NGO Report for the CESCR Pre-Session on Laos

(KTNC Watch)

1. **Introduction to the organization(s) submitting this parallel report to the pre-sessional working group**
   * 1. Korean Transnational Corporations Watch (KTNC Watch) is a network based in the Republic of Korea including 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.
2. **Issues regarding the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions (article 11) in the aftermath of the Xe-Pian Xe-Namnoy dam collapse**
   1. **Lao dam disaster: lack of effective remedy for survivors five years on**

On July 23, 2018, the auxiliary dam (Saddle D) of the Xe-Pian Xe-Namnoy hydroelectric power project in Laos collapsed, killing 71 people, displacing thousands, and flooding homes and villages. Five years after this tragic incident, the survivors have still not received adequate compensation or remedy and continue to suffer from the impacts of the disaster.

The project developer PNPC is a joint venture formed in March 2012 by SK Ecoplant (formerly SK Engineering and Construction (SK E&C)), Korea Western Power (KOWEPO), [Ratchaburi Electricity Generating Holding](https://www.globaldata.com/company-profile/Unipro/) (RATCH) and Lao Holding State Enterprise (LHSE). SK Ecoplant holds a 26% stake in PNPC, LHSE a 24%, and RATCH and KOWEPO equally own the remaining share in the [power plant](https://www.power-technology.com/contractors/powerplant/). LHSE’s share in the joint venture was financed through a concessional loan from the Economic Development Cooperation Fund which is managed by the Export-Import Bank of Korea. PNPC is scheduled to transfer the operations and management of the project to the Government of Laos upon the completion of the 27-year concession period. SK Ecoplant was awarded the engineering, procurement and construction contract for the project construction while KOWEPCO was awarded the operations and maintenance contract for 27 years. Ratch is responsible for the supervision of the project construction.

* 1. **Lack of accountability for the disaster**

On May 28, 2019, the Independent Expert Panel (IEP) of the National Investigation Committee established by the Lao government released the [results of its investigation](https://www.researchgate.net/publication/340795009_Failure_of_Saddle_Dam_Xe-Pian_Xe-Namnoy_Project_Executive_Summary), stating that the Xe-Pian Xe-Namnoy Dam collapse could have been prevented by proper measures to secure the foundation.

However SK Ecoplant immediately released a statement claiming that the conclusion by the IEP lacked scientific basis, even though the IEP had been comprised of internationally acclaimed hydraulic construction experts.

There have been no further efforts to clarify responsibility and communicate the progress and results of such efforts to the affected communities since. The full report of the IEP was not made public. Meanwhile SK Ecoplant, the constructor of the Xe-Pian Xe-Namnoy hydroelectric power project, has filed an international arbitration in Singapore against PNPC, arguing that the collapse was not caused by faulty construction but by a natural disaster (force majeure), and that it should be reimbursed for the expenses for restoration of the dam and compensation, which it had provided to PNPC in the form of a loan. The progress of the international arbitration is kept behind closed doors and neither disclosed to the public nor the affected communities.

* 1. **The majority of compensation money was paid to the Lao government, not the affected Communities**

PNPC, the project developer of the Xe-Pian Xe-Namnoy Dam in Laos, stated in a letter submitted to UN human rights experts on August 30, 2022, that it had provided a total of $91.2 million for compensation. However, according to PNPC’s internal records, the majority of the compensation ($64.87 million, or about 71% of the total) was paid to the Lao government, not to the affected people. (See annex.)

This is because all the compensation for housing, land, infrastructure, etc. lost and damaged in the disaster was paid to the Lao government. The Lao government designed a "Master Plan" to clear the rainforest and to build new cities and had PNPC pay for the development. It appears that the compensation process prioritized the development needs of the Lao government over the effective remedy of the survivors. Meanwhile, there is no public information on how the Lao government spent the money it received from PNPC nor the specifics of the “Master Plan”.

According to PNPC, it has paid some monetary compensation to affected villagers for loss of life and property damage. However, as of June this year, PNPC stated in an email to KTNC Watch, a network of trade unions and civil society organizations based in South Korea, that compensation for valuables and other items of emotional value, which were washed away by the flood but not included in the property damage evaluation, is yet to be completed. There has been no compensation for the psychological damage caused by the tragedy, nor any support for trauma recovery.

* 1. **Survivors are uprooted from their longtime homeland, and left without sustainable livelihood**

According to KTNC Watch’s interviews with the survivors, the survivors were relocated to unfamiliar lands and are not provided with sustainable livelihoods.

People in the affected villages have traditionally made a living from rice farming along the Xe Pian River, but PNPC built residential complexes far from their original homes, in accordance with the Lao government's "Master Plan". Most of the affected villagers were displaced to the newly built complexes without choice.

As the displaced survivors have lost their traditional livelihood, the Lao government has given them plots of cleared forest. But it turned out that the land is not suitable for rice cultivation. The villagers are now unable to grow their own rice and are instead forced to grow and sell commodity crops such as cassava or lease the land to plantation corporations at a minimal rent as suggested by authorities in line with a “2+3 policy” implemented by the government, according to which the local people are supposed to provide land and labor, and the plantation corporations are supposed to provide capital, technical knowhow and marketing. However, many of the affected people had been living self-sufficient lives; some of them did not even have personal savings accounts prior to the disaster. Consequently, it is nearly impossible for the affected villagers to suddenly become commercial farmers. Also the 2+3 policy appears neither sustainable nor favorable to the local communities, turning them into low wage laborers on their own land. In short, not only have the survivors of the dam's collapse been forced to relocate, but they are not provided with sustainable livelihoods. It is doubtful if the survivors were properly consulted in the relocation process.

1. **Suggested Questions** 
   * 1. What steps did the government undertake and what steps is it planning to provide the affected communities with information on the cause and responsibility of the collapse of saddle dam D of the Xe-Pian Xe-Namnoy Dam?
     2. What steps did the government undertake and what steps is it planning to ensure full accountability of the responsible parties vis-à-vis the affected communities, including criminal prosecution, official apology, full reparation and prevention of reoccurrence?
     3. Does the government have plans to publish the full report of the IEP?
     4. What steps did the government undertake and what steps is it planning to ensure that the affected communities are provided with full reparation including psychological damages and trauma support, and prioritizing the demands and needs of the survivors?
     5. Did the government disclose transparently and publicly how the compensation paid by PNPC to the government was spent and the details of the Master Plan? If not, does it have any plans to do so?
     6. Does the government have plans to restore the rice fields that were destroyed by the flood?
     7. How does the government plan to ensure that the affected communities are provided with sustainable livelihoods? Please provide details.

**Annex 1. Status of Compensation paid by PNPC** \*Source: Korean Western Power (KOWEPO)

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| --- | --- | --- | --- | --- | --- |
| Category | | The amount paid  (1 mil USD) | Payment rate  (%) | Subject of the payment | Payment completion date |
| Third-party compensation  (or Direct Compensation) | 1. damage of human life[1] | 1.003078 | **100** | The victim | June 2019 |
| 2-1. damage of housing | 11.500000 | **100** | Lao Govt. | January 2021 |
| 2-2. other domestic damages[2] | 14.648915 | **100** | The victim | November 2021 |
| 3. Business[3] | 10.727924 | **100** | The victim | January 2020 |
| 4. infrastructure | 8.127274 | **100** | Lao Govt. | October 2020 |
| 5. Environment | 9.401966 | **100** | Lao Govt. | December 2020 |
| Total | 55.409157 | **100** |  |  |
| Masterplan  (or Indirect Compensation) | 1-1. Permanent Housing | 13.000000 | **100** | Lao Govt. &  The victims | Paid upon Lao Govt.’s request;  paid in 5 installments from April 2021 to July 2022. |
| 1-2. Road, bridges, waterworks, etc. | 6.063402 | **100** | Lao Govt. |
| 2.Civil engineering work, etc. | 5.293489 | **100** | Lao Govt. |
| 3. Warehouse, etc. | 7.650261 | **100** | Lao Govt. |
| 4. school | 0.361532 | **100** | Lao Govt. |
| 5. Electricity | 3.224556 | **100** | Lao Govt. |
| 6. Medical facilities | 0.257172 | **100** | Lao Govt. |
| Total | 35.850412 | **100** |  |  |

[1] PNPC has paid compensation of $10,000 per person for the 71 deceased, and paid 28 orphaned children compensation money calculated at 1,100,000 KIP (about $57) for each month remaining until each child reaches the age of 18.

[2] Refers to the affected household's property damage, except for the damages to housing (vehicles, outbuildings, valuables, etc.).

[3] Refers to compensation for business enterprises that operated within the affected area.