Lao PDR: Land Titling II Project.

ANNEX 11

Social Impact and Ethnic Peoples Assessment

A. Introduction

1. In preparation of the second phase of the Land Titling Project, the World Bank, AusAid and the Department of Land has commissioned this annex to review the social impact of land titling on ethnic minorities and other vulnerable groups and to recommend a course of action for the second phase of the project.

2. The World Bank's policy concerning ethnic minorities (Operational Directive 4.20 on Ethnic Peoples), follows the principle that "to ensure that ethnic peoples do not suffer adverse impacts during the development process... that they receive culturally compatible social and economic benefits." In this paper the phrase "ethnic minorities" includes those ethnic groups of the Lao PDR comprised of the Lao-Tai, Mon-Khmer, Hmong-Mien and the Tibeto-Burman ethno-linguistic groups who are vulnerable to the development process and who meet the characteristics used in the World Bank's policy (OD 4.20).

3. As this annex has been prepared with the intention of understanding ethnic minority issues in respect to the efforts undertaken by the LTP project, it is based upon discussions and meetings held with government officials at the central, provincial and district level as well as with local beneficiaries in six villages. In these discussions, we wanted to understand the extent to which the LTPI has affected various ethnic groups in urban and peri-urban settings. In particular, what is the nature and behaviour of customary land rights, and how are customary land laws affected by the Land Titling Project.

B. Methodology

3. This report was compiled over a six-week period. Much of the data used in the preparation of this annex was derived from secondary sources, including published project documents, as well as reports from bilateral organizations, and so forth.

4. In addition, a brief field trip was conducted. In one week the SA team (comprised of an ethnic specialist, a gender specialist and an environmentalist) visited two provinces, including six villages in two districts. In each province and district, lengthy discussions were held with project staff and supporting government agencies. In the villages, interviews were carried out with village heads and local authorities. In addition, the SA team carried out unstructured interviews with other community members in both serviced and in-serviced areas.

C. An Overview of the Situation of Ethnic Peoples in Lao PDR

5. The 1995 National Census recognized that 17% of the total population are living in urban areas and the remaining 83% in rural areas. It is within the urban and peri-urban areas that the country is experiencing its fastest growth rates. While the annual population growth figure is calculated from the National Health Survey conducted in 2000 at 2.8%, urban growth is considerably higher. Vientiane is estimated to be growing at a rate of 4.7% per year while the population of Savannakhet –the second largest urban centre- has doubled in size from 1975 to 1995, from 30,000 inhabitants to over 100,000, presently.
6. This demand is substantiated by the socio-economic impact assessment that was conducted in April 2002. The overall impression was that there is clearly a strong demand for land titles in urban area. In addition to securing property ownership, there is strong evidence to support the hypothesis that land titling has reinforced women to exercise their rights in respect to land use rights, and inheritance as well as indicators that titling has helped alleviate property disputes.

The 1995 Census defines an urban village when at least three of the following five criteria are met. Any village that cannot meet at least three of the five criteria is then established as a rural village.

- Presence of a village market
- Road access to the village with motor vehicles
- The village must lie within the municipal vicinity of where the district or provincial authority is located.
- The majority of households have electricity.
- The majority of households have a water tap


7. The Lao Census of 1995 identifies 47 different ethnic groups. Of these, the Lao – who predominately inhabit the lowland areas of the country - comprise the largest group, or 52.5% of the total population. With this, the Lao were identified in that census as a majority in eight of the country’s eighteen provinces.

8. Clearly, the Lao PDR is an ethnically diverse country. Officially, the 1991 National Constitution recognizes the multi-ethnicity of the nation by stating: “The State will carry out a policy of unity and equity between the various ethnic groups. All ethnic groups have the right to preserve and improve their own traditions and culture and those of the nation. Discrimination between ethnic groups is forbidden. The State will carry out every means to continue to improve and raise the economic and social level of all ethnic groups.”

9. In respect to who are the people of Lao, a vernacular ethno-geomorphologic classification system often referred to divides the country’s ethnic communities into three broad categories; the Lao Loum or the “lowlanders”, the Lao Theung or the “people of the slope lands”, and Lao Soung or “highlanders”.

10. This system of ethnic identification is seriously restrictive as it relies primarily on geography to affirm a sense of national unity. A more systematic ethno-linguistic classification, based on the classifications used in the Participatory Poverty Assessment identifies four major groups within which at least 236 ethnic groups have been identified. These four groups are the Lao-Tai (66.2%), which maintain cultural and political domination; the Mon-Khmer (23.5%), comprising the Austro-Asiatic ethnic groups; the Hmong-Mien...
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approx. 7.5%; and the Tibeto-Burmese (2.7%) who make up what may be the oldest and most diverse ethnic groups in Southeast Asia.\(^8\)

### The Ethnic Composition of the Lao PDR.

<table>
<thead>
<tr>
<th>Superstock and group</th>
<th>Percentage of the total population</th>
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</thead>
<tbody>
<tr>
<td>Lao-Tai</td>
<td>66.2%</td>
</tr>
<tr>
<td>Mon-Khmer</td>
<td>23.0%</td>
</tr>
<tr>
<td>Hmong-Mien</td>
<td>7.5%</td>
</tr>
<tr>
<td>Tibeto-Burmese</td>
<td>2.7%</td>
</tr>
<tr>
<td>Others</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

11. Despite the cultural plurality characterized by independent social and historical development, the ethnic non-Lao-Tai groups nevertheless exhibit many common cultural attributes. Among these is a political structure that does not exceed the level of the village, patrilineal clan structures, and the prevalence of subsistence based economies reliant on high land (swidden) cultivation.

12. In recent years, as the country develops, there are many indicators that a social and economic fissure is widening between those inhabiting the plains and the so-called highlanders. Though there has been an expansion of the market economy and improved access in the lowlands in recent years, concurrently there is widespread isolation and consequently increased poverty in many of the remote areas. Paradoxically it is in these more remote and poor regions where most of Laos' potential sources of wealth in forest and hydropower are to be found.

13. As the country expands its economic development and initiates strategies encouraging rapid development, many ethnic communities find themselves in a precarious situation. This has lead to individual and even whole communities throughout the country migrating from highland to lowlands; in particular along the edge of major roads, and closer to the more prosperous urban communities. This movement has also been stimulated by the government's programme to eradicate all forms of swidden agriculture as a mode of production, and consequently reinforces communities to seek new livelihoods in the lowlands; either by a reliance on paddy rice cultivation or integration into town economies. In Luangprabang the SA team was told how in the last 15 to 20 years many highland dwellers have settled in town working as unskilled labourers, and other areas of the service sector (tuk-tuk drivers, labourers and so forth). Interestingly, as urban and peri-urban residences are established, these newcomers reportedly still retain some of their former agricultural parcels, with wives and other family members tending them in their absence, consequently maintaining links between the new settlements and their place of origin.

14. In the process of migration, clear indicators of acculturation are evident. This is apparent in newcomers' widespread adoption of the Lao Loum language, their children attending local schools, a lessening of the presence of traditional community rituals, an adaptation of Lao Loum housing styles and the nucleation of families into smaller households.
Within the process of acculturation resulting from migration from rural to urban and peri-urban settings, the customary role of men (as providers, defenders and protectors) may decrease while many female roles (reproduction and production) may have been preserved. This suggests that the cultural constrains to participate and to display “conservative” behaviour may be more prevalent among some women’s groups. This may be both evident in attitude and language comprehension. Specifically this social behaviour could result in marginalization of some ethnic women not participating fully within the social environment.

Conversely, in ethnic groups with a tendency for matrilocality, this kinship system may reinforce social networks among some groups, facilitating their involvement in community affairs even though their husbands may be the nominal and customary heads. In such situations, it would be expected that women’s groups are active and participate in community development activities.

### D. Proposed Phase II of the Systematic Adjudication Area.

The Lao PDR is made up of a large number ethnic groups. This diversity is evident in both urban and rural communities. Below is a listing of the predominate ethnic groups within the principal urban and peri-urban areas of the LTPI and LTP II.

<table>
<thead>
<tr>
<th>Location</th>
<th>Ethnic composition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vientiane Municipality</td>
<td>Tai ethnic groups (Lao, Thai Dam, Thai Deng), with some communities of Hmong-Mien ethnic groups</td>
</tr>
<tr>
<td>Phongsaly Province</td>
<td>Predominately Sino-Tibetan with Hmong-Mein, Austro-Asiatic and Tai ethnic groups</td>
</tr>
<tr>
<td>Luangnamtha Province</td>
<td>Sino-Tibetan, Tai and Hmong-Mein ethnic groups</td>
</tr>
<tr>
<td>Oudomxay Province</td>
<td>Austro-Asiatic, Hmong-Mein and Tai ethnic groups</td>
</tr>
<tr>
<td>Bokeo</td>
<td>Predominately Sino-Tibetan with Tai ethnic groups</td>
</tr>
<tr>
<td>Luangprabang Province</td>
<td>Tai ethnic groups, as well as some Hmong-Mien ethnic groups</td>
</tr>
<tr>
<td>Xayabury Province</td>
<td>Mainly Tai and Hmong-Mien and some Austro-Asiatic ethnic groups</td>
</tr>
<tr>
<td>Huaphanh Province</td>
<td>Mainly Tai and Hmong-Mien with some Austro-Asiatic groups</td>
</tr>
<tr>
<td>Xiengkhuan Province</td>
<td>Mainly Tai and Hmong-Mien ethnic groups</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Province</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vientiane Province</td>
<td>Tai ethnic groups with some communities of Hmong-Mien and Khumu groups</td>
</tr>
<tr>
<td>Borikhamxay Province</td>
<td>Mainly Tai ethnic groups with Hmong-Mien with some Austro-Asiatic ethnic groups</td>
</tr>
<tr>
<td>Khammuane Province</td>
<td>Mainly Tai with some Austro-Asiatic ethnic groups</td>
</tr>
<tr>
<td>Savannakhet Province</td>
<td>Mainly Tai and Austro-Asiatic ethnic groups</td>
</tr>
<tr>
<td>Saravane Province</td>
<td>Mainly Tai and Austro-Asiatic ethnic groups</td>
</tr>
<tr>
<td>Sekong Province</td>
<td>A majority of Austro-Asiatic Groups</td>
</tr>
<tr>
<td>Champasack Province</td>
<td>Tai ethnic groups, Khumu and Austro-Asiatic groups</td>
</tr>
<tr>
<td>Total</td>
<td>1 Municipality; 16 provinces; and 1 Special Region</td>
</tr>
</tbody>
</table>

17. Clearly the predominate ethnic group is the Tai. Secondly, this is followed by the Khumu and Hmong-Mien ethnic groups. As the four major ethno-linguistic groups are subdivided into many numerous ethnic groups, the listings given above are greatly simplified and indicate the necessity of further inquiry in to the diversity of the project area.

Involuntary Resettlement

18. As described above, while population movement from rural to urban areas has not been as great as other areas of Southeast Asia, there has been village relocation in many parts of the country. Relocation has taken many forms in recent years. Villagers have moved because of government policy to reduce shifting cultivation, the establishment of focal sites and voluntary movement from remote regions to closer approximate to roads. Much of the relocation described has been the result of government policy to address security issues, rural development and the eradication of opium. Whether voluntary or involuntary, relocation can be severely disruptive to the social organization of a community.

19. Both involuntary and voluntary resettlement may result in various ethnic groups inhabiting the same community. As identified in the Participatory Poverty Assessment, such ethnically mixed settlements may lead to one ethnic group having economic dominance over others. Such mixing may lead to social incompatibilities, which may contribute to social conflicts in respect to property divisions or inheritance disputes. This may be evident in the culturally incompatible systems matrilineal and patrilineal descent with opposing clan and residence systems, both of which will have consequences on the land titling process.

E. Customary Land holding and Land Titling

20. In situations where customary traditions of matrilineal inheritance and matriarchal norms are present as the dominant form of social behaviour, customary ownership of land combined with traditional norms and practices may exclude some family members from the use and disposal of family land. In short, some family members may not be effective and functional owners. In such cases, tension may arise in regard to property rights where individuals or communities may perceive that their formal, legal property rights are not being recognised and in practice are being denied. Conflicts over land then may arise out of such situations.
Various types of land conflict were reported to the SA team during the field visit. These included old family land that has not been used becoming occupied by others, conflicts centred upon families disputing boundary lines between adjacent properties and inheritance disputes among siblings.

In communities where outstanding issues were present there was reportedly a direct correlation between communities with on-going disputes and high attendance of villagers at the Customer relations and services Unit meetings. Clearly many perceive the Land Titling Project as a means of property conflict resolution.

More often disputes are settled at the local level within the community with the Nai Baan mediating over the dispute. Purportedly, there is an inherent reluctant to involve outside officials in local disputes, thought they are involved when no resolve can be made.

21. Customary society throughout Lao PDR is largely rural and based on the extended family. An individual’s identity welfare and future are predominately determined by one’s family and the decisions of that family. As a subsistence based community, as long as the family is physically safe and the households agricultural base (land and livestock) secure, then family members are provided for. In such a community an individual’s roles and status are often strictly gender and age determined.

22. Society is often traditionally governed by customary codes of behaviour overseeing common values, norms, rules and practices. This in turn regulates attitudes and rights with regard to landed property. Nevertheless, throughout the country, there are different historical, economic, social and political conditions, which affected these customs. In some mountainous regions with minimal paddy rice cultivation and consequently minimal commercial activity, the land administrative provisions of the communities may state that property belongs to the family and is handed down over generations through the men in the family, with women inheriting neither land nor other property.

23. Contrastingly, in the lowlands, where there is more economic activity, particularly commercial activities, and the Lao social influence is stronger in penetrating traditional society, land may be inherited by daughters.

24. Family land is a prevalent type of customary ownership of property. This is characterized by (1) land that belongs to the family and not one individual (2) there is a strong reluctance to alienate family property; and (3) family members do not forfeit their claim when they leave the land. These attributes provide a sense of security to family members and ensure that they do not lose their fundamental and stable means of subsistence.

25. Often under customary tradition, the subdivision of land (that is to say, who in the family can inherit the land) varies considerable throughout the country. Nevertheless, as stated above, in general two general forms of customary land inheritance systems exist: patrilinial and matrilinial. In communities that exercise a patrilinial decent system, landed property may belong to the male members of the family, and they do not forfeit their inheritance claim even if they leave the family household. Conversely, daughters, upon marriage, will leave their birth household and lose any rights to family land. Heirs are generally sons and their families, not daughters nor theirs. In contrast, in a matrilinial system
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(as practiced by the Lao Loum communities) women often inherit land through customary practice. In this system, daughters are acknowledged as being the caretakers of their aging parents, remain in the family home, and are rewarded for their services by receiving land and property from their parents.

26. In either system land ownership is sanctified as a means of ensuring family subsistence and autonomy of present and future generations. What is fundamental to the basic social structure of these communities is the primacy of the family (as opposed to the individual) with the authority vested in the household head. In such customary norms, individuals may not have civil, juridical and social personality other than through the family.

F. The Impact of Land Titling On Ethnic Minorities Groups.

27. A review of the land tenure study and social assessment as well as field visits to two of the project provinces has identified a number of key issues and recommendations.

28. Two general recommendations are provided (more detailed recommendations are listed at the end of this section):

- The LTPII will need to carry out a succession needs assessments exercises to monitor and identify ethnic distinctions in peri-urban settings. This need will become more evident as the project expands its scope further afield.

- The LTPII will have to increase its awareness of both ethnic and gender issues through training, to institute mechanisms that will ensure that vulnerable and marginalized groups within the project area clearly understand their rights and obligations within the scope of the project.

29. Numerous studies conducted in the Lao PDR have demonstrated that certain minority groups with language difficulties and or lower levels of education may have difficulties in participating and understanding the community participation meetings and may consequently become further marginalized in the titling process. Project facilitators training will be a key asset in deterring this development and will have to focus on minimizing this issue.

30. Additionally, in communities with a diverse ethnic composition there is the possibility that as the scope of LTPII’s activities expands, the problem of communication is expected to increase. Many of those vulnerable groups – such as ethnic minority women- may not speak Lao well enough to fully understand the scope of the project activities. Therefore, it will be imperative that facilitators are capable of addressing this problem. This will include ensuring that district staff are recruited from these groups or that they speak the language of the area in which they work.

Who are the Vulnerable

31. According to the Social Development Report Basic Data, nearly half of the private households of the Lao PDR are semi-permanent structures often built of bamboo or similar materials. Forty-two percent of private households are made of wood and only 7.4% are made of concrete or a combination of concrete and wood.

32. Although the definition of adequate and appropriate housing standards should be considered culturally defined, if wooden structures are understood to represent a preferred standard then more then half of the houses fall below the standard.
In all over 53% of all urban households cover more than 40 square meters of living space; compared to other urban populations of the regions, urbanization does not lead to worsening of living space in the Lao PDR. Additionally, the Social Development Report for 1996 also identifies that over 86% of all urban households own the homes that they live in.

33. Within urban and peri-urban groups the most vulnerable individuals includes the elderly that have no family support; in particular elderly women, those within female-headed households irrespective of their household income, those living without family support and those isolated from kin and other forms of social networks, including drug and alcohol users, some youth and rural migrants and illegal migrants.\textsuperscript{12}

34. Primarily, many of these people become vulnerable due to an absence of social support. As evident in the following chart, the movement to urban and peri-urban centres is often correlated with the nucleation or fracturing of the traditional kinship structures of the home community. In this new social context (urban and peri-urban), individuals or some households may find themselves at a disadvantage in respect to access to formal mechanisms including education, healthcare services and legal services. Likewise, there is little support from extended family, neighbours or village heads. Consequently, they may be marginalised and isolated from the local community.
The Vulnerability of Urban and Peri-Urban Migrants

MIGRATION

NO LAND OR ASSETS

Rent Land

Build House On Government

Threat of Eviction

Poor Housing Conditions

Lose Assets

No Security

Frequent House Moving

Inadequate Services

Unhygienic Living Environment

To Find a Permanent Job

No Self Upgrading Of Houses

Low HH Income

Low Household Income

Constant Illness

DEEPER POVERTY

The following recommendations are provided to identify how the experiences gained from the Land Titling Project can be used to improve the way in which ethnic group peoples and other vulnerable groups can be addressed in the second phase of the Land Titling Project.

1. An in-depth baseline survey of traditional land rights, with a focus on customary inheritance systems, used throughout the project area. More information is needed in fully understanding the nature of the customary inheritance rights of Lao Loum women. While patrilocal communities usually do not permit women to inherit land, matrilineal decent systems are intricately linked to residence patterns and family naming. For example, a woman that inherits the family name will most likely inherit her family’s property. Yet, if she marries out of the community then her brothers will become the primary cultivators of the land. A lack of appreciation of the numerous variations of this complex customary practice may lead to further conflicts associated with property inheritance. As well, in the acculturation process underway, to what extend are other ethnic groups adopting Lao Loum practices of matrilocal residence and how may this be affecting inheritance rights?

2. A need to incorporate the survey material on ethnic minorities carried out by the “Institute for Cultural Research” and the “Science, Technology and Environment Agency”.

3. The Lao Front for National Construction—as an implementer of the Ethnic Minority Policy—is a valuable source of knowledge and experience with regards to ethnicity issues, and has been under utilized in the implementation of the first phase of the LTP. Institutional arrangements should be initiated to develop a supportive relationship between the LPTII and the LFNC.

4. Staffing of Provincial and District offices needs to reflect the ethnic representation of the target districts.

5. Although there appears to be high levels of acculturation in some of the urban areas of the project, in peri-urban areas further consideration should be given to address linguistic issues—among some minority groups, especially women within these groups. This may require increasing staffing, training and the use of translators.

6. Further training required by the Provincial and District staff on ethnic sensitivity is essential. The Lao Front for National Construction is a valuable resource capable of providing such support and training. This training is recommended for all LPTII project staff. In particular, training should focus on traditional land inheritance practices, customary matrilocal residence patterns and customary matrilineal property rights. Training can familiarize all project staff of the importance of this change and in particular how other non-Lao ethnic groups may be adapting these practices.

7. Additional research will need to be carried out as the project moves, later, into remote areas. Specifically the strengthens and weaknesses of land titling in respect to customary practices as well as how land titling will articulate or conflict with communal lands.

Customer Relations and Services Unit (CRSU) Participatory Facilitation

- Peri-urban communities inhabited by numerous ethnic groups require separate sub-village meetings to discuss the LTPII project cycle, titling rights and benefits.
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- More in depth community meetings with a strong emphasis on participatory discussions, focusing on land rights are required. Presently the community meeting lack a strong participatory element with facilitators adopting a strong leadership role in coordinating and initiating activities.

- An evaluation of the effectiveness of the existing media campaign should be undertaken to assess the effectiveness of that strategy. The media campaign needs thoughtful revision with a strong focus on informing and educating beneficiaries of the land titling process. Additional attention should be given to reflect the low literacy rates of some of the beneficiaries and the limited understanding of the Lao language (among some ethnic women and elders).

- More qualified and experienced personnel need to be engaged to design a more responsive information campaign about all aspects of the LTP process. In addition to raising public awareness, this would also insure further transparency in project activities.

Other Recommendations to the LTPII

- A monitoring and evaluation component must incorporate a more comprehensive gender dimension. This is to be carried out by following the World Bank Guidelines (WB OP 4.20, 1999), which identifies three specific design issues that need consideration: Ensuring that the required data is collected; implementing gender responsive data collection methods, which may otherwise be difficult to obtain through conventional research techniques; and addressing the issue of limited capacity for both collecting and analysing such data.

- A more detailed assessment is needed of people’s understanding of their legal status of land certificates in respect to inheritance and conflict resolution and property disputes.

- As study of the local management of communal land and forests is required a special emphasis should be given to understanding women’s access and usage of communal land in respect to informal rights and regulations regarding local resources, such as the collection of firewood, as well as non-forest timber products (NFTP).

- Monitoring & Evaluation should be designed to ensure that the ethnic minorities are adequately taken into consideration. This may include the development of a Complaints and Resolution division.

H. Concluding Remarks

36. This annex has been commissioned to review the social impact within phase one of the Land Titling Project on ethnic peoples and to recommend a course of action for the second phase of the project.

37. Overall throughout Phase One of the LTP, many of the project beneficiaries have been living in urban and peri-urban setting for a number of years and are familiar with the Lao language and have adopted many of the social traits and behaviours of this predominate group. In addition, as the scope of titling has only effected urban and peri-urban residential areas the impact on agricultural lands and rural communities have not been relevant. Nevertheless, as the project expands its activities specific issues related to ethnicity will become more relevant.
Specifically these areas of concern for the LTPII may include the following social issues:

- Is family property being conserved or being fragmented among heirs or even sold?
- How is land inherited by absent sons and daughters being administrated?
- What are the forms of conflicts regarding property rights within families?
- To what extend are the regional differences due to customary differences or to the socio-economic differences that the country is undergoing?
- Given that agricultural production within a market economy involves transactions such as credit and investment, which are based on property rights, do farms managed by women operate under different conditions than those managed by men: specifically, do female managers have the same access to production factors (land, credit and labour) as men?
- Do family farms managed by women face constraints different then those managed by men?

38. Overall, two recommendations are made: Firstly that as the project expands further a field, staff will need to improve the monitoring of ethnic differentiation in communities and address these differences – in respect to language, culture and society- in Customer relations and services Unit (CRS) facilitation workshops. Secondly, training in both ethnic sensitivity and gender awareness should be undertaken by project staff, in respect to the rights of ethnic groups and obligations within the project.


10 Ibid (P. 101).