision-making institutions and processes should be respected where these are active.
- Where resettlement is the preferred option, sites should be selected with the participation of those to be resettled and the participation and consent of any people who are already inhabiting the site.
- Resettlement sites should be able to meet the natural resource needs of both resettled and existing populations (if any), and should provide access to education and health services. Sites should be prepared well in advance of their occupation, particularly as regards the provision of water supply and sanitation infrastructure.
- A programme of capacity building involving training in agricultural and income-generating techniques relevant to the new location, as well as in sanitation and hygiene, should be provided, with relevant components of the programme commencing well in advance of villagers' resettlement.
- Resettled communities should be monitored at least every six months (for at least the first three years following resettlement), with the ideal being joint monitoring by the relevant Provincial Board for Rural Development and Poverty Eradication, district government and representatives from INGOs and Lao CSOs in the area. Representatives from the NLBRDPE and EU Delegation may also participate in occasional spot checks, or to provide additional insight into cases where problems have been experienced.

This list should be regarded as a 'zero draft' that will require considerable additional discussion and work in order to produce an operational version. The consultation process necessary to develop an agreed set of criteria, if successfully completed, would also represent a significant step towards the establishment of a coherent position amongst development partners. It is acknowledged that ensuring consistent application of the criteria will be extremely challenging, given the scale of resettlement and resource constraints.

**v. *Facilitate the in situ development of upland communities wherever possible, in line with above criteria***

One of the criteria for good resettlement practice suggested above is that the long-term potential for development of the village in situ should always be one of the options investigated. To promote serious consideration of this option on the part of government decision-makers, advocacy and technical assistance will be required in relation to a range of policy areas (including shifting cultivation stabilisation, Land and Forest Allocation and the management of FDI) and partners (particularly MAF). Research commissioned under Recommendation (i) above should help to provide a basis for advocacy.

**vi. *Build a common position amongst key development partners***

This will be critical to maximize development actors' effectiveness. The development community should strive to involve countries that are home to governments and/or companies that are major investors in Laos, including Australia, China, France, Japan, Malaysia, Russia, South Korea, Thailand and Vietnam.

**vii. *Improve the gathering, consolidation and analysis of data on resettlement across the country***

Possible initiatives could include: the development of a standard format for data collection; establishment of a database (perhaps managed by the INGO Network, with support from the Delegation and/or other development partners) to manage resettlement data; support to INGO/CSO network formation at provincial level, to pool information on resettlement and coordinate advocacy initiatives.

**viii. *Use a variety of mechanisms to address governance and human rights aspects of resettlement***

Development partners should continue to raise with the government its responsibilities with regard to the various international legal instruments to which it is a signatory. In terms of actions with the potential to

have a more immediate, albeit more localised, impact, it is recommended that development actors support initiatives at the community level to raise people's awareness of their rights under Lao law and build their capacity to claim those rights.

Other possible actions would include:

- Support the further development of a cadre of national trainers on community rights.
- Support initiatives to expand legal aid.
- Explore the possibility of engaging National Assembly (NA) members in discussions concerning resettlement and related issues (including FDI and NRM, already areas of attention for some NA members).

***ix. Work to improve the legal and regulatory framework governing relevant types of public and private sector development project***

Recommended actions include:

- Advocacy and technical, organisational and institutional capacity-building across relevant ministries and agencies to improve the government's management of FDI. Many donors are concerned about this issue, and rightly so, given that if they do not help to address regulatory challenges they are simply encouraging the growth of undesirable negative externalities.
- There should be a particular focus upon the Water Resources and Environment Agency (WREA<sup>31</sup>) which has broad responsibilities as regards ensuring that environmental and social impact legislation is followed, but has limited capacity, particularly at the provincial level and below.

***x. Support innovative approaches to encourage the compliance of investors with relevant Lao laws and regulations***

To complement the abovementioned actions intended to improve the enforcement of laws and regulations, it is recommended that development actors also investigate the possibility of working in various ways with private sector companies in order to encourage them to comply voluntarily with legislation.

Since FDI flows into Laos from a number of countries in the GMS and beyond, the issue is clearly regional (if not global) in nature. Local efforts to encourage compliance should therefore link with regional (or global) initiatives, such as Oxfam America's regional programme on extractive industries, the global Extractive Industries Transparency Initiative (EITI), the Sustainable Development Framework of the International Council on Mining and Metals (ICMM) and other Corporate Social Responsibility initiatives.

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<sup>31</sup> WREA was recently absorbed into the Ministry of Environment and Natural Resources, the establishment of which was officially confirmed in June 2011. It is not yet clear how these organisational changes will affect the discharge of the critical responsibilities formerly assumed by WREA.

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