

MANIPULATING CONSENT:

The World Bank's Public Consultation and Acceptance Process for the Nam Theun 2 Hydroelectric Project

*A Discussion Paper by Shalmali Guttal and Bruce Shoemaker***

May, 2004

Introduction

The World Bank is currently considering extending formal financial support to one of the most controversial projects in Southeast Asia, the Nam Theun 2 Hydroelectric Project, based in the Lao Peoples' Democratic Republic (Laos). Although the Bank has not yet declared its decision to appraise the project—appraisal indicates that the project will be submitted to the Bank's Board for approval—it has been involved, both financially and institutionally, in the project for more than ten years. The World Bank has helped the Lao Government to appoint and finance a Panel of Experts to advise on the handling of social and environmental issues in the project, legal experts to negotiate financing arrangements, and has required the project developer to carry out technical social, environmental, economic and resettlement studies that have been instrumental in project preparation.

The Nam Theun 2 has been promoted since the early 1990s as a viable and desirable project for Laos. Its proponents claim that the project will: significantly improve the country's financial situation through its projected revenues over the next 25 years; result in the development of much needed physical infrastructure at local and provincial levels; reduce poverty and enhance livelihood opportunities for communities around the project area, and; support the protection of an ecologically unique, rich and bio-diverse natural environment in the project and surrounding areas.

At the same time, the project has also been widely criticised for: the expected devastation of prime forest and agricultural lands in the project area and further downstream; the involuntary relocation of 5,700 village residents; the serious—and as yet un-assessed—impacts on tropical river eco-systems along three river basins and the livelihoods of tens of thousands of farmers and fishers who depend on them, and; the long-term financial and economic burden on the Lao people as a result of project incurred debt and the costs of mitigating social, economic and environmental impacts. Contrary to the perception promoted by Nam Theun 2 proponents, these concerns have been raised not by 'environmental NGOs' (Non-Governmental Organisations) alone, but also by well-respected academics, economists and development analysts.

As controversial as the Nam Theun 2, is the role of the World Bank in developing, promoting and supporting the project. Today, the World Bank is the most powerful policy institution in the Lao PDR. More important than its role as a concessional credit provider is its role as the architect of the country's structural reforms programme, from macroeconomics and banking to agriculture, education and the judiciary. All bilateral donors and the Asian Development Bank (ADB) align their respective aid, lending and technical assistance programmes with World Bank-IMF determined development and macroeconomic frameworks. The National Poverty Eradication Programme (NPEP), which will serve as the country's national development plan, faithfully follows the World Bank-IMF template for its PRSP-PRGF programmes (Lao People's Democratic Republic, 2003; International Monetary Fund and International Development Agency, 2003). The policy matrix that is at the heart of the NPEP includes far-ranging reforms in all economic and social sectors, from trade and investment to agriculture, education and health. Specifically related

to the Nam Theun 2, financiers are unwilling to participate unless the project is backed and supervised by the World Bank. If the Bank decides to formally appraise the project, its Country Assistance Strategy (CAS) will include further institutional and policy reforms that the Lao Government must follow in exchange for World Bank support.

Despite its obvious leverage in the Lao PDR and with the project, the World Bank has not been forthcoming or transparent on the nature, full extent and future of its involvement in the Nam Theun 2. It has evaded serious discussion about the substantive basis and rationale for its possible formal support for the project, opting instead to portray a misleading “objective” position that it is still assessing whether or not to appraise it. In a Decision Framework that was made public on July 3, 2002, the Bank has laid down three conditions that must be met by the Lao government and project developers to trigger World Bank financing (World Bank, 2004). Key to the World Bank being able to justify its support for this project is the issue of public participation and consultation.

The World Bank and Participation

Public consultation and participation in decision-making regarding large infrastructure projects is official World Bank policy and is well referenced in the Bank’s operational directives. The gaining of public acceptance for key decisions regarding large infrastructure projects is also the first strategic priority identified by the World Commission on Dams (WCD), in which the World Bank was a leading participant. In WCD language, gaining public acceptance demands the informed participation by all project affected groups, with special emphasis on the **free, prior and informed consent** of impacted indigenous peoples (WCD, 2000). Most of the 5,700 people to be resettled, as well as many downstream communities in the Xe Bang Fai river basin, are of indigenous, ethnic minority groups. The WCD guidelines on gaining public acceptance, based on a thorough review of problems with past projects, are more rigorous than past World Bank policies and have not yet been fully adopted by the Bank.

According to the World Bank, “Participation is a process through which stakeholders influence and share control over development initiatives and the decisions and resources which affect them” (World Bank, 1996). And further, “The key characteristic of a participatory approach is the collaborative stance that project sponsors and designers take in carrying out steps to ensure that stakeholders influence and share control over the decisions that are made” (World Bank, 1996).

The Bank claims that while there can be no blueprint for consultation and participation, the operational directives described in its operational manual serve as a guide to ensure that the rights of specific constituencies are protected in the policies and projects it supports. In the case of the Nam Theun 2, the key operational directive is Operational Directive (OD) 4.20 on Indigenous Peoples, which is expected to (a) “ensure that indigenous people benefit from development projects,” and (b) “avoid or mitigate potentially adverse effects on indigenous people caused by Bank-assisted activities. Special action is required where Bank investments affect indigenous peoples, tribes, ethnic minorities, or other groups whose social and economic status restricts their capacity to assert their interests and rights in land and other productive resources” (World Bank, September, 1991).

OD 4.20 also states that, “The Bank’s policy is that the strategy for addressing the issues pertaining to indigenous peoples must be based on the *informed participation* of the indigenous people themselves.” In the section *Strategy for Local Participation*, OD 4.20 directs that “Mechanisms should be devised and maintained for participation by indigenous people in decision making throughout project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing

people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population” (World Bank, 1991).

The following sections of this paper outline why the public consultation process implemented for the Nam Theun 2 Project satisfies neither the standards specified in OD 4.20, nor the recommendations of the WCD.

Jumping Through the Hoops: the Public Consultation Process

From the start it was apparent that the private sector would be unwilling to support a project of this size in Laos without the involvement of the World Bank. The opportunity to support a large infrastructure project without a great deal of in-country controversy or criticism is certainly appealing to the World Bank, sensitive to the damage that has been done to its image due to its past support of ill-conceived and destructive large dam projects around the world. For the World Bank to finance a project, it requires that specific social, environmental and economic standards be met and that all “stakeholders” be involved in decision-making (World Bank, 1994). Bank staff informed the project developers --the Nam Theun 2 Electricity Consortium (NTEC), later incorporated as the Nam Theun 2 Power Company (NTPC)--early on that they would need to comply with Bank policies on public consultation in order for the Bank to provide a loan guarantee or other support (World Bank, 1995). Thus, in 1996-97, NTEC/NTPC’s Public Participation Process for Nam Theun 2 was initiated.

NTPC now claims that it has already carried out the most extensive public participation process in the history of the country. According to NTPC, “a high level of public consultation and disclosure has been a priority for the Government and the Sponsors” and over “200 consultations and workshops have been conducted for the people to actually participate in the preparatory work, and later on during the implementation process” (NTPC, 2004).

In an effort to convince the World Bank that the Nam Theun 2 is worth supporting, project proponents have held the Nam Theun 2 as basically “WCD compliant” (Oud, 2001). But while the public consultation process begun in 1996 may have been somewhat extensive, it has failed to meet either World Bank or WCD standards. As the public participation process unfolded, it soon became apparent that its overall goal was not to foster genuine participation of project affected communities as described in the WCD’s final Report and Recommendations, but rather to ‘jump through the hoops’ of appearing to conduct public consultation in order for the World Bank to have sufficient political cover to proceed with the controversial decision to support the project.

Why the Process Has Failed: Non-Reality Based Public Consultation

The WCD framework for gaining public acceptance provides a good structure for analysing Nam Theun 2’s public consultation process and demonstrating how the NTPC has failed to provide for **informed** participation by all project affected groups and how, in regard to indigenous groups, consent for the project is neither **free**, nor **prior**, nor **informed**.

Free Consent?

NTEC’s challenge was to overlay a public consultation process that would meet World Bank requirements onto a country with no political, cultural, historical, or institutional structures for such participation. Laos was in 1996, and remains in 2004, a one-party state in which no independent local environmental, human rights, farmer, labour or other advocacy-oriented civil society institutions are permitted to operate. While there are mass organisations such as the women’s, youth and labour unions, they represent the Lao state to the public rather than the other way round.

All media—print, radio, and television--are State controlled. Although debates about development projects and strategies do take place, these occur within structures and mechanisms not readily visible or accessible to outsiders.

Rather than attempting to thoroughly comprehend this situation and then devise a process of public consultation that might work in Laos, NTEC, with World Bank encouragement, chose instead to simply ignore the political and cultural reality of the country, and to pretend that they were working in a much more pluralistic environment. This expedient decision allowed NTEC to craft a carefully stage-managed show of participation, intended to ratify and reinforce pre-determined outcomes and conclusions. NTEC hired public relations-oriented consultants to assist in the public consultation process; however, none of them had any experience in designing and implementing an effective or genuine participatory consultation process in a country such as Laos.

A series of high profile consultation workshops were held at the national level to which foreign embassy staff and donor agencies were invited--and it was mostly the voices of foreigners that were heard at these workshops. Lao participants came almost exclusively from the government or the State media. Some carefully coached village leaders from the Nakai plateau were paraded out to express how much they were looking forward to being resettled. Faced with a lack of Lao civil society organisations--but needing NGO participation in order to satisfy Bank policies--the participation of international NGOs working in the country was sought, and the few that attended became surrogates for local groups. Presentations were invariably strongly pro-project, opportunities for real debate were limited and potential problems or impacts were downplayed. The lack of substantive criticism was taken as consensus, even though no Lao citizens dared to speak openly against the project and international NGOs did not want to risk getting expelled from the country by openly criticising the project.

Prior Consent?

One of the fundamental problems in attempting to conduct anything close to a genuinely participatory consultation process was that, while the World Bank may not have made an explicit final decision on whether or not to support the Nam Theun 2, the Lao government clearly had. From 1993 onwards, support for the Nam Theun 2 was official national policy and this decision was repeatedly emphasised in the State media and in the pronouncements of party and national leaders (Ryder, 1996). In the face of such strong official support, it was practically impossible for local popular debates about the pros and cons of the project to find their way into official deliberations through externally driven consultation processes. However, instead of realising and acknowledging this, the World Bank and NTEC continued to proceed with their elaborate and expensive consultation process--which soon deteriorated into little more than a public relations exercise for international consumption.

Majority of the public consultation and participation efforts were launched after 1995, when the scope of the project had already been worked out. Teams of experts had started to visit the watershed area on the Nakai Plateau and conduct a range of studies at least five to six years before the Lao public was invited to provide input into the process. These early studies were primarily extractive—the gathering of information from plateau residents but without the provision of information, or discussions about the proposed project in any detail. It was only much later, well after the central government formally approved the project, that substantive input from affected communities and the public at large was solicited—and this too was primarily within the parameters of developing resettlement options and mitigation measures (Guttal, 2000).

As if local people needed any further confirmation that the decision to proceed with the dam had already been taken, the proposed reservoir area began to be aggressively logged by a well-connected military controlled company almost immediately after the central government decision to proceed with the project was announced. This in turn accelerated the deterioration of the natural

resource base upon which local communities depended (Lang, 2001; World Rainforest Movement, 2001; Ryder, 1996, Chapter 5).

Anyone experienced in working at the village level in Laos will recognise that it is challenging to break through the barriers of traditional power and cultural relations to gain relevant and accurate input from local people. A variety of historical, cultural, and political factors combine to instil deference and a desire for conflict avoidance on the part of local people towards outsiders perceived as powerful. This is particularly true when the outsiders are foreigners or those in authority. In such situations, if outsiders and authority figures already know what answers they want, it is usually quite easy for them to obtain that answer. Breaking through and eliciting genuine dialogue *is* possible—but it takes time, understanding and sincere commitment. But on the Nakai plateau, the content of discussions in the consultations were—as they had been in Vientiane—very much within the framework of a decision already taken. This created an insurmountable barrier towards carrying out the quality of public consultation and participation demanded by World Bank guidelines and the WCD framework.

Informed Consent?

At no time in the consultation process has the Lao public at any level—from indigenous communities in the project area to other impacted communities downstream or the public in general—had access to sufficient information about the project in a form that would enable them to assess its merits and demerits.

Perhaps most disturbing is the failure of project developers and the World Bank to recognise the importance of potential impacts on downstream communities—or to inform and engage local communities over these issues. Until recently, NTEC/NTSC's consultation processes and resettlement/mitigation planning efforts have concentrated almost entirely on the 5,700 people to be relocated on the Nakai plateau. When information about the impacts of the Theun-Hinboun Hydropower Project were publicised in 1998, NTEC chose to discount them. Subsequently, the World Bank appointed Panel of Experts for Nam Theun 2 finally acknowledged that NTPC's belief that "more water would equal more fish" downstream in the Xe Bang Fai river basin was not grounded in reality and that much more attention would need to be paid to the impacts on the Xe Bang Fai river (Scudder, et. al, 1999). Research conducted in 2001 demonstrated that many tens of thousands of people, including many from indigenous ethnic communities, have strong livelihood links to the Xe Bang Fai and its main tributaries (Shoemaker, et. al, 2001). However, as late as December, 2003, NGO observers taken by NTPC to visit villages along the Xe Bang Fai found that local communities had been provided with no information whatsoever about potential negative downstream impacts. They had been given the impression that impacts will all be positive and had been told that "more water means more fish." While NTPC now acknowledges that fishery losses are likely, this has not yet been discussed with villagers. According to NTPC, Xe Bang Fai villagers "are enthusiastic about the project in general, but they don't know the details yet" (Lawrence, 2004).

During initial discussions with local communities on the Nakai Plateau, the Project teams themselves did not have sufficient information about the scale, complexity and impacts of the Project, or about the scope of its potential negative impacts. Discussions at the local level in Khammouane province were conducted primarily with local government officials in an attempt to create awareness about the Project and to mobilise support for it. The larger financial and economic challenges of the Project, particularly in relation to mitigation costs and long term financial liability of the Lao public, were not even fully known, let alone discussed during these meetings.

The tremendous amount of information collected by a series of wide ranging studies carried out by outsiders was also not accessible to directly affected communities, province and district residents,

or even government officials. This is due to a large knowledge gap between the foreign experts and consultants on the one hand, and the local people on the other hand. Many participants in consultation workshops/meetings were unable to engage in comprehensive discussions with policy- and decision-makers about possible impacts of the Project.

A 1998 report on public consultation and participation on the Nakai plateau about resettlement options cautioned against expecting “too much” from villagers’ participation because of their “limited experience of the outside world.” According to the report’s author, it was only when communities experienced events themselves--such as “farm extension activities” and the “actual move”--that “real participation” would begin in earnest (NTEC, April-May 1998). The report also outlined problems in communication and comprehension resulting from local language differences and limited literacy levels. Records of meetings in a 1997 review of local consultations (Franklin, 1997) also reveal that language, cultural and educational barriers were significant in limiting local communities’ understanding about the Project. Further, both reports highlight how gaps in understanding were significantly higher among women, who were often not present in meetings at all, or took back seats in meetings when they were present.

At the national and provincial level consultation workshops held with government officials and selected international organisations, debate and discussion about the Project was also limited due to the lack of appropriate and timely information. Study reports in both Lao and English were made available to workshop participants with too short lead times to fully absorb their findings. While there was a comparison of the costs and benefits of electricity generation and revenues from the Nam Theun 2 with other power production options, there was little discussion about the financial arrangements of the Project, debt exposure, long term financial liabilities resulting from the Project, or risk distribution.

One of the most blatant gaps in the provision of information about the Project is the extent to which it has been presented within a vacuum—as if this was the first and only hydropower dam in the region, a promising all-new model of development with few conceivable downsides. But a fair public consultation process should have included an examination of recent regional experiences with other large dam projects. The World Bank’s last major hydropower project in the Mekong region, the Pak Mun dam on the Mun river in Thailand, is located only about 250 km from the Nam Theun 2 site. The Pak Mun project has had devastating impacts on the livelihoods of thousands of (ethnic Lao) Thai villagers, impacts that have been well documented by the WCD knowledge gathering process (Thai Development Research Foundation, 2000; Vaddhanaphuti and Choowaew, 2000; Vongvisessomjai, 2000).

At the time of the 1996-97 consultations in the Lao PDR, massive local protests were raging against the Pak Mun dam. This long struggle continues even today, and has resulted in an opening of the dam gates for four months per year. The WCD study found Pak Mun to be an abject failure--socially, economically, and environmentally. Yet throughout the entire Nam Theun 2 public consultation process, there has been no recognition or acknowledgement of what happened at Pak Mun.

Another regional example is the Yali Falls dam in Vietnam, for which the World Bank financed the power transmission lines. This project has had severe impacts on villages along the Sesan River downstream from the dam in northeastern Cambodia. These impacts have now been brought to the attention of and referenced by many international institutions (Asian Development Bank, 2000), and the impacted villages have been visited by the World Bank (World Bank, 2003); and yet, the affected communities remain uncompensated. Closer to home, the ADB supported Theun-Hinboun Project, completed in 1998, is another trans-basin diversion project, albeit much smaller in scope than the Nam Theun 2. It has had severe unanticipated impacts on the livelihoods of thousands of Lao families along the Hinboun and Theun-Kading rivers, impacts now acknowledged by the ADB

and the dam operator (ADB, 1998 and 1999). However, six years after the dam's commissioning, affected families are still waiting for compensation for the destruction of their fisheries. Throughout Laos, hydro projects have resulted in significant negative impacts on local communities and in no cases have these communities ended up better off than before the projects (Imhof, 2004).

An examination of these projects as part of the consultation process would have given Lao officials and villagers an opportunity to understand some of the complex issues, trade-offs, and potential impacts involved with large hydropower projects. However, the wealth of information available on these projects has been systematically ignored and left out of the Nam Theun 2 public participation process at all levels.

Stakeholder Analysis: A tool to further marginalize vulnerable communities

An extremely problematic element in the World Bank's framework of public consultation and participation is the definition and identification of "stakeholders." According to the World Bank, stakeholders are those who are affected by the outcome--positively or negatively—and those who can affect the outcome of a proposed intervention (World Bank, 1996). For the Bank, "government is always the first and most obvious stakeholder since government is a shareholder of the Bank, the primary decision-maker and implementer of policies and projects, and the one who repays the Bank loan or credit" (World Bank, 1996).

By the World Bank's own definition, "direct" stakeholders in the Nam Theun 2 project would include the Lao Government, communities on the Nakai Plateau, communities downstream along the Xe Bang Fai River, and the project developers and financiers. It is hardly imaginable that affected communities from the Nakai Plateau or Xe Bang Fai river basin areas will be able to "influence and share control" over decision making about the project with the government, foreign corporations, and international financial institutions.

The Nam Theun 2 Project is being billed as crucial to poverty reduction because of the amount of revenues it will bring in to the country. Further, the World Bank has demanded the project must be "embedded in a development framework, characterised by concrete performance that aims at poverty reduction and environmental protection" (World Bank, 2001). However, as is evident from the indiscriminate logging on the Nakai plateau and the resultant poverty created by the loss of crucial forest resources for the people in the region, those with the greatest "stake" in protecting the area's natural environment have had no opportunity whatsoever to "influence and share control" over the decision to destroy their most significant source of livelihood.

In the case of the Nam Theun 2 Project, *stakeholder analysis* appears to have contributed to a process of diluting the legitimate rights of people and communities to resources and decision making by ignoring or discounting the inherent power imbalances between the various stakeholder parties. This framework has done nothing to ensure that the participation of affected local communities genuinely influences project decision-making, will result in fair and adequate compensation for those negatively affected, or will lead towards an equitable sharing of project benefits. Marginalizing local communities--who have traditionally used the natural resources that outsiders now want--by labelling them as just one among many equal stakeholders is very different from a starting point in which the customary rights of local communities to natural resources are acknowledged, recognised, and respected. Recognising these rights would imply a completely different basis for project negotiations—one involving very different power relationships than what now passes for 'stakeholder analysis.'

The Next Act

Now, following the signing of the Project Power Purchase Agreement and the finalisation of project studies, a new round of consultations with all the identified ‘stakeholders’ is set to begin. This time the ADB, which has now indicated an interest in supporting the project, will also be involved in consultations. There is likely to be intense pressure on international NGOs based in Laos to participate in these processes. NTPC recently stated that it planned to begin detailed consultations with Xe Bang Fai communities in May, 2004.

However, little has changed to inspire confidence that this round of consultation will be any more genuine or effective than those in the past. Lao citizens continue to believe it is dangerous and inadvisable to publicly criticise the project. One Lao citizen who has extensive knowledge of the Project responded to an inquiry from an outside group about attending a recent World Bank Executive Directors meeting about the Project by saying: *“About the WB have a meeting with NGOs on February 6. I am truly appreciated in your sincere to the socio-environmental impacts because of Nam Theun 2. However, about my conduct, as I am Lao, I am living in Laos. As you know, the political in Laos is really different so far, government very pro in this project. So, if me or someone of Lao speak out in tend to against, we can not live, especially tell to the foreigner of important person which concerning to the project, even if we are truly identify to the deficiencies, and truly wanted to improve. By the reason I am quiet, and better I should be find another way to help the poor in other parts...I am very sorry, but I can not directly tell to some person such kind of important meeting under dangerous of situation political, is really feel unsafely, if I say anything against, everything finish for me, I can not work”* (Anonymous, 2004).

The new consultations to take place along the Xe Bang Fai river basin will all be within the context of a decision that has been taken and a concession agreement--which presumably details any compensation requirements the developers must follow--that has already been signed. For NTPC, with the World Bank’s blessing, to only now be beginning such consultations along the Xe Bang Fai river for a project that has been in the planning stage for over fifteen years, is extraordinary—particularly considering that this is a project being promoted by its proponents as WCD compliant. This eleventh hour consultation, an irrelevant last-minute add-on to an already flawed consultation process, appears to be the final hypocritical act in the long running stage managed farce that the World Bank seems ready to accept as meeting its standards for public involvement.

Grainne Ryder, policy analyst with the Canadian foreign aid watchdog Probe International, has raised a number of important questions regarding this newest round of consultations:

- What is the specific purpose of this consultation? (i.e., where is the purpose of these consultations spelled out, in the Bank's working language and in local languages?)
- Will the Lao public have access to the terms of reference for the consultants conducting the consultations?
- Will the purpose of the consultation, expected outcomes, and the rights of citizens be clearly defined and agreed upon by all parties prior to the consultation process?
- Will the Lao public be told how much the company expects to make from Nam Theun 2 Project and that in many countries, hydro project revenues are shared directly with local affected communities? Will they be given that option?
- Does the public have the right to prior information and prior knowledge of the schedule for consultations?
- Does the public have the right to review the concession agreement?

- Do those to be consulted have the right to seek expert counsel or an independent arbiter of the process? Do they have the right to choose their own interpreters?
- Do they have the right to reject any of the proposals on the table for resettlement or the Project as a whole?
- Do they have the right to see review transcript or summaries in order to make sure their views are properly documented? Or will the process just be videotaped and edited for World Bank public relations?
- Do those impacted have the right to receive a lump sum payment of compensation rather than the Bank's proposed programs? Do they have the right to legally enforceable property rights to land when resettled? (i.e., will they receive proper land titles upon resettlement?)
- The contracts for the Nam Theun 2 are said to be legally binding; what legal recourse do project affected citizens have in the event that the company does not comply with the contracts?

Conclusion

From its beginning in 1996 to the present time, the Nam Theun 2 public consultation process was aimed not at empowering the public to engage in informed dialogue and debate about the project, but rather to justify the decision to proceed with it. With their massive interest in the project, NTEC/NTPC cannot be considered impartial actors in the decision making process about the Project. Further, their position of power enables them to manipulate the existing situation in favour of the conclusions they want. NTEC/NTPC has failed to provide local officials and communities with accessible, appropriate and relevant information, or to fairly present unbiased information about the Project. Given the lack of other civil society institutions, Project affected communities and the people of Laos have not been able to get such information from other sources. This makes a genuinely informed debate impossible. The public, and in particular, directly affected communities, have not been able to assess options to the Project as they were simply not presented by project proponents. Local communities also have no assurance that any concerns they might have would be taken seriously or could fundamentally influence whether or not the Project proceeds.

There is considerable difference between participation as a genuine decision making process through which communities can adequately protect their interests and needs, and participation as an 'after the fact' process that serves to design better mitigation measures and claim justification for a decision already taken. For people to truly participate in decision making about a proposed project, they must be accorded due process, which recognises that they have certain basic rights. If these rights are denied, or do not exist to begin with, public consultation is a process of justification rather than participation.

There is little point in participating in meetings that already have set courses and pre-conceived outcomes. When project affected communities feel that they cannot challenge the arguments or justifications of project proponents, they may not express dissent. However, the absence of dissent cannot be interpreted as *informed* consent.

Whether it would be possible for a more neutral and well-intentioned party to structure a participatory decision-making process that works in the context of Laos--and that would meet the universal standards of transparency and accountability that both the World Bank and WCD recommend--remains to be seen. But in the current situation, the Nam Theun 2 public consultation process has clearly failed to meet even minimal World Bank standards, much less the more rigorous WCD standards, and should not be accepted as an adequate basis for the approval of support for the Project.

* The authors can be reached at: s.guttal@focusweb.org and bshoe@bitstream.net.

References:

- Anonymous: *Email letter from a Lao citizen to Aviva Imhof, International Rivers Network*, (name withheld by request of author), February, 2004.
- Asian Development Bank: *Aide Memoire: Special Review Mission, 18-28, November, 1998, Loan N. 1329-Lao (SF): Theun-Hinboun Hydropower Project*, Manila.
- Asian Development Bank: *Aide Memoire: Special Review Mission, 9 to 18 November, 1999, Loan N. 1329-Lao (SF): Theun-Hinboun Hydropower Project*, Manila.
- Asian Development Bank: "Yali/Se San3 Environmental and Social Impact Analysis Study," PPTA 31362-01-VIE, 2 Volumes April 2000, (unpublished).
- Environment Resources Management: *Public Involvement Guidelines for Natural Resource Development Projects*, December, 1997.
- Franklin, Barbara A.K.: *A Review of Local Public Consultations for the Nam Theun 2 Hydroelectric Project*, Vientiane, September, 1997.
- Government of Lao PDR, *Draft Nam Theun 2 Project Resettlement Policy*, 1997.
- Government of the Lao PDR: *The National Poverty Eradication Programme (NPEP), A Comprehensive Approach to Growth and Development*. Eighth Round Table Meeting, September, 2003.
- Guttal, Shalmali: *Public Consultation and Participation in the Nam Theun 2 Hydroelectric Project in the Lao PDR, Submission to the World Commission on Dams*, Hanoi, February 2000.
- Imhof, Aviva: *The Legacy of Hydropower in Laos*, International Rivers Network, Berkeley, 2004.
- International Monetary Fund and International Development Agency: *Lao Peoples Democratic Republic, Joint Staff Assessment of the PRSP Preparation Status Report*, Prepared by the staffs of the International Development Association and the International Monetary Fund, August 15, 2003.
- International Rivers Network: *Power Struggle: The Impacts of Hydro-Development in Laos*, Berkeley, 1999.
- Kwek, Irene: *Nam Theun Power Project Likely Completed End 09-Lao Officials*, Dow Jones Newswires, October 13, 2003.
- Lao People's Democratic Republic: *The National Poverty Eradication Programme (NPEP), A Comprehensive Approach to Growth and Development*, Eighth Round Table Meeting, September, 2003.
- Lang, Chris: *Laos: Cutting the trees to save the forest*, World Rainforest Movement Bulletin, March 2001.
- Lang, Chris: *Laos: Asian Development Bank to support proposed Nam Theun 2 dam*, WRM Bulletin 69, April 2003.
- Lawrence, Shannon: *NGO Visit to the Proposed Nam Theun 2 Hydroelectric Project in Laos*, Trip Report, Environmental Defence, Bank Information Centre, Campagna para la Riforma della Banca Mondiale, Italy, and Amis de la Terre, February, 2004.
- Nam Theun 2 Electricity Consortium: *Public Consultation and Participation on the Nakai Plateau*, April-May, 1998.
- Nam Theun 2 Power Company: *Nam Theun2 Hydroelectric Project, Laos*, (publicity brochure), 2003.
- Oud, Engelbertus: *Reality Check of the WCD Guidelines: A Case Study for the Nam Theun 2 Hydro-Electric Project in Lao PDR*, ADB Workshop to Discuss the World Commission on Dams Report, Manila, February, 2001.
- Scudder, T, Talbot, L. and Whitmore, T: *Forth Report of the Nam Theun 2 Panel of Experts*, Government of Lao PDR, January, 1999.
- Shoemaker, Bruce, Ian Baird and Monsiri Baird: *The People and the River: A Survey of River-Based Livelihoods in the Xe Bang Fai River Basin in Central Lao PDR*, Lao PDR/Canada Fund for Local Initiatives, Vientiane, 2001.
- Ryder, Grainne: *The Political Ecology of Hydropower Development in the Lao People's Democratic Republic*, December 13, 1996 (available at www.nextcity.com/ProbeInternational/mekong/grreport/chapter5.htm).

Thailand Development Research Institute: *Pak Mun Dam Case Study, Synthesis Report*, Working Paper of the WCD, Bangkok, February 2000.

Vaddhanaphuti, Dr Chayan:, Department of Political Science, Chiang Mai University and Choowaew, Dr Sansanee, Faculty of Environment and Resource Studies, Mahidol University: *Social Aspects of Pak Mun Dam*, Working Paper of the WCD, February 2000.

Vongvisessomjai, Dr Suphat: *Case Study on Hydrology, Hydropower, Water Quality and Performance of the Pak Mun Dam*, Working Paper of the WCD, Asian Institute of Technology, Bangkok, February 2000.

World Bank: World Bank Operational Manual, Operational Directive 4.20 on Indigenous Peoples; September, 1991, <http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf>

World Bank: *The World Bank and Participation*, Operations Policy Department, September, 1994.

World Bank: *Nam Theun 2 Hydroelectric Project Technical Mission Aid Memoire*, Submitted to the Committee on Planning and Cooperation and the Committee on Energy and Electric Power, November 9, 1995.

World Bank: *The World Bank Participation Source Book*, 1996.

World Bank: *Aide Memoire*, August 22-25, 2001.

World Bank: "*Villagers in Ratanakiri share concerns with World Bank*," The World Bank Newsletter, Vol. 1 No. 4, September 2003.

World Bank: *The Proposed Nam Theun 2 Hydropower Project*, January, 2004.

World Commission on Dams: *Dams and Development: A New Framework for Decision-Making*", *The Report of the World Commission on Dams*, Earthscan, London and Sterling VA, November 2000, pp. 215-220 and 281).

World Rainforest Movement: Laos: *Planned Nam Theun 2 dam leads to increased logging*, Bulletin, September 2001.