

# Accountability Void: The Unaddressed Consequences of the Laos Dam Collapse









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Authors: Yujung Shin (Jihyang Law)

Pillkyu Hwang (GongGam Human Rights Law Foundation)

Youngah Park (GongGam Human Rights Law Foundation)

Translation into English: Amie Eunjee Kim

Design: Jung Jaeyoung (studio.jaejaesee@gmail.com)

The GongGam Human Rights Law Foundation advocates and provides legal assistance for the human rights of marginalized communities in our society. GongGam's areas of practice include the rights of women, persons with disabilities, migrants and refugees, precarious workers, LGBTIQ, human rights and disasters, and poverty and welfare. GongGam's Transnational Human Rights Institute was established to enhance our work for the full implementation of international human rights law domestically and globally, including business and human rights norms. GongGam is a member of KTNC Watch.

KTNC Watch is made up of human rights, labor, environmental, and public interest law organizations that work together to deal with the various human rights and environmental issues caused by Korean multinational corporations.

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# I. Introduction

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# 1. The Xe-Pian Xe-Namnoy Dam Disaster

On 23 July 2018, one of the auxiliary dams of the Xe-Pian Xe-Namnoy hydropower dam (Saddle D) collapsed, unleashing 500 million tons of water onto 13 villages in Attapeu province, a southeastern state of Laos. The “Xe-Pian Xe-Namnoy Hydroelectric Power Project (hereinafter referred to as the “Xe-Pian Xe-Namnoy Dam”)” refers to a large public-private joint project involving the construction of a dam on a tributary of the Mekong River passing through the Bolaven plateau in southern Laos, a high head underground water canal and power plant. The Xe-Pian Xe-Namnoy dam consists of three main dams (Xe-Pian dam, Xe-Namnoy dam, and Houay Makchan dam) and five auxiliary dams (A,B,C,D,E). The accident occurred in auxiliary dam Saddle D, located below the Xe-Namnoy dam.

Documents submitted to the National Assembly by the Korea Western Power Company (hereinafter “KOWEPO”), the entity in charge of operating the Xe-Pian Xe-Namnoy Dam, indicate that 11 centimeters of subsidence began on 20 July 2018, three days before the collapse. Two days later, the upper section of the dam began to subside in 10 places. As of 11 a.m. on 23 July, the day of the collapse, the upper parts of the dam had already subsided approximately one meter. The Xe-Pian Xe-Namnoy Dam Commissioner (PNPC) belatedly requested state government cooperation in evacuating residents, but the disaster could not be averted.

According to numbers published by the Lao government in 2019, 49 people died, 22 went missing, and approximately 6,000 people were displaced due to the collapse of the Xe-Pian Xe-Namnoy Dam. Actual casualties, however, are expected to exceed these estimates. Reports by first responders from international rescue organizations indicate that there were more missing persons who are assumed to have died. According to reports from the UN Special Procedures and other media outlets, 71 people died<sup>1</sup>, about 14,440 people were displaced, and 19 villages were affected by the collapse.<sup>2</sup>

Substantial damage has been reported along the lower Mekong River in Cambodia as well. There have been media reports that areas along the Cambodian border with Laos experienced a sharp rise in water levels and approximately 1,200 households or 5,000 residents had to evacuate.<sup>3</sup> There were also reports that the flooded water had reached the Stung Treng Province and 25,000 people were rushed to evacuate to higher ground.<sup>4</sup> According to reports about 3,074 households, or 15,515 people, suffered from flood damage. There are, however, no official statistics on the extent of the damage.



## 2. After the Disaster

Following the collapse of the dam, civil society organizations (CSOs) called for a thorough probe into the cause of the accident and that those involved in the construction and operation of the dam assume responsibility for remedy. Nevertheless, there have been notable delays in conducting thorough investigations, with corporations and companies consistently evading accountability, and survivors experiencing a decline in quality of life.

① Determination of the cause of the disaster was delayed while the construction company SK Engineering & Construction (now known as SK Ecoplant Co.) claims that the dam failure was attributable to a natural disaster.

The government of Laos established an official investigation committee including an Independent Experts Group (IEP) to investigate the cause of the dam failure. On May 28, 2019, the Laos National Investigation Committee (NIC) released the findings of the investigation conducted by the IEP. According to the report, the collapse of the dam could have been averted through the implementation of appropriate measures and could not be regarded as *force majeure*.

Additionally, there were allegations that SK E&C in order to maximize profit changed the design and shortened the construction period thereby contributing to the collapse of the dam. According to the office of Congressman Kyunghyup Kim, SK E&C had initially agreed upon \$680 million USD for construction fees and for the management fees and profit to be at 12.2% of the construction fees in the Heads of Agreement. However, SK E&C later implemented a process known as value engineering. As per the congressman's office, the initial design blueprint indicated that the height of the five auxiliary dams ranged from 10 to 25 meters. However, in the subsequent design, the height of the auxiliary dam was revised to a range of 3.5 to 18.6 meters. SK E&C also increased their operations and profit levels to 15%. Even though SK E&C began the dam construction process in November 2012, after a seven-month delay from its original construction schedule, the early impoundment started in April 2017, two months before the original planned time.

This has raised speculations that the construction period was shortened in order to secure the 20-million-dollar conditional bonus contingent on an early impoundment.

② The companies involved in the construction and operation of the dam have offered financial compensation to the victims and the Lao government. However, it is important to note that this compensation does not imply an acknowledgment of responsibility for the causation of or involvement in human rights violations or amount to full remediation for severe human rights violations or implementation of measures to prevent similar incidents from occurring in the future.

The official operating body of the Xe-Pian Xe-Namnoy Dam is PNPC (Xe Pian-Xe Namnoy Power Company, hereinafter “PNPC”). Shareholders of PNPC consist of SK E&C (26%), Korea Western Power Company KOWEPO (25%), Ratchaburi Electricity Generating Holding of Thailand (RATCH) (25%), and Laos Holding State Enterprise LHSE, a Lao state-owned company (24%).

LHSE's investment in the dam project was supported by a concessionary loan of 70 million dollars provided by the Korean government to the Lao government. The Korean government thereby administrated the Economic Development Cooperation Fund (hereinafter “EDCF”) in the form of a public-private partnership.

Each participating company had distinct responsibilities within PNPC. SK E&C was responsible for the construction, KOWEPO for the operation of the dam, and Ratchaburi Power for construction supervision.

In the aftermath of the accident, SK E&C, PNPC, and the Korean government engaged in emergency relief efforts, which included distributing relief supplies, constructing temporary shelters, and assisting in the restoration of bridges and roads. However, these responses were considered humanitarian actions and did not constitute an admission of responsibility for the accident.

As of July 2023, PNPC has provided partial compensation to residents in the affected area for the loss of life and property damage. Additionally, funds have been provided to the Lao government for the purpose of reconstructing infrastructure and residential

facilities, as well as supporting victims. However, concerns persist regarding the adequacy and effectiveness of these measures in ensuring the recovery and rehabilitation of the survivors. These concerns are discussed in detail in Chapters III and IV.

③ The UN Guiding Principles on Business and Human Rights (UNGPs) state that not only businesses that have violated human rights, but also businesses that have contributed or have been directly linked to such human rights violations, have a responsibility to provide remedies. The remedy shall not be limited to providing financial compensation; there are crucial aspects of an effective remedy such as stakeholder communication, information disclosure, establishing internal grievance mechanisms, and preventing the recurrence of such incidents. This means that SK E&C (contractor), KOWEPO (operator), PNPC, and the Korean government (financial supporter) must acknowledge their responsibility and establish and integrate systems including human rights due diligence to prevent future human rights violations. However, there are doubts as to whether these actors have fully recognized and fulfilled their reasonable responsibilities considering the principles of business and human rights.

Korean civil society organizations filed a complaint with the Korean National Contact Point (KNCP) against SK C&E, KOWEPO, and the Korea Exim Bank in order to urge the companies that caused or are linked to the violation to take responsibility for their actions. However, the respondents refused to engage in the arbitration process. The KNCP procedure elapsed without any determination of whether the companies violated their responsibility to respect human rights.

As the Korean government bears state duty to protect human rights, it must undertake measures to address the severe human rights violations resulting from the Xe-Pian Xe-Namnoy Dam collapse as the public finance is linked to the violation. Above all, the Government should conduct a thorough and introspective examination of the causes of such a disaster and develop measures to prevent further recurrence.

Although the Korean government provided humanitarian assistance to victims immediately after the dam collapsed, it never acknowledged any responsibility regarding the decision making and monitoring related to the provision of the Economic Development Cooperation Fund (EDCF). The government, throughout the KNCP arbitration process and

responding to inquiries of UN independent experts, has repeatedly taken the position that they had taken sufficient measures in the EDCF process and that they lacked the authority to make Laos fulfill its environmental and social responsibilities, thereby evading any kind of responsibility.

Despite the glaring absence of adequate measures to ensure the fulfillment of corporate responsibility to respect human rights and the state's obligation to protect human rights, development projects in Laos involving Korean companies are still ongoing.

④ The most important problem is the lack of effective damage relief. Survivors faced with sudden and involuntary resettlement were forced to endure prolonged stays in temporary shelters, facing substandard living conditions and relying on relief supplies due to an absence of sustainable means of livelihood. In 2023, five years after the devastating destruction, the majority of survivors have either returned to their original residences or relocated to permanent housing complexes provided by the Lao government with PNPC funds. However, there remain doubts as to whether the relief efforts were sufficient in restoring the daily lives of the residents to pre-disaster conditions. Chapter IV provides a detailed examination of this issue.

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## II. Summary

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# 1. Background and Purpose of Inquiry

2023 marks the fifth year since the collapse of the Xe-Pian Xe-Namnoy Dam.

The Korean Civil Society Task Force (TF) interviewed companies that have been involved in the dam collapse (SK E&C and KOWEPO). These interviews were conducted per the final statement issued by the Korea National Contact Point (KNCP)<sup>5</sup> following the complaints filed by Korean civil society in June 2019 against SK E&C, KOWEPO and the Korea Exim Bank. At the interviews the companies stated that the provision of financial compensation and resettlement support to victims was proceeding smoothly. PNPC had reached an agreement with the Laotian government on a plan to compensate affected residents and cover the costs of implementing a new town master plan, with a total amount of approximately 97 million USD. Of this amount, around 54 million USD was earmarked as compensation for residents in the affected area, and according to the company payment had almost been finalized. Furthermore, SK E&C stated it was constructing residential complexes intended to serve as a permanent living space for survivors.

However, on 22 July 2022, UN Special Procedures Mandate Holders issued a joint statement decrying the lack of progress in providing relief to survivors of the Xe-Pian Xe-Namnoy Dam collapse. According to the statement, survivors continued to face substandard living conditions, and the recovery promised by the Lao government and companies were experiencing substantial delay.

On July 15, 2022, before the joint statement was released, UN Special Procedures Mandate Holders sent communications to the governments of the Republic of Korea and Laos, as well as the related companies. According to the communications, the Government of Laos had previously promised to complete provision of permanent housing for survivors by 2021. A substantial portion (700 units) were to be funded by PNPC. However, as of April 2022, many of the units which were supposed to be built using PNPC funds remained unfinished, and survivors continued to reside in unsanitary and substandard temporary shelters. 'Survivors were unable to voice their concerns on damage relief due to a fear of retaliation and were thus denied their rights to access grievance procedures.



The significant discrepancies between the companies' claims and the information received by the UN Special Procedures highlighted the need to ascertain the status of damage relief and urge those actors that contributed to the disaster to fulfill their obligations. Unfortunately, due to the global outbreak of COVID-19 and the implementation of strict border control measures in Laos, access to updated information regarding the local situation of the communities affected by the Xe-Pian Xe-Namnoy Dam collapse had been limited since 2020.

In 2022, the Korean Civil Society Task Force initiated this inquiry to ascertain the status of damage relief and the human rights situation of the survivors of the Xe-Pian Xe-Namnoy Dam collapse and continued monitoring the situation until June 2023.

## 2. Method and Subject of Inquiry

### a. Desk Research and Interviews

The fact-finding team identified key areas to be explored in the fact-finding process on the damage relief efforts following the Xe-Pian Xe-Namnoy Dam collapse by gathering reports and literature by international organizations, civil society, and media. Additionally, interviews were conducted with relevant individuals, including representatives from the companies involved.

The fact-finding team gathered and organized reports on the situation of affected communities after the last field survey conducted by Korean civil society members in January 2019. This review involved organizing existing records and reports on civil society's on-site fact-finding survey and activities, the communications sent by UN Special Procedures to entities such as the Korean government and PNPC in 2020 and 2022, as well as the responses received from these entities, and information obtained from the interviews conducted with companies in 2021.

The team also collected further documentation such as a complaint filed by an overseas NGO (the Manushya Foundation) with the UN Special Procedures as well as overseas media coverage (Voice of Asia, Vientiane Times, etc.) in order to examine the situation as of 2022. The team was able to obtain information from KOWEPO, a shareholder of PNPC and the operator of the Xe-Pian Xe-Namnoy Dam, on the current status of payment of compensation. Interviews were also conducted with responsible staff from KOWEPO and SK E&C to ascertain facts and gather companies' positions on the status of compensation for casualties and property damage, as well as the progress of providing permanent residential complexes.

The team obtained a report which had been drafted in June 2019 by the Laos National Investigation Commission's Independent Expert Panel (IEP) but not made public. Furthermore, video conferences were conducted with NGO activists in Asia.

## b. On-Site Fact-Finding Mission

To ascertain whether compensation was actually provided as claimed by the companies, and whether the survivors were able to return to their normal lives, it was necessary to visit the site. Therefore, the on-site fact-finding mission was the most significant part of this inquiry. The fact-finding team visited the temporary shelter and permanent housing units from September 13, 2022 to September 14, 2022 and interviewed relevant corporate personnel and survivors. Further details are provided in Chapter IV.

## c. Interviews with Experts and International Organizations

The investigation team conducted interviews with local residents as well as international organizations operating in Laos and sought insights from domestic law experts to gather a broader range of information.

[Table]

### Interviews with international organization officials and experts based in Laos

Date	Interview	Notes
2022. 9. 16.	Interview with UN organization in Laos	UN Habitat, UNDP Laos Office, OHCHR official
2022. 9. 18.	Interview with Laos environmental law expert	Identity undisclosed based on request
2022. 9. 20.	Interview with NGO activists based in Asia	International Rivers, Mekong Watch, NGO Forum on ADB
2022. 9. 22.	Interview with Laura Macini, OHCHR official for Laos and Vietnam region	

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## III. Result of desk research

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# 1. Introduction

As of 2022, four years after the Xe-Pian Xe-Namnoy Dam collapse disaster, limited disclosure has been made regarding the response of the entities responsible for or directly involved in the incident, particularly regarding remedy of the survivors. The following provides a summary of the recently acquired data based on desk and preliminary research. It provides a snapshot of the current state of investigations into the cause of the disaster and progress in providing appropriate remedies.



Photo courtesy of International Rivers

## 2. Investigations on the Cause of the Collapse

### a. Progress timeline

<p>2018. 7.</p>	<p>SK E&amp;C, the dam constructor, makes public its position stating that part of the auxiliary dam was flooded and lost due to heavy rainfall within a short period of time (1,077mm in two weeks)</p> <p>KOWEPO, the dam operator, states in a report to the Industry, Energy, SMEs and Startups Congressional Committee that the collapse occurred due to ground subsidence</p>
<p>2018. 8.</p>	<p>Lao Government establishes National Investigation Committee to examine the cause of the dam collapse</p>
<p>2019. 5. 28.</p>	<p>The Independent Expert Panel (IEP) of the Laos National Investigation Committee presents investigation results</p> <ul style="list-style-type: none"> <li>- The cause of the dam collapse was identified as piping within the soil layer of the auxiliary dam foundation, leading to a subsequent rotational collapse of the foundation. This indicates that the disaster resulted from a constructional defect as the geological environment was not adequately taken into account</li> </ul> <p>SK E&amp;C publishes a statement refuting the Laos National Investigation Committee IEP results</p> <ul style="list-style-type: none"> <li>- Explains that the collapse occurred due to large-scale land sliding due to heavy rain and the topography of the region, citing undisclosed expert sources</li> </ul>
<p>2019~2022</p>	<p>The Lao Government, PNPC, and SK E&amp;C each commission investigations and reports are completed</p> <ul style="list-style-type: none"> <li>- The contents and time of drafting of the reports are undisclosed. Results vary but the SK E&amp;C report concluded that the dam collapse occurred due to a natural disaster and caused by landslides.</li> <li>- A total of four reports exist including the IEP investigation results</li> </ul>



<p>2022. 8. (Current situation)</p>	<p>SK E&amp;C consistently claims that the incident was force majeure (KOWEPO report submitted to Congress)</p>
<p>Timing unclear</p>	<p>SK E&amp;C files an arbitration request for approximately \$200 million against PNPC - Arguing that PNPC, instead of SK E&amp;C, should bear the damages amount as the incident was <i>force majeure</i>.</p>

### b. Current Situation

① SK E&C continues to deny that the disaster occurred as a result of negligence and claims that it was a natural disaster and an event of *force majeure*. PNPC, on the other hand, claims negligence in the construction of SK E&C.

A report submitted to Congress by KOWEPO in August, 2022 stated that “The major cause of the incident is ① problems in construction, ② issues in predicting ground conditions in constructing the dam’s foundation, and ③ problematic selection of materials in the construction stage”, claiming that “SK E&C must take accountability for further damages and remedies as the disaster has been proven to be not of force majeure.”

Expert investigations tend to support the claim that the dam collapsed primarily due to ground subsidence. As the civil society TF found in a meeting with KOWEPO on August 29, 2022, there are at least four expert investigation reports on the cause of the dam collapse. This means that there exist reports commissioned by the Lao Government, PNPC, and SK E&C other than the one presented by the Laos National Investigation Committee IEP.

It was possible to obtain the Laos National Investigation Committee IEP report through an internet search, but the specifics of the other three reports (commissioned by the Lao Government, PNPC, and SK E&C respectively) are not readily available. According to KOWEPO, while there are slight variations in the content and conclusions of each report, the report commissioned by SK E&C is the only one that asserts the Xe- Pian Xe-Namnoy Dam collapse accident was force majeure resulting from a natural disaster.

② The Laos National Investigation Committee Independent Expert Panel report can be summarized as below.

The IEP determined that the fundamental cause of the incident can be attributed to the high permeability of the ground. The ground composition of auxiliary Dam D, consisting of a mixture of various soils including gravel, mud, and a significant proportion of sand, had high permeability. This resulted in a phenomenon called “piping”, where fine water channels were formed within the ground, causing repeated internal erosion and weakening of the ground's stability. Additionally, the composition of laterite soil in auxiliary Dam D further contributed to the deterioration of the dam's stability. Due to the piping phenomenon, cracks emerged in the dam, accompanied by subsidence at the top, ultimately resulting in a catastrophic collapse in the form of deep rotational sliding.

This report clearly stated that the collapse of the Xe-Pian Xe-Namnoy Dam could not be seen as *force majeure*, contrary to the claims made by SK E&C. It is true that there was heavy rainfall in July of 2018, especially considering the 438 mm of rainfall on 22 July, 2018. However, the water levels at the time of the incident were much lower than the maximum operation level and therefore cannot be seen as an indication of force majeure.

Furthermore, IEP found that the dam collapse could have been prevented by implementing appropriate measures on the ground foundation. A number of operational issues were also identified, suggesting that an early response may have been possible

if the dam operation data had been interpreted promptly and accurately, along with appropriate monitoring of the lower dam section.

IEP also called for further research on whether auxiliary dams E and F of the Xe-Pian Xe-Namnoy Dam satisfied safety standards, as they were also constructed on similar laterite soil grounds.

③ Meanwhile, it has been confirmed that SK E&C has initiated international arbitration seeking payment of USD 2000 million against PNPC in the ICC International Court of Arbitration in Singapore. PNPC funded most of the compensation funds provided for the Lao Government and survivors through insurance coverage and funds provided by SK E&C in the form of shareholder loans. SK E&C claims that since this was a natural disaster and force majeure, the damages should not be provided by the constructor, SK E&C, but PNPC, the entity that operates the Xe-Pian-Xe-Namnoy Dam and sells the generated electricity. PNPC is expected to counter this claim by arguing the dam collapse was a result of negligence in SK E&C's construction process, and therefore SK E&C should bear responsibility in accordance with the terms of the EPC contract. The cause of the dam collapse is expected to be disputed in the International Court of Arbitration, and a final decision is anticipated to be reached by the end of 2024.

Ironically, it so appears that the process of determining the cause of the incident will not take place in a transparent manner involving the affected communities but has taken the form of a dispute between the companies involved as to which company should bear the costs, to be resolved through international arbitration.

### c. Implications

① Victims of the disaster must be guaranteed the right to know the cause of the disaster, that is, the right to the truth. The right to the truth regarding severe human rights violations and gross violations of humanitarian law is recognized as an independent, inalienable right through customary international law and international treaties. The right to truth is closely linked to the right of victims to access effective remedies, as well as to the State's duty to protect and ensure human rights. Even from the perspective of 'business and human rights', companies that cause serious human rights violations are expected to report to the affected groups and stakeholders in a responsible and transparent manner.<sup>6</sup>

Even after four years since the accident, the cause of the disaster has not been determined and information has not been adequately disclosed. Determination of the cause of the disaster is not conducted through a transparent procedure centered on the human rights of those affected but transpires behind closed doors in the form of a dispute between the companies which are involved in the disaster. There is a clear need for an approach that prioritizes the rights of the survivors as well as transparent disclosure of expert investigations that have already taken place.

② Based on resources such as the IEP report, the primary cause of the disaster seems to be the inadequate construction due to inadequate initial investigation on behalf of the constructor. However, the IEP report also highlights operational issues related to the dam, such as the failure to promptly detect ground weakening and the failure to implement appropriate measures such as emergency water release after dam subsidence had begun. Even if poor construction is the main cause of the disaster, it must be emphasized that KOWEPO, PNPC, and other involved parties also bear responsibility in damage relief efforts for their contribution to or involvement in the incident.

# 3. Status of Damage Relief

## a. Progress Timeline

1. Emergency Relief Stage	
2018. 7. 24	Xe-Pian Xe-Namnoy Dam collapse occurs
Immediately Post-Incident	Survivors evacuate to temporary shelters <sup>7</sup> - Shelters lacked rooms, bathrooms, shower facilities, medicine, hospital beds, and even water and food for a certain time period <sup>8</sup>
2018. 7.	Korean Government dispatches emergency relief team and provides relief goods and funds <sup>9</sup> KOWEPO, SK E&C, and international organizations provide relief goods and funds
2018. 7. ~9.	SK E&C constructs 906 unites of temporary shelters - Provides other relief support such as reconstructing bridges and roads
2. Temporary Shelter Stage	
2018. 9.	973 households (4,873 people) were relocated to five temporary shelters (Tamongot, Dong Bak, Pin Dong, Don Bok and Hadyao) - The Lao Government provided 20kg of rice and 250,000 Laotian Kip per month to each survivor as a Special Recovery Measure
2019. 1.	First fact-finding mission by Korean civil society - Relief goods had almost stopped. Temporary shelter was not appropriate for the climate, in substandard conditions, and monetary support was extremely limited. Severe difficulties in attaining jobs or going to school
2019. 2.	PNPC provides damages for human casualties (Ten thousand USD per person) - PNPC faces harsh criticism for not seeking input from the affected individuals regarding the compensation amount and for providing uniform compensation without taking into account factors such as age, etc. <sup>10</sup>

2019. 6.	Reports indicate that the Lao government leased the land intended for distribution to the survivors to a banana plantation company
2019. 7. 19.	UN Special Rapporteur visits Laos (March 2019), presents report - Report expresses concerns of the dire living conditions of survivors, the ongoing delays of recovery efforts, and the leasing of land, which was meant to be allocated to the survivors, to a corporation.
2020. 4. 29.	UN Special Procedures issues joint statement - Survivors are living in temporary shelters that do not protect privacy in any way, and access to food, water, medicine, hygiene, and land is limited
3. Provision of Monetary Compensation and Permanent Housing Stage	
2020. 7. 9.	The Attapeu Province and PNPC agree upon a compensation package amounting to approximately \$91.25 million <sup>11</sup> , intended to address the loss of life and property damage as well as construction of a new town (master plan) <sup>12</sup>
2021. 6. 7.	The Lao Government National Committee for Disaster Control states that most of the 700 units will be completed by the end of 2021
2021. 4.	PNPC, SK E&C, and the Province of Attapeu agree upon a compensation plan of \$91.25 million - \$55.40 million for third-party compensation (provided to individuals, groups, and the government as compensation for loss of life and property damage), and \$35.85 million to create a 'master plan'; consisting of constructing a new permanent residence area and infrastructure - Government of Lao approves this plan in August, 2021
2021. 6.	Government of Lao ceases the provision of 250,000 Laotian Kip and 20kg of rice per month - Changed to 12 kg of rice per person, per month <sup>13</sup>
2022. 7. 22.	UN Special Procedures release statement - Numerous survivors are still living in unsanitary and inadequate temporary shelters, and the promised compensation from the Lao Government and companies is being delayed - Affected persons are unable to voice their grievances



## b. Current Situation

### i. Suspension of Living Expenses and Food Assistance

The UN Special Procedures mandate holders have consistently criticized the dire living conditions of the residents affected by the Xe-Pian Xe-Namnoy Dam collapse, who were reported to be residing in inadequate temporary shelters without sufficient access to basic necessities such as adequate sanitation, water, and food. The situation is particularly challenging for the residents who relied on farming as their primary means of livelihood. As a result of the collapse of the dam, their farmland was submerged and damaged, and as a result, they were forced to rely on the Lao Government and the PNPC for support and food until the land was restored or new land was allocated to them.

According to PNPC, PNPC provided \$3.13 million to the Lao government to operate the temporary shelters. This included the monetary resources to provide rice and living expenses to the survivors.<sup>14</sup> The Lao Government further stated that it has allocated 250,000 Laotian Kip (about \$28) and 20kg of rice per month to survivors as a Special Recovery Measure.<sup>15</sup>

However, according to news reports, living expense support was delayed in multiple instances, and there were cases where survivors were not provided with financial support for months at a time.<sup>16</sup> Consequently, the survivors, who were already enduring difficult living conditions in temporary shelters, were burdened with additional hardships.

The limited Special Recovery Measures ended in June of 2021. The Lao Government stated that it ceased special measures after a survey by relevant authorities showed that a majority of survivors were able to secure their own means of livelihood, and that 12 kg of rice per person continued to be provided based on a relevant social welfare law.<sup>17</sup> Therefore, the support for living expenses came to an end, and there was a significant reduction in the provision of rice from 20kg to 12kg. PNPC has stated that they have fulfilled their legal duty by providing funds until June of 2021<sup>18</sup>, as Laotian law requires providing support to disaster victims for a transition period of three years.<sup>19</sup>

## ii. Relocating to Permanent Housing Units

A total of 812 houses are to be provided to the survivors who were forced to live in temporary shelters because their original residences could not be restored. Out of the total 812 houses provided to the survivors, 46 units were funded by the Thai government, and an additional 66 units were supported by UN Habitat. These 112 units were completed in 2021, allowing some of the affected residents to relocate to these newly constructed houses.

The problem is the delay in the construction of the 700 permanent homes that were planned to be built by PNPC. According to the United Nations Special Procedures, as of June 2021, only 182 units out of the intended 700 units had been completed, and victims had to continue living in the dire circumstances of temporary shelters.

In response, PNPC claims that the procurement of materials necessary for the construction of temporary housing complexes was delayed due to the Lao government's closure or severe restrictions on the border between March 2020 and June 2022.

According to PNPC, a total of 653 units out of the intended 812 units were completed and provided to victims as of July 2022. The other housing units are almost at completion, with a 96% completion rate, and that only 50 households out of 812 were living in temporary shelters as of August 2022.<sup>20</sup>

However, the Lao Government stated<sup>21</sup> that 79 households remained in the temporary shelters as of November 2022. According to news reports around that time, there were reports that approximately 100 households were still living in temporary shelters and were not provided with a home.<sup>22</sup>

Meanwhile, the fact-finding team's on-site survey showed that the permanent residential complex was insufficient as an effective remedy for the survivors in terms of providing means to establish a sustainable livelihood. Further details regarding this issue are described in detail in Chapter IV.

### iii. Monetary Compensation

PNPC, SK E&C, and the Provincial government of Attapeu had agreed on a \$91.25 million compensation package in April 2021. Based on the data provided by KOWEPO in 2022, the implementation status of the compensation package is as below.

<Table > PNPC Compensation Amount and Timeline

(Unit: Million USD)

		Payment Amount	Payment Completion Rate	Subject of Agreement	Subject of Payment	Final Payment Date
Third-party Compensation	1. Loss of Life	1.003078	100%	Individual	Individual	19.06.10
	2-1. Housing	11.500000	100%	Individual	Government	'21.01.29
	2-2. Other Household Damage	14.648915	100%	Individual	Individual	'21.11.05
	3. Business	10.727924	100%	Individual	Individual	'20.01.28
	4. Infrastructure	8.127274	100%	Government	Government	'20.10.15
	5. Environment	9.401966	100%	Government	Government	'20.12.14
	Total	55.409157	100%	Individual, Government	Government	
Master Plan	1-1. Permanent Housing Facilities (Ministry of Public Works and Transport)	13.000000	100%	Government	Government	
	1-2. Roads, bridges, water supply, etc. (Ministry of Public Works and Transport)	6.063402	100%	Government	Government	
	2. Irrigation systems, heavy construction, etc. (Ministry of Agriculture and Forestry)	5.293489	100%	Government	Government	Provided as requested by the Lao Government, in five installments (April 22 2021~ July 15 2022)
	3. Storage, etc. (Ministry of Labor and Social Welfare)	7.650261	100%	Government	Government	
	4. Schools (Ministry of Education and Sports)	0.361532	100%	Government	Government	
	5. . Energy (Ministry of Energy and Mine)	3.224556	100%	Government	Government	
	6. Medical Facilities	0.257172	100%	Government	Government	
Total	35.850412	100%				

It is worth pointing out that a significant portion of the compensation funds provided by PNPC were disbursed to the Lao government rather than directly to the survivors. Direct compensation to individuals, except for compensation for loss of life, was limited to the property damage amount such as livestock damages, not including funds for housing. This sums up to only \$26.36 million out of the entire \$91.25 compensation package. Compensation for damages to the environment (including land), and housing were provided to the Lao Government instead of the actual victims themselves. These funds were implemented for the so-called “Master Plan” and used to develop new villages (permanent housing facilities).

PNPC is operating a team on-site to implement the compensation plan above. However, the execution of funds provided to the Lao Government is entirely in the hands of the Government.

Most of the compensation funds originate from insurance coverage of PNPC (AON, 50 million USD), and the rest of the funds consist of shareholder loans from SK E&C.

Despite the Laos government's official announcement, SK E&C rejected the findings and refused to assume responsibility for compensation. However, following discussions with other shareholders, it was decided that SK E&C would initially provide the necessary funds for compensation in advance. The allocation of costs would later be determined through arbitration. As of August 2022, SK E&C has provided approximately \$15.58 million as compensation funds to PNPC in the form of shareholder loans.

#### iv. Land Compensation

The majority of the communities affected by the Xe-Pian Xe-Namnoy dam collapse were primarily rice farmers living around the Mekong River basin. Their farmland served as both their means of livelihood and their place of residence. After the dam collapsed, a large portion of villages and farmlands were submerged in mud. In some villages where restoration was feasible, affected residents returned to their original areas. But a large number of residents who resided in temporary housing shelters before eventually relocating to permanent housing were not able to recover their farmland. Farmland was the most valuable asset for these survivors, and it is crucial for these individuals to receive proper compensation for their land damage.

As aforementioned, land damage compensation (environmental) was provided to the Lao government rather than to the individual victims. This is due to the legal framework in Laos, where the authority over land distribution and management predominantly lies with the state. The state is responsible for establishing and overseeing centralized land distribution and usage plans, ensuring individuals' rights to permanent or long-term land use (as stated in The Law on Land).

As of 2022, it appears that the Lao Government has allocated new land to most of the victims. Nevertheless, concerns have been raised regarding this new land. According to reports from Radio Free Asia, as of August 2022, the Lao Government has granted rights to 729 land units across three villages. However, the newly provided land is situated on high grounds and is unsuitable for rice farming. While it is feasible to cultivate cassava on the new farmland, interviews with affected residents indicate that the economic situation is more challenging than when rice farming was possible.<sup>23</sup>

The on-site fact-finding survey has revealed conflicts between residents in instances where other residents were already cultivating the newly allocated farmland, or cases where the Lao government made the affected individuals lease the newly distributed land to foreign plantation companies. These developments have exacerbated the problem of affected communities being unable to secure a sustainable livelihood. Further details regarding this issue are described in detail in Chapter IV.

## v. Grievance Mechanisms

Under the UN Guiding Principles on Business and Human Rights, companies that are involved in or have contributed to significant human rights abuses have a responsibility to provide effective and prompt remedies to the affected communities. Throughout this process, companies must actively listen to the perspectives of stakeholders. Moreover, it is crucial to establish a strong grievance mechanism that enables individuals and communities to express their opinions in an effective manner.

As stated above, PNPC reached an agreement on a compensation package with the Attapeu Provincial Government of Laos in July 2020. However, it is not known whether there was a procedure in place to actively listen to the opinions of the survivors during this process.

Based on the information provided by KOWEPO in August 2022, PNPC issued a lump sum compensation of \$10,000 for individuals of all ages and occupations who lost their lives in the tragedy. In addition, a Thai claims adjuster Crawford was appointed to determine the appropriate compensation amounts for property damage of individuals and businesses affected by the incident.

According to PNPC's response letter to the UN Special Procedures Communications, PNPC and the Lao Government collected data pertaining to each household and proceeded with explaining the compensation amount and the calculation method to each household. PNPC states that survivors had the opportunity to raise grievances face-to-face during this process. It is further emphasized that the injured parties personally signed the compensation documents, and copies of these documents were provided to them.

However, it is highly questionable whether the survivors would have been able to raise their issues and concerns during this process. The UN Special Procedures communications and other reports of civil society members state that a female activist was sentenced to five years in prison based on a Facebook post criticizing the Lao Government's response to the dam collapse in December 2019. The UN Working Group on Arbitrary Detention determined in June 2021 that this arrest and imprisonment constituted arbitrary detention.<sup>24</sup> Therefore it is questionable that, under such an authoritarian environment where criticism can lead to arbitrary detention, individuals would have been able to raise



their concerns. The account that the compensation amount and the calculation method were explained to each household still leaves concerns whether sufficient safeguards were in place for the affected individuals to be able to raise their voices.

The outcome of the interview conducted with local residents regarding this matter is elaborated upon in Chapter IV.

#### **vi. Preventative Measures**

PNPC reconstructed auxiliary dam D and resumed commercial operations in December 2019.

According to KOWEPO<sup>25</sup>, the newly built dam replacing collapsed auxiliary dam D was built with concrete to enhance safety and several measures have been taken to strengthen stability, including the installation of barrier walls for the remaining auxiliary dams. Also, the Emergency Action Plan was enhanced. Furthermore, additional dam structure monitoring instruments were installed, and the frequency of inspections was increased.

However, there is no indication that PNPC put in place a human rights due diligence procedure or other mechanisms to identify negative impacts such as creating grievance processing procedures.

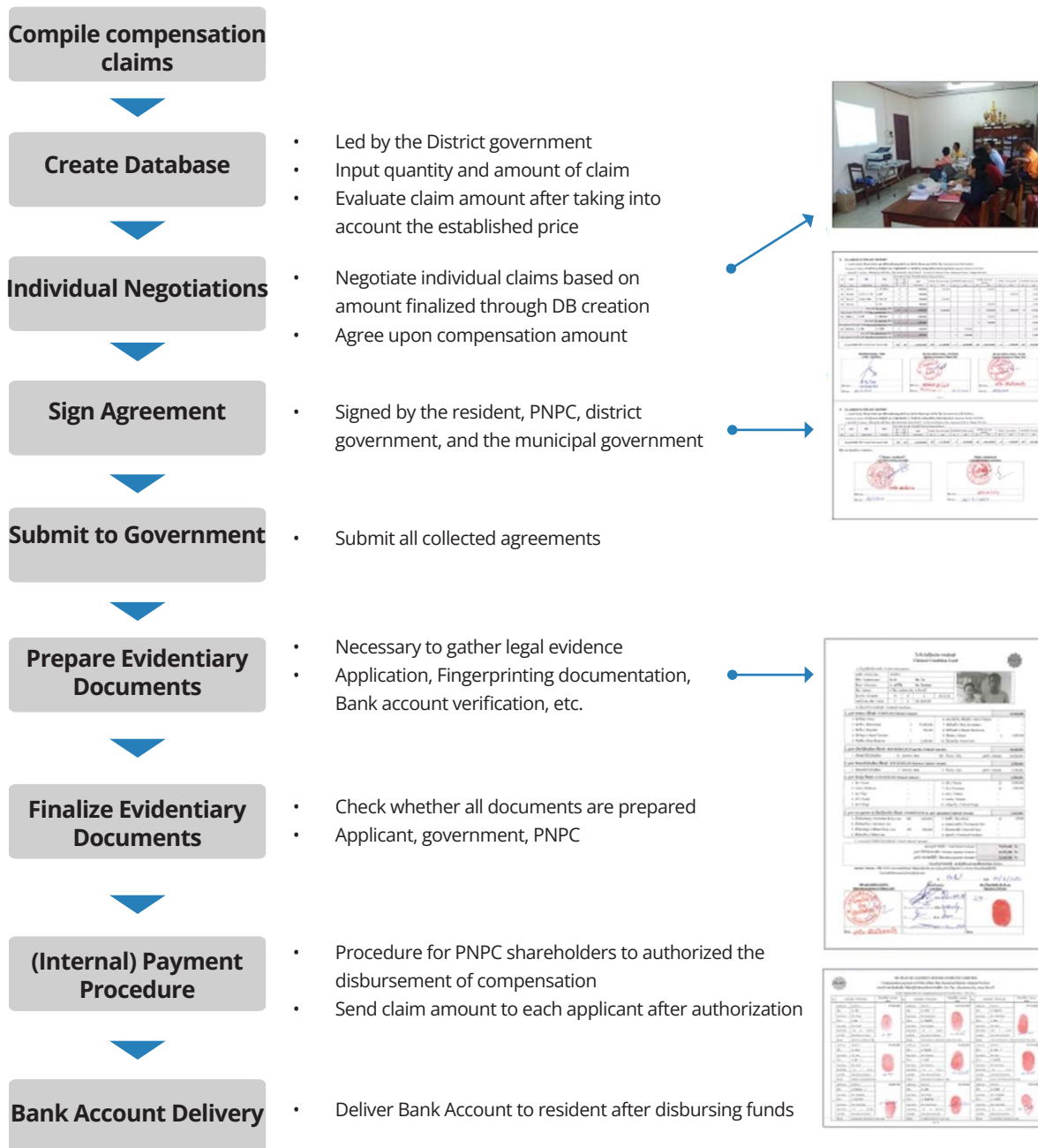
### c. Implications

In their response letter to the UN Special Procedures, PNPC emphasizes that they have completed the provision of monetary compensation to individuals and the Lao Government. However, survivors continue to face challenges in securing a sustainable livelihood and have not regained a sense of normalcy in their lives. Affected residents have been forced to relocate to an entirely new area against their will due to the dam collapse. Therefore, it is crucial to adopt a survivor-centered approach that prioritizes enabling them to achieve economic self-sufficiency and facilitating their recovery.

Furthermore, it is essential to ensure that relief efforts are conducted in the most effective and appropriate manner to facilitate the recovery and rehabilitation of the survivors. The allocation of a significant portion of the compensatory funds to the government instead of directly to the survivors raises concerns about whether the approach truly prioritized the well-being and recovery of the affected communities.

We need to closely monitor whether transparent and accessible procedures were implemented to allow the affected communities to freely express their opinions. PNPC representatives have emphasized the transparent management of all compensation and payment processes, citing the following procedures as proof. However, we must consider the realistic challenges posed by authoritarian governance, which restricts the expression of critical opinions towards the government, as well as the limited access to the judicial system and legal assistance. Given these circumstances, it is questionable whether there could have been critical communication during the compensation procedures.

## #App 5. (Including Item 6) Details of the Compensation Proces



## 4. State's Duty to Protect Human Rights

### a. The Government of Laos

#### 1) Protecting Accessibility to judicial and Non-judicial Relief Procedures

##### ① Status Quo

As of 2022, there have been no reported instances in which the affected parties have filed a civil claim for damages against PNPC or SK E&C using judicial remedies, nor have they raised objections through a petition. According to PNPC, survivors have signed a receipt and a release-of-liability clause regarding PNPC when receiving compensation.<sup>26</sup> In the payment confirmation document, statements such as "We will make no further claims regarding the 5 items", "No criminal charges will be filed against PNPC, SK E&C, the insurance company, or the Lao Government", and "This document constitutes a complete grant of immunity to PNPC" have been included.

##### ② Implications

The Guiding Principles on Business and Human Rights (hereinafter "UNGP") emphasizes the State's responsibility in preventing human rights violations of businesses within their territory. States must create effective policies, laws, and regulations to prevent, investigate, punish, and redress relevant situations. In cases of human rights violations, States must guarantee access to effective remedies. With regard to judicial remedy, the state should implement adequate measures to guarantee effectiveness of judicial procedures, including reviewing and addressing any legal, factual, or other barriers that may hinder access to remedies.

Regarding natural disasters, the Inter-Agency Standing Committee (IASC), established by the UN General Assembly as a forum for collaboration between the United Nations and other humanitarian organizations, has published operational guidelines known as the "IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters" (hereinafter "IASC Guidelines"). These guidelines

provide a comprehensive list of rights for survivors<sup>27</sup> that are specifically tailored to address the unique challenges and needs arising from disaster situations. Among the rights related to the survivors' access to relief in disaster situations, several key aspects are highlighted.

“Persons affected by a natural disaster or facing an imminent risk of being affected should be provided with easily accessible information in a language they understand concerning: (a) The nature and level of disaster they are facing;

(b) The possible disaster risk and vulnerability reduction measures that can be taken;

(c) Ongoing or planned humanitarian assistance, recovery efforts and their respective entitlements; and

(d) Their rights under international and domestic law.”<sup>28</sup>

According to the domestic laws of Laos, it appears that affected persons could have filed a civil claim for damages against PNPC, SK E&C, etc. Therefore, they had a right to judicial remedies.<sup>29</sup> Moreover, in its response to the UN special procedure letter in November 2022, the Lao government referenced the Lao constitution, petition law, and other legislation to claim that Lao citizens are able to raise concerns to the government, and especially that according to relevant law it is possible to file a complaint with the authorities if developers fail to comply with compensation plans.

There seem to be various competing factors as to why residents were unable to utilize judicial and non-judicial remedies.

First, as previously discussed, following the dam collapse, the Lao government has employed measures to suppress criticism of its actions through arbitrary detention of dissenting activists. Therefore, it appears to have been extremely difficult for the affected communities to seek judicial remedies to voice their objections regarding a

compensation process that has been primarily established through an agreement between the government and the corporations involved.

Furthermore, it is difficult to say that the Lao government has taken adequate measures to provide comprehensive information and remove obstacles to ensure the survivors' rights to both judicial and non-judicial relief throughout the compensation process. According to experts in Lao law, as interviewed by the Civil Society Task Force, the affected residents may not have been able to exercise their rights based on a lack of awareness.

Considering these circumstances, it is doubtful that the affected individuals' decision to release all liability of PNPC and SK E&C was made while having been guaranteed effective access to judicial and non-judicial remedies. Therefore, it is difficult to reach the conclusion that the Lao Government has fulfilled its duty to ensure the accessibility of judicial and non-judicial remedies for survivors.

Interviews with affected individuals on this issue are introduced in Chapter IV.

## 2) Information Disclosure and Stakeholder Communication

### ① Status Quo

As stated above, a considerable portion of the compensation provided by PNPC has been used to execute the “Master Plan” devised by the Lao Government. However, the specifics of this “Master Plan” have not been disclosed.

### ② Implications

The aforementioned IASC Guidelines state that “Affected persons should be informed and consulted on measures taken on their behalf and given the opportunity to take charge of their own affairs to the maximum extent and as early as possible. They should be able to participate in the planning and implementation of the various stages of the disaster response.” Disclosing the contents of the master plan can serve as an initial step towards effectively safeguarding the rights of the affected communities.

## 3) Measures to Prevent Recurrence

### ① Status Quo

According to the Lao Government, the government formed a temporary committee and conducted a National Emergency Dam Safety Inspection on the structural integrity, maintenance conditions, and emergency response plans of hydroelectric power plants both existing and newly under construction. The government has stated that all identified issues have been resolved and that a dedicated dam safety department has been established under the Ministry of Energy and Mining to enhance the monitoring and investigation of hydroelectric power generation.

### ② Implications

To effectively prevent the recurrence of such tragedies, it is essential to implement measures that hold corporations accountable for their human rights obligations in large-scale development projects initiated by states, governments, and corporations.



As part of an endeavor to achieve economic growth, Laos has actively been pursuing hydroelectric power development in the Mekong River basin, positioning itself as the "Battery of Asia" and such projects are ongoing through investment of foreign capital. However, dam construction is an inherently dangerous project that carries numerous human rights risks, including environmental degradation and forced displacement. Mere safety inspections cannot be considered a sufficient prevention of future disasters. At the institutional level, it is crucial to establish and effectively implement a system that ensures corporate accountability for the impact of development projects on the human rights of stakeholders.

However, as seen above, the response provided by the Lao Government to the UN Special Procedures inquiry just addresses strengthening of safety regulations.

## b. The Korean Government

### 1) Status Quo

#### a) Neglecting the duty to protect Human Rights Protection Duty in the disbursement of the EDCF

The Xe-Pian Xe-Namnoy Dam project involved disbursement of the Korean government's Economic Development Cooperation Fund (EDCF). In December 2015, the Korean government extended a concessional loan of USD 80.8 million through the EDCF to the Lao government for the purpose of investing in the Xe-Pian Xe-Namnoy Dam. The Korean Exim Bank provided counsel regarding financial procurement for the remaining portion of the required funds, excluding the 30% invested by PNPC.

In the process of providing EDCF to the Xe-Pian Xe-Namnoy development project, the Korean government could have adopted the following measures to identify and prevent the negative consequences of the project.

#### ① Environmental Impact Assessment

In April 2013, the Korea Exim Bank provided information to Congresswoman Kim Hyun Mee stating that the "Laos Xe-Pian Xe-Namnoy Hydroelectric Power Project is under review as a potential candidate for EDCF support" and that "they have reached an agreement with the Lao government to ensure the negative impacts such as relocation or environmental concerns are to be minimized, and that it had demanded that the project company thoroughly investigate the social and environmental impacts and create a plan to mitigate harm."

However, the actual environmental impact assessment seems to have been inadequate. As previously stated, the Laos National Investigation Committee Independent Expert Panel's report stated the lack of sufficient investigation and evaluation of the soil conditions as one of the primary causes of the tragedy.

On this point, the Korea Exim Bank has stated in a report to Congresswoman Jang Hye-Young in October 2022 that in the course of reviewing the Xe-Pian Xe-Namnoy

hydroelectric dam project, large shareholders had hired an independent advisor for an review of the environmental and social impact report provided to the Lao government. It also stated that EDCF engaged Samil PWC Accounting and Korea Engineering Consultants Corporation as independent third-party entity to conduct a separate review of the environmental and social impact report that the Lao government had approved, as well as perform substantive on-site investigations.

Nevertheless, it has not stated its position on the findings that failure to properly investigate and analyze the soil conditions led to the dam collapse.

### ② Monitoring the Implementation of the Environmental Impact Assessment

According to documents provided by Korea Exim Bank to Congressman Kim Kyung-Hyup in September 2018, the bank received quarterly progress reports from PNPC after provision of EDCF funds. The reports included sections on the environmental and social impacts of the project, relevant expenses, and so on. Also, it appears the Lao government provided a quarterly progress report to EDCF based on the loan agreement. Therefore, Korea Exim Bank was in the position to monitor the Lao government and PNPC's implementation of the results of the environmental impact assessment.

The Xe-Pian Xe-Namnoy dam environmental impact assessment discusses the need to implement an Environmental Emergency Response Plan in order to prepare for natural disasters, and especially floods, during the construction and operation period.

However, although the Korea Exim Bank stated in reports provided to Congresswomen Jang Hye-Young in October 2022 that they "consistently monitored whether the Lao government was implementing the environmental management and monitoring plan through the quarterly progress reports", they are continuing to avoid responsibility by stating that they "are not in a position to assume direct management duties or responsibility where EDCF is not the majority shareholder."

### ③ Application of the EDCF Safeguard

In September 2012, the Korea Exim Bank devised the “EDCF Safeguard Plan” and started a test phase. In documentation provided by the bank to Congresswoman Kim Hyun-Mee in April 2013 regarding strengthening the EDCF safeguard in the context of the Xe-Pian Xe-Namnoy project, the bank stated that “when the social and environmental impact assessment report is submitted, we will review the implementation of the guidelines and if necessary, provide the funds after implementation of additional measures”.

However, the Korea Exim Bank’s current position is that the EDCF safeguard was first implemented in 2016 and therefore could not have been applied at the time of the Xe-Pian Xe-Namnoy Hydropower project (Report submitted to office of Congresswoman Jang Hye-Yeong in October 2022).

**b) Korean Government's Passive Stance on the Duty to Protect Human Rights**

On September 9, 2022, the Korean government submitted a response to the communications from the United Nations Special Procedure, which did not change from its passive stance adopted previously, mainly claiming that there were no issues in the environmental and social impact assessment at the time of disbursement of the EDCF, and that the Korean government had no authority to manage the project.

The government also claimed that “(even though it provided concessional loans through EDCF) EDCF had no authority to manage the (Xe-Pian Xe-Namnoy) project, and that it cannot take any responsibility.” Furthermore, it also claimed that the EDCF is “a party not directly involved” with the project.

The Korean government dispatched relief workers right after the dam collapse in July 2018, and sent experts to the Laos National Investigation Committee in 2019 as per the Lao government’s request. However, this was an act of humanitarian support and cannot be seen as measures aimed at complying with the duty to protect human rights.

In its response to the UN Special Procedures, the Korean government consistently underscored that it had undertaken specific efforts, despite “not bearing any responsibility” for the situation.

### c) Measures to Prevent Future Occurrences

① The assessment of the substantial human rights violations resulting from the Xe-Pian Xe-Namnoy Dam project, as well as the measures implemented to prevent future occurrences, are outlined as follows.

The Korea Exim Bank has in place an evaluation system for ongoing or completed projects funded through EDCF in order to draw lessons and seek improvement measures. The system consists of a pre-evaluation, mid-term evaluation, completion evaluation, and a post-completion evaluation, and the results are applied to future projects. Evaluations incorporate specific criteria, including "impact" and "sustainability." Here, "impact" pertains to the direct or indirect local, social, economic, and environmental changes resulting from EDCF funding activities, encompassing both positive and negative changes, including both intended and unintended consequences.<sup>30</sup>

The Korea Exim Bank stated in documents submitted to Congresswoman Jang Hye-Young in October 2022 that the Lao government has provided a project completion report but the quality of the report is compromised. The Bank has stated that they plan on hiring outside experts and that the completion evaluation will be finished by March 2023. It is essential for civil society organizations and other stakeholders to engage in ongoing monitoring of the outcome of this completion evaluation process.

② To prevent adverse human rights impacts in overseas ODA projects, it is imperative to enhance the effectiveness of the EDCF Safeguard system, which had virtually no effectiveness in preventing the collapse of the Xe-Pian Xe-Namnoy Dam.

According to Korea Exim Bank, EDCF officially implemented the EDCF Safeguard system in 2016 and mandated all borrowers to submit reports on environmental impact assessments and relevant implementation measures.

Furthermore, Korea Exim Bank revised the EDCF Safeguard system in 2020 and further subdivided the risk level classifications of environmental impact assessments as seen below. Notably, the revised system now requires stakeholder consultations, if necessary, in the presence of experts, for Grade A projects such as the construction

of large dams, and that the environmental and social impact assessment be disclosed contingent on the borrower’s consent. This can be seen as a minimal advancement in protecting human rights in ODA projects. However, the revised system is still limited because it only guarantees partial stakeholder communication and transparency.

**2020 EDCF Safeguard Revision Key Points**

- Environmental Social Impact Risk Classifications Specified (From **3 grades to 4**; in line with World Bank system)

Original	Revised	Type of Project	Application Period
A	A	Projects that involve land expropriation or involuntary relocation such as <b>large-scale dam construction</b> . Substantial and extensive environmental and social risk	<b>60 days before the Economic Cooperation Deliberation Committee</b>
	B+	Less substantial and extensive compared to Grade A	<b>Discuss with borrower and reflect in loan agreement*</b>
B	B	Impacts are limited to the project site and mitigation or restoration is relatively easy	
C	C	Very low or nonexistant environmental and social risk	

\*If the borrower’s response to environmental and social risk mitigation plans are inadequate, **raise issues to the Ministry of Economy and Finance (MOEF)** by suggesting **withdrawal of government support or termination of loan agreement**

**d) Other Issues**

The Korea Exim Bank has increased EDCF provision in Laos. In September 2019, the Korea-Laos EDCF Framework Arrangement was increased from USD 300 million (2016-2019) to USD 500 million (2020-2023) to facilitate infrastructure reconstruction in Laos following the disaster. Furthermore, a new loan project, the Champasak-Saravane water supply project, was approved in December 2019 (documents submitted to Congresswoman Jang Hye-Young in October 2022).

Considering the strong possibility of future EDCF-backed projects in Laos, it is crucial to closely monitor the application of EDCF safeguards and feedback from the completion evaluation of the Xe-Pian Xe-Namnoy Dam collapse disaster.



## 2) Implications

When the execution of the ODA budget involves public-private partnerships, it is the responsibility of the state, as the primarily responsible actor, to protect the human rights of the affected individuals and fulfill its official ODA functions by implementing human rights due diligence, as well as advance the human rights accountability of the Korea Exim Bank, which possesses the authority to execute relevant funds. Furthermore, private companies engaged in ODA projects through public-private partnerships should be equipped to undertake actions, including human rights due diligence, as part of their involvement.

However, the inadequate implementation of environmental impact assessments and the passive stance on safeguards make it difficult to conclude that the state has fulfilled its duty to protect human rights.

Korean companies are continuing to engage in overseas resource development projects and there is always the potential for adverse human rights violations during the process. Even now, proposals to construct a 728-megawatt Phou Ngoy Dam, led by KOWEPO and Doosan Enerbility (formerly known as Doosan Heavy Industries), are under review in Champasak Province, southern Laos.<sup>31</sup> Therefore, not only improvement of EDCF management, but also a fundamental overhaul of relevant policies in the form of implementing a human rights due diligence system is necessary to prevent negative human rights impacts caused by Korean companies and their overseas operations, and to ensure accountability if any such violations occur.

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## **IV. Outcomes of the On-Site Fact-Finding Mission**

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# 1. On-Site Fact-Finding Timeline

20220911	Bangkok > Vientiane	Fact-finding team preliminary meeting
20220912	Vientiane > Pakse	Fact-finding team/translator preliminary meeting
20220913	Pakse > Attapeu > Sanamxay > Attapeu	Visits to the permanent housing units and temporary shelters with PNPC official
20220914	Attapeu > Sanamxay > Pakse	Interviews with residents, village chief and vice-chief of two permanent housing units and two temporary shelters.
20220915	Pakse > Vientiane	Fact-finding team concluding meeting

## 2. Preparation for Fact-Finding mission

In early 2019, members of the “Civil Society Task Force for the Xe-Pian Xe-Namnoy Dam Collapse” conducted a fact-finding mission. During this period, the Lao government imposed strict control over access to affected areas, limiting it to relief organizations. Therefore, utmost caution was exercised during the interview process to ensure the safety and well-being of participants. Subsequently, the outbreak of COVID-19 significantly restricted access to the affected regions, making it impossible to obtain direct information about the local situation. The Korean Transnational Corporation Watch (KTNC), which monitors Korean companies operating abroad, had planned to conduct a follow-up survey in 2020, but the plans were rendered unfeasible due to the COVID-19 outbreak.

As entry into Laos was made possible in early 2022, KTNC decided to resume its fact-finding plans in line with the statement issued by the UN High Commissioner for Human Rights. During the preparation process, the fact-finding team reached out to civil society groups in neighboring Thailand to gather updated information and seek guidance regarding the forthcoming survey. However, these organizations informed the team that they had no current knowledge of the situation as access to the local area had been limited for an extended period due to the COVID-19 pandemic. To avoid any misconception by the Lao government that the team’s intentions are to create trouble, which could lead to adverse results for local residents who came into contact with the team, the organizations strongly recommended that the team ask for the cooperation of the Korean companies heading the Xe-Pian Xe-Namnoy Dam project.

Based on such advice, the team had meetings with SK Ecoplant and KOWEPO respectively and informed them of the plans for an on-site fact-finding mission. The team requested assistance in visiting the temporary shelters and permanent housing units, as well as facilitation of interviews with their local staff. Although one of the companies responded relatively promptly to the request for a meeting, the other company finally agreed to schedule an online meeting with their Korean headquarters’ staff after a month and numerous attempts. Confirmation regarding the interview arrangements with local staff and visits to temporary and permanent housing was only received upon the team’s arrival in Laos.

### 3. Location of Temporary Shelter and Permanent Housing Units

The affected area of Sanamxay is situated below the Bolaven Plateau, where the dam is located. The Xe-Pian river, which serves as a water source for the dam at issue, flows through the area. Residents of the area primarily relied on paddy farming as their source of income prior to the dam collapse. However, the recently built permanent housing units are situated in close proximity to the temporary shelters on higher terrain, but it is significantly far from the original residential area near the Xe-Pian river. As per statements from company officials, the selection of the temporary shelter site took into account the location of the permanent residential complex based on the master plan. However, the specific details and reasons behind choosing a permanent housing site so distant from the original residential area remain undisclosed. The available information merely mentions concerns about the possibility of recurrent flooding.

## 4. Interview Method

On the 13th, the first day of the investigation, the fact-finding team departed from Pakse to Attapeu early in the morning. Upon arrival, the team convened with a PNPC employee and was subsequently guided on a tour of four housing complexes, consisting of both permanent and temporary structures. Additionally, the team visited newly allocated farmlands designated for the affected residents. Interviews with the residents were not conducted at this time.

Interviews with affected residents were held after the PNPC employee had left. The approach involved entering the temporary or permanent housing units and speaking to residents that were resting outside. The team asked the interviewees about the location of the town hall or the village chief and went there to conduct further interviews.

## 5. Interview Results<sup>32</sup>

### a. Forced Displacement

The surveys conducted in temporary shelters and permanent housing complexes clearly indicate that residents in affected areas were forced to relocate to surrounding areas, similar to the residents of the areas submerged by the dam. According to company staff, the Lao government instructed residents to relocate, citing safety concerns of their original area of residence. None of the residents of the destroyed villages did not move to the permanent housing complexes as per governmental policy. An environmental law expert later confirmed that the Prime Minister's Decree on Compensation and Resettlement Management in Development Projects served as a legal framework for the master plan established for recovery after the Laos dam collapse. Statements from residents further corroborate this. Even if their original areas of residence were fully drained and therefore remained a viable option, all major facilities such as schools, community halls, and temples had been removed to the permanent housing complexes. Therefore, rebuilding their homes by themselves in their original area of residence did not appear to be a feasible option.



*"The government did not prohibit us from returning to our original villages, but they said they wouldn't be held responsible if another flood happened."*

| Resident of temporary shelter A



*"About 10 households returned to the original village - mostly elderly folks. There are no schools in that area anymore."*

| Resident of permanent housing complex B



*"The permanent housing complex is 10km away from our farming land. It takes about 35 minutes by tiller."*


| Resident of permanent housing complex B



*"The original rice fields were restored three years ago. All the fields belonging to the village have been restored. We restored them ourselves."*

| Resident of permanent housing complex B

The newly-built houses in the permanent housing complexes were made of concrete, and seemed sturdier than the wooden houses commonly found in the area. However, resident surveys showed a consistent response: the new houses were uncomfortable and did not match their way of living.



*"The sites in the permanent housing complex are all uniform but my original house was bigger."*

| Resident of temporary shelter A



*"Whenever it rained, water poured down from the roof like a waterfall and damaged the ground. We had to pay to get extra awnings to stop this. We still don't have water mains."*

| Resident of permanent housing complex B



*"My house was built to accommodate our lifestyle and needs but this new house is standardized and does not align with our way of living. It is uncomfortable. It was also difficult to divide up the rooms among our family members."*

| Resident of permanent housing complex B



*"Some households that lost lives were given houses smaller than their original places because their families were smaller now."*

| Resident of permanent housing complex B



*"The houses are nice but do not fit our way of life. We do not need houses that are this nice."*

| Resident of permanent housing complex D



## b. Sustainable Livelihood

The biggest issue faced by residents was sustaining their livelihoods. Residents that were relocated to permanent housing complexes were assigned new farmland that was created by clearing out a tropical rainforest. However, parts of the new farmland were subject to disputes from neighboring residents who claimed the land was their own. There even existed residents that had not yet been assigned farmland of their own.

The most fundamental problem is that residents cannot not engage in paddy farming, their primary way of sustenance, on the newly allocated farmland. Before the dam collapse and forced relocation, residents cultivated paddy fields and led a mostly self-sufficient lifestyle. However, with the new farmland, they had no choice but to grow and sell commercial products such as cassava in order to purchase necessary commodities such as rice and other foods. Their lifestyle had been overhauled into a much more market-oriented system, where their livelihood is directly linked to market conditions.

According to accounts of staff of the companies involved on the process of payment of compensation, most residents had never opened a bank account or did not even have birth registration documents before the collapse. Therefore, it is highly doubtful whether these communities were fully prepared and had sufficient resources to transition from subsistence farming to commercial farming. Furthermore, according to testimonies of corporate staff, village leaders, and residents, the Lao government was implementing a policy known as the "2+3" policy for the new farmland. This policy aimed to lease the land to companies, with labor provided by the residents, who would receive rent and wages (the "2" refers to the residents' land and labor, and the "3" refers to corporate capital, technical expertise, and marketing). However, the leasing contracts appeared to be arranged by the government according to its policies, rather than based on the free will of the residents. Consequently, the rental fee was set at a fixed rate of 1 million Lao Kip per hectare per year. Some of the interviewed residents mentioned that they had not received the full rental payment.

There were testimonies from residents that after leasing their new farmland to a company for two years for cassava farming, the company did not renew the lease and their land was returned to them. Such action seems to be in line with the fact that cassava harvests decrease by half after two years of farming due to depletion of soil nutrition, as mentioned by staff of the local company involved. The situation was relatively better for residents that restored their original farmland for paddy farming. However, as stated above, the legal basis for the allocation of new farmland had originally established to regulate resettlement policies in development projects. That framework provides for an exchange of new farmland with the residents' original farmland. Therefore, residents that have restored their original farmland may face potential issues with long-term usage rights of the land. On the other hand, it was evident that residents whose farmland remained submerged faced considerable threats to their livelihood.

Staff of the companies involved have expressed the position that although it is unfortunate that a long-term sustainable solution is not available, this was mostly due to the Lao government's 2+3 policy and not the responsibility of the companies. However, failure to fully restore the damage wrought by a disaster caused by the companies' own business operations is a grave matter. The measures taken for damage relief were decided through negotiations between the companies and the Lao government. Therefore the companies involved cannot wash their hands from responsibility for the resulting continuous threat to the livelihoods of the affected communities.

"We were given 2 hectares of new farmland from the government but a banana farm run by a Chinese business was established there. The government helped me sign a leasing contract of 1 million LAK per hectare per year but banana farming requires a lot of pesticides so I can't work there. We signed a lease but it isn't permanent and the government will take it back if needed."

Resident of temporary shelter A |

"We got 3 hectares of farmland but cannot access it. It is in Y area but the residents are already farming there and are blocking access."

Resident of permanent housing complex B |

"The original farmlands were restored three years ago. All the fields belonging to the village have been restored. We restored them ourselves."

Resident of permanent housing complex B |

"I used to live by the riverside. I could fish and find food around the house. But now, I can't do anything. I cannot grow anything around where I live anymore."

Resident of permanent housing complex B |

"I used to be able to fish or find ways to sustain a living around my house. I never needed money for gas because I had everything I needed right next to me."

Resident of temporary shelter C |

"After the flooding, my original farmland has changed and water is not draining properly through its usual channels."

Resident of permanent housing complex D |

"In 2019, residents gradually started farming and cultivation. Food is not as abundant as it used to be. Government support started to dwindle in 2020 and completely stopped in 2021. A total of 800 hectares of farmland were provided for 400 households and divided based on working people per household. 2 hectares if two people could work, 3 hectares if three people could work. In some other villages, they divided the land based on proportion of the original land. Most residents have cleared and developed the land. 70 households experienced conflicts with residents of Y area when they tried to farm on the new land. A company is expected to start developing the land in 2023. Residents are to receive a usage fee and provide labor, and the company invests."

| Village chief of permanent housing complex B

"The farmland has not been restored. Water comes up to our waist. The families that are able to farm can only farm a portion of their original land."

| Resident of temporary shelter C

"There are some people that raise livestock but they have to take the cows to their original villages to feed them."

| Resident of temporary shelter C

"I entered into a two-year leasing contract with a company for the new farmland for 1 million Lao Kip per hectare per year. I haven't gotten the full payment, and the lease for this year has ended so I am farming the land myself. I planted some cassava but have not harvested it yet. I want to farm the land myself instead of leasing it."

| Resident of temporary shelter C

“Residents have been relocated but are unable to farm. Their old farmland is still flooded and the water has not been drained. It is important for our residents to regain their livelihoods, but these issues have not been resolved. About 30 households have yet to receive their new farmland. There isn’t enough land, some land is under the title of someone else, and we asked the government for solutions, but things have not been resolved yet.”

Vice Chief of permanent housing complex D |

“It is impossible to restore land with over a meter of mud due to flooding. For land with less than a meter of mud, the restoration damages are included in the environmental damages package. The company is monitoring the farmland compensation status. The government decides on the allocation of new farmland and has a 2+3 policy. Residents to provide land and labor, and companies to provide capital, technical assistance, and marketing. There are Chinese and Vietnamese companies involved.”

| company staff

“There is nothing else to farm on the new land other than cassava. A company leased the land until last year, but the agreement ended this year.”

Resident of permanent housing complex D |

“The cassava planted on the new farmland is used to make tapioca and is mostly exported to Vietnam or Thailand. Farming is easy but the land loses its fertility in two years and harvests drop by half. They need to let the land rest but they just keep farming.”

| company staff

“We used to be able to get all sorts of things done in the land surrounding the house but now we only have a house and nothing else. We have to travel considerable distances to do anything.”

Resident of permanent housing complex D |

“All development projects have a similar issue with resettlement. Even if residents are given new farmland, it does not adequately support their livelihood and they have no jobs. That’s why some choose to return to their original land even though it is not legal. They farm the land that is left over from the development projects. If companies or the government provide new farmland as compensation in the process of resettlement, the original land becomes their property because the process is equivalent to an exchange between the original land and the new farmland. If residents lease the new land to companies to operate plantations, it is difficult to ascertain which part of the large cassava farm belongs to which individual. This creates a situation prone to conflict between residents. [...] If you farm cassava for 1-2 years, the land turns less fertile and needs to be rested for about 2-3 years by planting something else.”

| Laos environmental law expert

“The new farmland used to be forest land. They say residents have usage rights over the new farmland but it is unclear how that will actually work.”

company staff |

“My original farmland is 5km away from the permanent housing complex. I can travel by motorcycle but the oil price, which used to be 5000 LAK, has risen to 20,000 LAK, and is now 70,000 LAK this year.”

Resident of temporary shelter A |

### c. Trauma Response

Though four years have passed, the lingering effects of the devastating incident, which resulted in the loss of loved ones and the forced displacement of residents from their homes, remain apparent. Despite the passage of time, the residents are still grappling with the aftermath and are lacking access to adequate psychological support. Also, the political and policy ramifications of the dam collapse, particularly regarding Laos' economic aspirations to become the "Battery of Asia" through the utilization of its water resources, have influenced how residents mourn the deceased and process their grief.



*"Those who were lost were enshrined in temples in the town. A lot of people passed away. It is difficult to talk about this."*

| Resident of temporary shelter C



*"Mourning and commemorating the deceased takes place among family members. Everyone is still struggling."*

| Resident of temporary shelter C



*"No psychological counseling has been provided by companies, and although the government initially mentioned it, as time passed nobody took care. We proposed to the government that we need support. But there has been no response. Korean volunteers came and helped pick up the garbage but never spoke to us. This is the first time we are sitting down having an actual conversation."*

| Vice Chief of Permanent Housing Complex D



*"23 went missing. We found the remains of 12. We wanted to commemorate them, but the government wanted to have them enshrined in one place in the town and did not let us enshrine them separately."*

| Resident of permanent housing complex D

#### d. Adequacy of Compensation

As previously seen, most of compensation damages provided by PNPC were given to the Lao government rather than to affected residents. Individual compensation, excluding compensation for loss of life, was calculated by a hired damage assessor who determined the amount based on the damage suffered by each household, excluding damages to houses. However, this amounted to a mere \$26.36 million out of the total compensation of \$91.25 million.

According to the accounts of both company staff and residents, there is only one remaining category for compensation known as "unsubstantiated damages," in addition to the initial five compensation categories. However, as of the time of the survey, there had been no clear decisions on who would receive compensation, the specific damages covered, or the corresponding payment amounts. The matter was said to be under ongoing discussion. Company staff mentioned that individual consultations would be conducted, but no details were provided. One particular concern raised by the residents pertained to the issue of Teakwood trees. They had previously cultivated Teakwood on their original farmland, for personal use or for sale. However, due to the flooding, all the Teakwood they had grown or harvested as lumber was washed away, resulting in a significant loss.



*"A bank account was created for each household and funds were transferred. Many of them did not initially have bank accounts. We helped them make family registration records and open a bank account, then delivered the bank account to the compensation committee. The only compensation left is the 'unsubstantiated damages' category. Discussions will be conducted through individual consultations by the compensation committee to determine an adequate resolution. It was temporarily stopped due to COVID-19. For automobiles or electronic appliances, compensation was provided in consideration of depreciation, and the remaining items were compensated per the resident applications. Children who lost their families are being cared for by relatives with the Social Welfare Department of the state government having been commissioned to provide monthly payments."*

| Company staff



*"Dam reconstruction costs are much higher than compensation for the residents. There was no other choice but to have SK E&C continue with the dam construction due to the high cost of restoration."*

| Company staff



*"Livestock has been compensated for but there are still outstanding compensations for fruit trees, lumber, and teakwood."*

| Resident of temporary shelter A



*"The sixth compensation category is the most difficult one in terms of meeting the demands of residents. I'm not sure how to solve this issue."*

| Chief of permanent housing complex B



*"The sixth compensation category includes lumber, fruit, a shed and other items. I lost everything in the flood."*

| Resident of temporary shelter C



*"Proposing solutions on a village-by-village basis could be an effective way to address the sixth compensation category. The current process of getting approval from the government and companies is taking too long. I think it might be better for considerations to take place on a village level."*

| Vice Chief of permanent housing complex D

According to PNPC and KOWEPO, as of June 2023, no compensation has been provided for the sixth category, and the reasons cited for the delay primarily revolve around a lack of sufficient evidence and excessive claims. They are currently engaged in discussions with the local authorities in Attapeu Province aiming to reach a resolution. The estimated compensation amount for this category is around \$100,000 USD. However, item 6 inherently is expected to involve issues of evidence and excessively large or small claims. Despite sufficient time to develop and implement reasonable resolutions such as gathering input from the residents on community levels, the fact that the process has barely started raises doubts about the level of commitment and ability to effectively resolve the issues at hand.

Another significant point that needs to be addressed is the lack of consideration for the psychological suffering endured by the residents, as the compensation solely focused on the loss of life and property damage. Even more concerning is the fact that some families that had lost loved ones in the incident were allocated smaller units than their original homes. This kind of process shows a lack of respect for the remaining family members. Residents have endured immense psychological pain from the sudden disaster, the loss of their homes, the grief of losing close relatives, the ongoing struggles in temporary shelters first provided with makeshift tents and then metal container boxes, and the inability to rebuild stable lives even after more than four years. Unfortunately, these psychological hardships have been completely overlooked in a process that is limited to merely quantifying material losses.

## 6. Implications: Harm with No Perpetrator; Aid Without Accountability

The involvement of multiple stakeholders, including companies, governments, UN agencies, and civil organizations, in the compensation and recovery processes has left residents uncertain about whom to approach and what specific demands to make in order to achieve meaningful results. Additionally, the prolonged reliance on aid without the restoration of their lives has created a situation where the community's self-sufficiency and autonomy have been undermined, impeding their ability to function independently.

"Land was provided by the government, and schools, medical centers, and village halls were provided by companies. There are multiple parties in the assistance process. But there are some problems with the village hall and it is not usable right now. [...] It would be better for all five villages, companies, and the government to come together and discuss. It's really confusing to figure out what aspects of support are coming from which party since companies and the government all come separately. We go to these government meetings and company meetings but there are so many things discussed there that it becomes confusing. [...] The school walls haven't been fully built yet. The village hall doors and bathrooms don't work, and we can't use the facility because we don't have basic equipment like fans. We used to provide those things communally, but now, since we are getting support from both companies and the government, it's unclear what we can demand and what not."

Vice chief of permanent housing complex D |



The fact-finding survey results clearly demonstrate the significant damage suffered by the local communities. Residents of affected areas lost their homes and their livelihoods and were forced to relocate. There is a high possibility that the Xe-Pian Xe-Namnoy dam collapse was not a natural disaster that had simply been caused by unusually high rainfall. Instead, it is a matter that requires thorough investigation and accountability. However, to date, there has not been an adequate investigation on the reasons behind and responsibility for the collapse of the dam or failure to evacuate the residents in time, which appears to have affected the recovery process and outcomes. Governments and companies have positioned themselves as actors providing “aid” instead of as perpetrators responsible for compensation. Recovery has been determined through agreements between the government and companies, prioritizing their own interests and agendas. In this process, residents were turned into objects to be relocated due to an inevitable disaster, and their pain has been reduced to property damage costs. The measures taken under the guise of recovery did not ever aim to restore victims, and their participation and input was limited to small, peripheral issues.

This can largely be attributed to the fact that no further investigations took place following SK E&C’s opposition to the findings of the Independent Expert Panel, and a clear determination of accountability was never established. There were discussions within civil society about pursuing lawsuits against the Korean companies in Korean courts, but the concerns of government oppression towards affected residents who come forward as plaintiffs made this a difficult option to pursue. As a result, recovery efforts were undertaken not as “reparation” but “compensation”. The absence of specific criteria to address such an unprecedented issue, coupled with the government’s development agenda, has led to the application of relocation policies in the context of development projects. However, policies pertaining to carefully planned-out relocation for development projects serving a public purpose is completely different from disaster relief situations. Therefore, the use of relocation policies in development project contexts appears to be inadequate for this situation.

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# Footnote

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1. OHCHR, Lao dam disaster: UN rights experts call for justice two years on, 2020. 4. 29.
2. RFA(Radio Free Asia), 'Survivors of Laos' Worst Dam Disaster Still Struggling Two Years Later', 2020.07.22
3. Chosun Ilbo 2018. 7. 26 'Laos Dam flood affects Cambodia ... 5,000 evacuate'
4. Times 2018. 7. 26 'A Dam Collapse Devastated Southern Laos. Now the Floodwaters Are Creeping Toward Cambodia'
5. While the arbitration process ended without results due to the lack of response from the respondent, the KNCP took certain actions. First, they established a consultation channel to address the concerns raised by the complainants and maintained ongoing dialogue with SK E&C and KOWEPO. Second, KNCP recommended that the companies provide comprehensive explanations to the complainants regarding the specifics of damage recovery and relief efforts, compensation details for the survivors, and measures taken to prevent similar accidents in the future.
6. UN Guiding Principles on Business and Human Rights Annotation No.21
7. Consists of schools or temporary tents
8. SBS News 2018. 7. 29 "Restoring a Village that Turned into a Swamp ... Shelters Filled With Screaming Patients"
9. The Office for Government Policy Coordination conducted several meetings with relevant ministries to discuss support measures for the affected areas at the government level. However, the discussions mainly focused on humanitarian aid measures, with little attention given to addressing the cause of the accident or determining responsibility.

10. Radio Free Asia 2019. 1. 29 “Laos Pays Compensation to Families of Dead and Missing in PNPC Dam Disaster”

11. SK E&C stated that “this agreement with PNPC is provided as compensation irrespective of the cause of the accident”, and therefore is not an acceptance of civil liability for the incident.

12. The plan consists of developing new residential complexes on higher ground, rather than flood-prone areas, but the specifics of the master plan have not been publicly disclosed.

13. The Lao government stated that it ceased special measures after government agencies conducted investigations and determined that the majority of the survivors were able to secure their own means of livelihood. However, according to Lao PDR (Decree No. 169 on social welfare), a distribution of 12 kg of rice per person was ordered.

14. PNPC response to UN Special Procedures communication (2022. 8. 30.)

15. Vientiane Times 2019. 11. 11 “Attapeu flood victims getting monthly allowance of 250,000 kip”

16. Free Asia 2020. 11. 25 “Compensation Delays for Survivors of Laos’ Worst Dam Disaster”

17. Lao Government response to UN Special Procedures communication (2022. 11. 7.)

18. PNPC response to UN Special Procedures communication (2022. 8. 30.).

19. Seems to refer to the Law on Resettlement and Vocation, announced in August 2018. Article 45 of this statute stipulates that businesses that have invested in projects that have caused relocation must devise compensation, relocation, and livelihood rehabilitation plans. Article 36 of the statute mandates these businesses to provide livelihood rehabilitation during the transition period specified in the livelihood rehabilitation plan.

20. Id.

21. Lao Government response to UN Special Procedures communication (2022. 11. 7.)
22. Radio Free Asia, 2022. 11. 4 “4 years on, some survivors of Laos dam collapse still waiting for promised new homes”
23. Radio Free Asia 2022. 8. 14 ‘Most of us are worse off’
24. <https://monitor.civicus.org/updates/2021/08/06/arbitrary-detention-lao-women-activist-increased-online-surveillance-persecution-minorities/>
25. KOWEPO, Progress Report on the Implementation of NCP Recommendations, 2021. 10.
26. PNPC response to UN Special Procedures communication (2022. 8. 30.).
27. IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters (The Brookings - Bern Project on Internal Displacement, 2011).
28. IASC, id.
29. In 2017, Laos implemented the “Electricity Law”, which outlines the obligations of hydropower companies. Under this law, corporations operating power generation must guarantee operational safety (Article 35). If any harm occurs to individual life, safety, property, environment, or issues with resettlement due to their operations, corporations must provide compensation (Article 37).

Furthermore, Article 6 of the Laos civil law defines remedies for torts. According to this provision, those who intentionally or negligently violated the law must compensate for resulting damages. In this context, damages include not only financial loss but also any harm to property, life, body, and mental well-being. Article 495 stipulates that any individual that harms the environment must immediately cease such actions and compensate for any damages.

However, for criminal liability, the laws of Laos in 2018 did not include punishment of corporate entities for illegal activities.

30. Korea Exim Bank Website <https://www.edcfkorea.go.kr/HPHFFE061M01>

31. Radio Free Asia 2022. 4. 27, "Another Mekong River dam in Laos begins review process"

32. To protect the identities of residents, temporary shelters and permanent residence units were assigned alphabetical labels, and statements were combined or separated for residents in the same housing complex





