

Confronting Property Rights and Wrongs in Laos

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The issue of property rights looms large as part of various issues that the Southeast Asian country and its people are contending with.

When, on July 23 last year, an auxiliary dam of the Xe Pian-Xe Namnoy hydropower complex in southern Laos collapsed, the torrent unleashed rolled through tens of kilometers of land, even gushing into neighboring Cambodia. At least 71 people were killed (the ruling communist party has yet to even given a final death count) while thousands were left homeless.

After a few months, the government forked out a one-time payment of \$10,000 for the families of those who had died. Families affected by the flooding received a paltry \$70, and some are getting a monthly allowance of \$30. But, one year on, “much of the land, once used for farming, remains covered in silt and debris,” while “thousands of Lao villagers are still living in displacement camps,” the *Nikkei Asian Review* [reported](#) in late July.

The Laos government has yet to release the results of its own inquiry, though people aren’t holding their breaths for an honest account. A number of international organizations, including Inclusive Development International and International Rivers, are calling on government and the dam’s owners to set up a new fund to support the affected villagers, though neither is there much confidence that will happen.

“Most affected people are unaware of the existence of this coverage, much less their right to make claims, because it has not been disclosed publicly,” [states](#) a report published by the international groups, which also alleges that the construction firm saved \$19 million in costs by altering the dams original plans, a penny-pinching measure that might have led to the collapse. The construction firm denies this.

In short, the tragedy that struck around this time last year hasn’t ended for many of the people affected. Questions have been posed over the last 12 months of whether something similar might happen again. The government promises it won’t, and has taken some steps to inspect the construction standards of over dams. Some experts aren’t as sanguine.

But it is worth considering another implication of what happened. The collapse of the dam meant many readers were exposed for the first time with the major issue of Laos, land-rights. Indeed, major international new media actually paid attention to Laos for the first time in decades. For instance, the New York Times ran more stories on Laos during the week of the dam collapse than it had done for the previous three years combined.

What the land-rights debate often gets down to are questions of private property, an opaque topic in Laos. While on the surface there is the appearance of private property rights, by law all property belongs to the state. Or, to be more exact, to the ruling Lao People’s Revolutionary Party, the keeper of a one-party state. The Constitution grants that land belongs to the Lao people as “national

heritage,” and devolves the role to the state of deciding how it is used, transferred and inherited. “The 2003 Land Law interprets this as meaning that land is managed in trust by the State,” [reads](#) one paper on the matter.

When the appearance of private property is granted, it can be quickly overturned when the government or authorities see fit. And given that the courts are controlled by the communist party, citizens aren’t protected by the law. For years, if not decades, villagers have been thrown off their land by the state (often at the bequest of Vietnamese or Chinese-owned corporations, but also if the government wants to seize the land for some infrastructure project) without receiving adequate compensation. Frequently this happens with the backing of the courts.

It is not a difficult endeavor to work out why there are so many land-rights protests in Laos, a country where there are almost never any demonstrations demanding democracy or human rights, by comparison. It can be assumed that the current model simply isn’t working. To paraphrase the argument made by Christian Lund in a noted 2011 essay, “[Fragmented sovereignty: land reform and dispossession in Laos](#),” the issue of land rights has fundamentally changed the state’s relationship with society, whereby land has become the way for the state to impose its sovereignty over public. In other words, it has “consolidated sovereignty in ways that make government an ineluctable part of people’s relation to land.” It has, furthermore, altered the agrarian system of Laos (ironically for the communist party) by turning land into capital and farmers into labor.

But tragedies like the collapse of the dam last year extend beyond private property. Most of those affected by the flooding weren’t initially affected by the dam’s development. Indeed, many of the villages washed away by the floods were not originally put out, nor consulted, when the hydropower dam was being built. They weren’t being thrown off their land, or fighting for compensation – this was certainly true of the people downstream.

But they were the ones affected when the dam burst. As such, this changes the dynamic. It is not just about private property rights, but about common property rights. In short, what about the people who could be affected by something that happens not on their own land? And the question of environmental protection, then, becomes not a question of just private property but also of common property. Some villagers might have been forced to “sell” their land on which a hydropower dam was built, but the villagers a few miles away who were affected by the dam collapsing faced personal risks yet had no say over the matter.

Imagine, for instance, that a few dozen villagers freely “sold” their land to a dam construction company at higher-than-average compensation rates, and so they were satisfied. Yet the inhabitants of the next village along had no say over the matter and didn’t receive any compensation, but they are the ones who will suffer if anything goes wrong, just as what happened in July 2018. How are the rights of those in the next village going to be taken into account if it is not their own private property being immediately affected?

Or put this into a larger context. Have the Lao people had any say in whether they want to turn their collective common property (that being much of Laos) over to hydropower dams and make their country into, to use the government’s jargon, the battery of Asia? The answer is no. Since 1975, Laos has been controlled absolutely by a communist party, which has, even more so than its neighboring socialist state, Vietnam, reduced civil-society almost to the point of nonexistence and the public’s courage to demand some autonomy to naught.

The constitution grants that all land is controlled by the people. Yet in reality the people have no say whatsoever about their common property rights, just as they have little say over private property rights. And if the government doesn’t even honor private property, can we even get it to discuss

common property in a way that gives some autonomy to the people? No, again, since both private and common property, as we have seen, is essentially the same thing in Laos: whatever the ruling communist party wishes it to mean.

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