

# Gender Equality and the Extractive Industry in the Lower Mekong Region



*Dhaatri Resource Centre for Women and Children  
Supported by Oxfam America, Cambodia*

# **Gender Equality and the Extractive Industry in the Lower Mekong Region**

**Dhaatri Resource Centre for Women and Children  
&  
International Women and Mining Network/  
Red Internacional Mujeres y Minería (RIMM)**

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# Gender Equality and the Extractive Industry in the Lower Mekong Region

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Dhaatri Resource Centre for Women and Children &  
International Women and Mining Network/Red Internacional Mujeres y Minería (RIMM)  
301, Ratna Rekha Apartments, Ashok Nagar, Hyderabad-500020, India  
Telefax: +91-40-27543070  
E-mail: [dhaatri@gmail.com](mailto:dhaatri@gmail.com)  
Website: [www.dhaatri.org](http://www.dhaatri.org)

*In collaboration with:*

Development and Partnership in Action, Cambodia  
Centre for Gender, Family and Environment in Development, Vietnam  
Social Development Alliance Association, Lao PDR

*Supported by:*

Oxfam America–East Asia office  
#94, Russian Boulevard, Sangkat Teuk Laak I Khan Toul Kork,  
Phnom Penh, Cambodia  
Tel: (855-23) 885 412  
Fax: (855-23) 885 452  
E-mail: [phnompenh@oxfam.org.uk](mailto:phnompenh@oxfam.org.uk)  
Website: [www.oxfam.org/Cambodia](http://www.oxfam.org/Cambodia)

&

Environics Trust  
Khasra No.177,Shokeen Market, Main IGNOU Road  
Neb Sarai, New Delhi-110068, India  
Telefax: +91-11-29531814  
Website: [www.environicsindia.in](http://www.environicsindia.in)

*Editors:*

Bhanumathi Kalluri and Seema Mundoli

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## List of abbreviations

AHRD	ASEAN Human Rights Declaration
ASEAN	Association of South East Asian Nations
ASM	Artisanal and small-scale mining
CDC	Council for the Development of Cambodia
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CGFED	Centre for Gender, Family and Environment in Development
DoM	Department of Mining
DoNRE	Department of Natural Resources and Environment
DPA	Development and Partnership in Action
EIA	Environment Impact Assessment
EISEI	Extractive Industries Social and Environment Impact
ELC	Economic Land Concessions
FDI	Foreign Direct Investment
FPIC	Free Prior and Informed Consent
GDI	Gender-related Development Index
GDP	Gross Domestic Product
GEM	Gender Empowerment Measure
GMAGs	Gender Mainstreaming Action Groups
GRID	Gender Resource Information and Development Center
ILO	International Labour Organisation
IRC	Inter-ministerial Resettlement Committee
LDC	Least Developed Countries
LFA	Land and Forest Allocation
LMAP	Land Management and Administration Project
LTP	Land Titling Project
LURC	Land Use Right Certificates
LWU	Lao PDR Women's Union
MAFF	Ministry of Agriculture, Forestry, and Fisheries
MDGs	Millennium Development Goals
MIME	Ministry of Industry, Mines and Energy
MMG	Mineral and Metals Group
MoF	Ministry of Finance
MoNRE	Ministry of Natural Resources and Environment
MoPI	Ministry of Planning and Investment
MoWA	Ministry of Women's Affairs
MRC	Mekong River Commission
NCAW	National Commission for the Advancement of Women
NCFAW	National Committee For the Advancement of Women
NGO	Non-governmental organisations
NLMA	National Land Management Authority
NTFP	Non-timber forest produce
OCSC	Compensation site clearance
OECD	Organisation for Economic Cooperation and Development
PDR	Peoples Democratic Republic
RIMM	Red Internacional 'Mujeres y Minería/International Women and Mining Network
SODA	Social Development Alliance Association
STEA	Science, Technology and Environment Agency
TLUC	Temporary Land Use Certificate
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VWU	Vietnam Women's Union

# Contents

## The Regional Study: Gender Equality and the Extractive Industry in the Lower Mekong Region

<i>Introduction</i> .....	1
<i>Focus and Purpose of the Study</i> .....	2
<i>Research Methodology and Collaboration</i> .....	3
<i>Geographical Areas and Mine Sites</i> .....	4
<i>Structure of the Report</i> .....	4
<b>Section I: The Lower Mekong Region</b> .....	<b>5</b>
1. A Regional Perspective .....	7
<i>Ecology, economy and political transformation</i> .....	7
<i>Regional trends in trade and the extractive industry</i> .....	8
<i>Demography of the Lower Mekong region and gender disparities</i> .....	9
2. Gender Disparities and Status of Women .....	10
<i>Status of women in Lao PDR</i> .....	10
<i>Status of women in Vietnam</i> .....	10
<i>Status of women in Cambodia</i> .....	11
<i>Governance institutions in support of women's empowerment</i> .....	12
3. The Extractive Industry Impacts on Gender Relations in the Region .....	12
<i>Current regional trends vis-à-vis the extractive industry</i> .....	12
<i>Implications of land concessions and mining licenses on women's land rights and gender equality</i> .....	13
<i>Compensation and rehabilitation</i> .....	14
<i>Impacts of mining operations</i> .....	15
<i>Employment and work opportunities for women</i> .....	17
<i>Artisanal mining activities: Their impacts and problems</i> .....	18
4. Community Projects in Mining Areas: Best Practices .....	19
5. Future Threats .....	20
<b>Section II: Lao PDR Country Report</b> .....	<b>23</b>
Introduction .....	24
1. The Extractive Industry .....	24
<i>Mineral reserves and the mining industry</i> .....	24
<i>Employment and wages in the mineral sector</i> .....	25
<i>Artisanal mining and key concerns</i> .....	25
<i>Foreign direct investment and the mining industry</i> .....	26
<i>Mineral laws and regulatory framework</i> .....	26
<i>Women in mining and concerns</i> .....	26
<i>Concerns with regard to the mineral sector</i> .....	27
2. Land Rights and Natural Resources .....	27
<i>Land laws and policies</i> .....	27
<i>Land concessions</i> .....	28
<i>Land acquisition and resettlement</i> .....	28
<i>Forests and development conflicts</i> .....	28
3. Ethnic Minority Groups: Protection and Rights .....	29

4. Gender Equality and Women’s Empowerment .....	29
<i>Development indicators and status of women</i> .....	29
<i>Institutional and legal framework for gender in support of women’s empowerment</i> .....	29
5. Understanding the Impacts of Mining Activities on Local Communities: A Gender Equality Perspective .....	31
<i>Country study methodology and collaborating partners</i> .....	31
<i>Case studies from mine sites</i> .....	31
6. Study Findings .....	34
<i>Perspectives from women working in the mines</i> .....	34
<i>Project participation</i> .....	36
<i>Participation of women in community development programmes of the industry</i> .....	36
<i>Impacts of mining</i> .....	37
<i>Loss of land</i> .....	37
<i>Impact on traditional roles and social status</i> .....	40
<i>Social safety and risk perspectives</i> .....	41
<i>Impacts of migration</i> .....	41
<i>Access to natural resources</i> .....	41
<i>Environmental impacts</i> .....	42
7. Analysing Mining Impacts Based on Field Study and National Policies .....	43
<b>Section III: Vietnam Country Report .....</b>	<b>47</b>
Introduction .....	48
1. The Extractive Industry and Natural Resources in Vietnam .....	49
<i>Mineral reserves and their spread</i> .....	49
<i>Exploration, exploitation and processing of minerals</i> .....	49
<i>Economic role of the extractive industry</i> .....	50
<i>Mineral legislation, policies and programmes</i> .....	50
<i>Environmental protection</i> .....	50
<i>Land acquisition, rehabilitation and compensation for mining projects</i> .....	51
<i>Conflicts in mining</i> .....	52
<i>Women and the extractive industry</i> .....	52
2. Land and Natural Resources .....	52
<i>Legal framework for land</i> .....	52
<i>Land acquisition, compensation and rehabilitation</i> .....	53
<i>Forests and forest management</i> .....	54
3. Ethnic Groups/Indigenous People: Demography, Distribution and Protection .....	55
4. Status of Women and Gender Equality .....	56
<i>Historical changes in women’s status</i> .....	56
<i>Formal institutional machinery for women’s empowerment</i> .....	56
<i>Gender disparities</i> .....	56
<i>Indigenous/ethnic minority women</i> .....	57
5. Understanding Gender Equality and Gender Relations: Field Study Design .....	58
<i>Study methodology and collaborating partner in Vietnam</i> .....	58
<i>Study sites</i> .....	58
6. Impacts of Mining and Study Findings .....	59
<i>Impacts of mining experienced by women</i> .....	59
<i>Gender perspectives of labour in mines</i> .....	64

<i>Gender mainstreaming: Laws and policies</i> .....	65
<i>Perspectives of local authorities</i> .....	67
<i>Conflict resolution</i> .....	67
7. Analysis of Mining Situation Based on National Policies and Field Experiences .....	68
<b>Section IV: Cambodia Country Report</b> .....	<b>73</b>
Introduction .....	74
1. The Extractive Industry .....	74
<i>Mineral reserves: Spread, exploration and exploitation</i> .....	74
<i>Artisanal mining</i> .....	75
<i>Foreign direct investment in mining</i> .....	75
<i>Extractive industry contribution to economy and employment</i> .....	75
<i>Concessions in indigenous peoples' lands</i> .....	76
<i>Institutional, legal and regulatory framework</i> .....	76
<i>Mineral production</i> .....	76
<i>Impacts and concerns with regard to the mineral sector</i> .....	77
2. The State of Forests .....	78
3. Indigenous Communities .....	78
<i>Demographic indicators</i> .....	78
<i>Land and forest rights of indigenous peoples</i> .....	78
<i>Problems faced by indigenous communities with regard to land and forests</i> .....	79
4. Land Rights and Natural Resources .....	80
<i>Land reform, relevant legislations and institutions</i> .....	80
<i>Land concessions</i> .....	81
<i>Land acquisition, compensation and resettlement</i> .....	81
5. Status of Women and Gender Equality .....	82
<i>Some demographic indicators</i> .....	82
<i>Indigenous women</i> .....	82
<i>Gender inequality in ownership of land and assets</i> .....	83
<i>Indigenous women and land laws</i> .....	84
<i>Gender equality and protection of women: Legal and institutional mechanisms</i> .....	84
<i>Mechanisms to support gender mainstreaming</i> .....	85
6. Understanding Gender Equality and Gender Relations in the Context of the Extractive Industry .....	85
<i>Field study design and methodology</i> .....	85
<i>Mine sites and areas selected for the study</i> .....	86
<i>Impacts of extractive industry activities: Study findings</i> .....	89
<i>Violation of free, prior and informed consent: Impacts of its violation</i> .....	89
<i>Impacts of existing small-scale, artisanal and transnational mining operations</i> .....	93
<i>Condition of workers in the small-scale and artisanal mining</i> .....	94
7. Analysis of National Policies and Field Study Findings .....	98
<b>Section V: Conclusions</b> .....	<b>103</b>
A Regional Analysis of the Extractive Industry Impacts on Gender Equality .....	104
<b>References</b> .....	<b>108</b>
<b>Additional Bibliography</b> .....	<b>112</b>





# The Regional Study Gender Equality and the Extractive Industry in the Lower Mekong Region

## Introduction

Any framework for development can be holistic and socially just only when it incorporates the universal human rights principles in their true spirit. This includes gender equality and equity where men and women, and people of all genders are treated equally, have access to equal opportunities, can exercise their freedom of speech and expression without intimidation or fear, and are not subject to any forms of violence, abuse, discrimination or harassment. The Universal Declaration on Human Rights, the Millennium Declaration and the eight Millennium Development Goals (MDGs) derived from it offer a framework for development based on principles of equity, empowerment, participation and accountability that world leaders from majority of the countries agreed to respect and adopt in their respective development planning and policies.

While the historical forms of human subjugation and oppression based on class, caste and race were found unacceptable and were challenged, mainstream consciousness over gender-based violence and discrimination rooted in the cultural patriarchal normative structures that have dominated the control over material resources, assets, decision-making roles, and the objectification of the female body in most societies, has been limited. In the process of reinforcing power hierarchies, the suppression of the women's body, behaviour, entitlements and freedom were enforced not only in traditional informal social transactions within the private sphere, but this also steered the direction of legal, economic and political decisions and structures of governance in the public domain. Hence, while social inequalities have culturally varied in different geographic locations, the oppression of women and discrimination have universally continued across classes, cultures and geographies, albeit through different nuances and levels of discrimination.

Traditionally prescribed social norms under feudal patriarchal structures have prevented women from accessing their basic rights to education, health care, decision-making, work, and ownership of resources reflected in public policies and investments that excluded women. Further, the changes in the political and economic policies of different nations post the 1990s, including those of South East Asia, have invisibly affected gender relations in more serious ways in the name of poverty eradication and social transformation. Where gender relations and status of women are concerned, these economic processes have not only proved to be non-transformative, they have reinforced traditional gender-based oppression and brought in new forms of discrimination and abuses on women that are most starkly experienced in the context of mineral extraction and mining operations. They are serious because they are largely State induced through development policies which directly or indirectly permit this widening of gender divisions. They are also alarming because the nature of impacts when large-scale transnational extractive industry projects enter the politico-economy of under-developed and developing countries, the impacts are macro. The pace at which these changes are happening without putting into place the required legal, regulatory and social mechanisms for ensuring gender equality, forebodes serious problems to protecting women's rights. Although most countries in South East Asia have committed themselves to the human rights principles and to meeting the targets under the MDGs, and their respective Constitutions profess the spirit of gender equality, the processes being adopted in the name of reaching these goals, can be far from anticipated to achieve them, especially where the extractive industry is concerned.

When mining companies acquire large tracts of land, forests and other natural resources and convert traditional occupations and social structures into industrialised economies, this brings drastic changes in institutional, cultural, economic and social relationships. It is imminent to

influence the manner in which negotiations shift between the genders, particularly between men and women who originally reside in these areas or between native and migrant communities or between corporate and community agencies and between formal and informal institutions. These shifts in gender relations have been experienced in almost all mining affected areas in the world (RIMM 2010) where gender-based abuses and exploitation of indigenous women, women living around mine sites, women working in the mines, women artisanal miners or as wives of mine workers could not find platforms for articulation of their voices and whose losses were/are of low priority to policy-making bodies.

Most often policy makers, financial institutions and corporations demonstrate the benefits of a mining project on the basis of the physical changes in housing, the use of gadgets by local households, generation of businesses and trade ('indirect benefits'), changes brought to women's dressing or other similar symbols of modern growth (ICMM 2011). Unless these benchmarks are redefined, and as long as the real social equity indicators are pushed to the peripheries of development planning, the dangers of sectors like the extractive industry which have global testimonies of gross human rights violations, we will only restrict our notions of responsibility to marginal incentives and welfare programmes for women while taking away their basic rights and abusing their bodies.

Who is accountable to women who are forced out of their lands, have no source of livelihood, have to migrate out of their safe environments? Who pays for the widows of silicosis, tuberculosis, radiation and other forms of chronic, reproductive and terminal illnesses, accidents, or injuries induced by extractive industry operations? Who takes responsibility for the women who are thrown out of their traditional occupations as artisanal miners when large corporations get licenses over their lands? What alternatives are created to support the women who are forced to take their children for mine labour or other forms of labour due to destruction of their livelihoods? What security is provided when women are terrorised by armies and military forces financed by mining companies? Are there policies and safety nets that can come to the rescue of women when alcoholism and domestic violence escalate as a direct impact of mining induced 'benefits' brought into communities? Who cleans up the rivers polluted by mine tailings which are the women's main household resource, food, income and spirituality? What judicial mechanisms are available for women when

their lands are illegally encroached by mining companies and their subsidiaries or when mine labour is informal, unpaid, insecure because the percentage of women who secure formal employment in the mines is miniscule compared to the large numbers of women who are working on contract labour or are thrown out of their lands? What tools for information dissemination and access to democratic governance machinery exist for women's grievance redressal? What price do rape, sexual assault, trafficking and violence hold vis-a-vis mining economies? These and many more are the questions that need to be weighed against the benefits projected from mining which offers only a few opportunities for women while posing major threats to them.

These issues are being raised, ad nauseum, by human rights groups and communities in the last few decades. The business and human rights dialogue at the United Nations (UN) level is debating over mechanisms for corporate responsibility and their due diligence (UNHRC 2011). Yet there are only a few mining corporations which have come forward to adopt a gender focus in their social policies, like the recently released resource guide on gender of Rio Tinto (Rio Tinto 2009) which is only at a stage of preliminary surveys. Its authenticity has yet to be proved as its case studies on human rights due diligence mainly deal with exploratory projects and not where their extraction work has a longer history (and a notorious one) and their community projects do not reflect the correlation between impacts and gender responsibility. However, what entails due diligence on gender concerns needs to be questioned both from the responsibility of States as well as that of corporations.

## **Focus and Purpose of the Study**

The Lower Mekong region has asymmetries in demographic distribution of resources and development opportunities whether in the form of land ownership, education, access to health care or participation in governance. These traditional asymmetries are more likely to get compounded when powerful mining lobbies backed by political powers are involved in changing the matrix of resource ownership and opportunities. The region is also home to a vast indigenous population who are the majority people affected by extractive industry operations and who do not have opportunities for their remote voices to be represented.

The extractive industry is entering the region of the Lower

Mekong Basin as all three countries of this study—Lao PDR (People’s Democratic Republic), Vietnam and Cambodia are steadily moving into foreign direct investment (FDI). Even while little information is available on the impacts of this sector on the population and environment in each country, much less is known about the current processes of change affecting gender relations and on the lives of women who are directly and indirectly impacted by these projects. Vietnam and Lao PDR are ahead in opening up their lands and forest regions for large-scale mineral extraction but Cambodia is largely at an exploratory stage, yet plans to develop into full-fledged operations in the immediate future. This study, therefore, comes at a juncture when regional cooperation and national interests are forging alliances for mining sector advancement along the Lower Mekong region.

## Research Methodology and Collaboration

The study was undertaken as a collaborative research between Oxfam America (South East Asia) and Dhaatri Resource Centre for Women and Children, India. As a constituent member of the International Network on Women and Mining/Red Internacional “Mujeres y Minería” (RIMM) which is an alliance of communities, community-based groups, advocacy and research organisations who are all concerned with the impacts of extractive industry projects on the lives and livelihoods of women, as workers, as indigenous communities or as women living in mining areas, Dhaatri Resource Centre and RIMM attempt to initiate a dialogue in South East Asia. Women in this region have little access to information, articulation or platforms for raising their concerns on the impacts of mining projects and therefore, the region is of critical relevance to the work of RIMM in building linkages with mining affected women.

In each of the three countries, the research was partnered with national level organisations/networks working on issues linked to mining and gender. In Cambodia, Development and Partnership in Action (DPA) which houses the Extractive Industries Social and Environment Impact (EISEI) network was the principal collaborating partner, while in Vietnam our partner was Centre for Gender, Family and Environment in Development (CGFED) and in Lao PDR our partner was Social Development Alliance Association (SODA).

Structured questionnaires for interviews with research participants were designed as a tool to gather information

with the questionnaires customised to a considerable extent keeping local situations and country contexts in mind. Focus group discussions were also held as a part of the research methodology.

The study looked at the existing and potential problems of women living in the mining affected areas—women from communities, particularly indigenous communities, women artisanal mine workers, women displaced or threatened to be displaced by mining projects and their current status, and the impacts of mining on gender relations at local and political levels in social, economic, health, ecological and cultural aspects. The study attempts to capture the perspectives of women directly and indirectly affected by mining and their demands for fulfilment of their rights vis-à-vis mining activities in the political contexts of their respective countries. It was undertaken under the hypothesis that:

- The extractive industry has serious negative gendered impacts
- The problems faced by women are separate and invisible when they lose their lands and natural resources
- These impacts have to be assessed in all their dimensions—economic, ecological, social, psychological, cultural, legal and in terms of violence against women
- In order to strengthen good governance and democracy and to define sustainable development, it is necessary to strengthen gender equality and equity
- There is an urgent need to consciously understand the negative impacts of mining activities on women by policy makers, political leadership, civil society and by communities and women themselves

Therefore, the study is intended to enable engagement between communities, civil society and policy makers and is part of the process of building a dialogue and public discourse with the multiple stakeholders who have interests in this region for the advancement of gender equality.

With facilitation from Oxfam America, a series of consultative workshops were conducted, right from the stage of conceptualisation when national level workshops were conducted in Cambodia and Vietnam followed by workshops with respective collaborating groups in the three countries and pilot studies at the identified mine sites. The study covered both secondary research and primary level data in different mineral affected areas. One of the focus areas was also to understand the status of artisanal and small-scale mining (ASM) and the impacts of large-scale transnational mining projects pushing out these traditional miners of ASM.

## Geographical Areas and Mine Sites

In Lao PDR three mining projects—Sepon, Phu Bia and Sakai—were covered. A total of 216 women were interviewed from eight villages in three provinces where the mine sites were located. These included 70 from the Sepon mine site in Savannakhet province and from the three villages of Nongkadeang, Nonesomboon and Hoaydang; 89 from the PhuBia mine site in Vientiane province and from the villages of Nam Mo and Nam Gnone; and 57 from the Sakai mine site in Vientiane Capital City and from the three villages of Sakai, Houykhram and Nahoy. The three companies operating in these sites are MMG Sepon, Phu Bia Mining Limited and Sakai Mining Joint Venture Company. In each of the eight villages four focus group discussions were conducted covering women affected by the projects, women working in the companies, local authorities and male mine workers. Discussions with other key informants from government departments like the Department of Natural Resources and Environment (DoNRE), Department of Mining (DoM), Lao PDR Women’s Union (LWU), research institutes and non-governmental organisations (NGOs) were also held.

In Vietnam Yen Bai and Ha Tinh provinces were selected for the study. In Yen Bai province 20 individual interviews were conducted—10 in Hung Tinh commune, Tran Yen district, and 10 in My Gia commune of Yen Benh district. In Ha Tinh province 10 individual interviews were conducted in the two wards of Dau Lieu and Nam Hong of Hong Linh

Town each. In all, 40 individual interviews were conducted and four focus group discussions were held as part of this research.

In Cambodia eight villages from the two provinces of Ratnakiri and Mondulkiri were selected. In Ratnakiri province, Kachong, Malik and Lum Chor communes were selected and interviews and focus group discussions were conducted in the villages of Borloy, Malik and Kachouk. In Mondulkiri province, the communes of Chong Plas and Dak Dam with villages of Pu tong, Kneng, Pu Chob, Pu Treng and Pu tang were selected each covering 20 participants. In total, nearly 200 participants, with majority being women were interviewed apart from focus group discussions with community members, indigenous people, non-indigenous people and mine workers.

The minerals covered under the study were gold, copper and silver in Lao PDR; iron ore and limestone in Vietnam; and bauxite, gold, and gem stones in Cambodia.

## Structure of the Report

This report is organised into five main sections:

- I. The Lower Mekong region
- II. Lao PDR country report
- III. Vietnam country report
- IV. Cambodia country report
- V. Discussion and conclusions



Chong Plas mines (Cambodia): Children perform several tasks in the mine site from a very young age

**SECTION I**  
**THE LOWER MEKONG REGION**



Artisanal woman miner in Chong Plas gold mining area, Cambodia

# THE LOWER MEKONG REGION

## A Regional Perspective

### Ecology, economy and political transformation

The region of South East Asia has one of the world's longest flowing rivers, the Mekong, which courses through the five countries of Thailand, China, Cambodia, Vietnam and Lao PDR and is one of the world's most biodiversity rich regions. The Lower Mekong region spreads across four of these countries excluding China where political, social and economic disparities between the countries are quite discernible. While Vietnam and Thailand are middle income countries moving towards establishing industrial sectors as their growth engines, Cambodia and Lao PDR are

considered as Least Developed Countries (LDC) (UNCTAD 2013) with a predominantly agrarian economy. The UN Human Development Index (HDI) ranks the Lower Mekong Basin countries as 'medium human development' countries.

Politically, while Vietnam and Lao PDR continue to be ruled by single party communist governments, the other countries in the Mekong region have taken the route of some form of democracy with Cambodia being the youngest in transitioning between a symbolic traditional kingdom and an elected government. Yet, the region as a whole, which is rebuilding itself from a long history of war and conflict, is emerging as one of the world's most threatened regions due to the rapid economic development within a fragile river basin (MRC 2011) and a far more fragile political scenario. The industrialisation model to capture and exploit the natural resources of the Mekong region through building of dams and hydro projects, commercial plantations, tourism, wildlife sanctuaries, power and mining projects has steered the process of social and ecological change with serious gaps in the mechanisms of governance, institutional capacities and accountability. Particularly, the extractive industry, across these countries, is gaining entry as one of the core sectors of the economy, capitalising on the environment of economic liberalisation, FDI and land concessions (MRC 2011).

The livelihoods and food security of approximately 60 million people living in the Lower Mekong Basin are closely linked to the Mekong River and its resources. The diverse Mekong ecosystem supports a wide variety of livelihoods and provides food security for most of the Basin's rural population. Rice production, wild fisheries, and other aquatic products, livestock and wildlife are the main food sources. The inland fisheries of the Mekong Basin are among the world's largest and are central to feeding the Basin population for whom fish and other aquatic products are the main source of animal protein and a vital source of micronutrients. The economic value of fish produced in the Basin is extremely high even without taking into account the value of subsistence fisheries and the many tens of thousands of processing and other fishery enterprises.





Migratory fish constitute a large proportion of the total fish catch. The critical role that the wetlands perform in absorption of water, prevention of floods and contamination of water bodies as they are transition zones between water and land based ecosystems, is yet not recognised enough to protect them. The biodiversity of the Mekong includes several undiscovered species of flora and fauna, and includes 14 critically endangered species (including the Irrawaddy dolphin), 21 endangered species and 29 vulnerable species. Hence, the disturbance to the habitat by short-sighted commercial activities causing degradation to the environment in the transboundary of the Mekong basin is one of serious concern (MRC 2011).

As a strategy for addressing their poverty and low development, these countries are competing for economic growth and incomes from export and foreign exchange by exploiting the vast natural resources. However, disparities between the countries and within rural and urban populations, has led to skewed growth confronted by high levels of poverty, mortality and illiteracy.

Cambodia has many critical areas to address in terms of food security, poverty reduction, education and social development. Lao PDR may have made significant progress but its ethnic groups living in remote areas and in the highlands have limited access to basic amenities and development facilities. Vietnam has impressive gender parity indices for most development areas, but has serious problems of domestic violence, HIV/AIDS and disparities in development between women from mainstream communities and those from ethnic minorities. The economy is inter-dependent on regional linkages and markets so that the subsistence livelihoods which are closely linked to the ecosystem of the Mekong Basin and its seasons can be sustained. Besides, forest cover is considerably high (43%) and particularly so in Lao PDR and Cambodia, but the high rate of deforestation that is happening due to lack of strong monitoring and legal systems, the economic policies of development like hydel projects, and diversion of forest lands for commercial activities like mining are causing considerable distress to the ecology and local sustenance of rural dwellers (MRC 2011). The Mekong River Commission (MRC), while drawing up its strategy plan cautions the increase in water contamination of the Mekong River due to industrial chemicals and site specific incidence of heavy metals and toxic pollutants found along the river where factories and industrial operations like mining are located.

Agriculture which is mostly subsistence with rice production being the mainstay of cultivation is under potential threat due to changing policies of commercialisation of land and agriculture. Commercial production through shifting land use patterns to plantations like rubber, oil palm, and other market driven energy crops have converted large tracts of rice cultivation lands into cash crop areas, thereby affecting the food security as well as deforestation and degradation in land (MRC 2011). Thus compromising on food security for modern definitions of economic development, the Lower Mekong region countries are coming under question from both conservation and social action groups.

## **Regional trends in trade and the extractive industry**

The extractive industry has taken advantage of the large Asian market which has induced a huge demand for mineral based products. The Association of South East Asian Nations (ASEAN) Minerals Cooperation Action Plan 2005-10 set the tone of the governments in South East Asia stating their strategy for sustainable development to be based on 'vibrant mineral sector for sustainable development' collaboration. The Action Plan envisages 'that mining as an industry will continue to expand over the next 20 to 30 years to satisfy a continuously increasing demand from industrial production, agriculture, high-tech sectors, and merchandise producers' (ASEAN 2005).

The ASEAN Free Trade Area declared its commitment to providing a conducive environment for intensifying private sector participation through developing an investor friendly regulatory framework in the region (ASEAN Vision 2020). The ASEAN Vision 2020 laid emphasis on inter-ASEAN trade and investment cooperation in the minerals sector, and for strengthening the 'rational and optimal utilisation of mineral resources' (ASEAN 2005). This process strengthened the consolidation of political and regulatory mechanisms that ushered in simultaneous ways, the entry of transnational mining companies into the region, with a quicker and smoother process of mineral information sharing and the hastening of major shifts in land use and management from traditional occupations to mineral industry related operations.

It further led to the ASEAN Mineral Cooperation Plan for 2010-15 to cement the regional political ties and free

trade negotiations on mineral exploration, processing and exports. At the beginning of the Plan a projected commitment to sustainable development and social and environmental responsibility while stimulating the growth of the minerals sector did become a focus of collective free trade agreements between the ASEAN countries. A Mineral Trust Fund was set up to provide financial support across the region for cooperation programmes and activities in sharing of mineral information, data base, trade and investment in minerals, sustainable mineral development and other capacity building projects (ASEAN n.d).

The global financial crisis that affected the region to some extent is going through a review of its economic processes and according to the Organisation for Economic Cooperation and Development (OECD), there is a need for rebalancing and reallocating of public resources. It is predicted that the ASEAN countries will maintain consistent growth rates and overcome the crisis through the regional cooperation and trade and through giving a thrust to areas such as infrastructure, mining and trade investments (OECD 2010).

Thus, while mining based economic growth has clearly emerged as the model for development in South East Asia and much as sustainable development for environmental and social accountability have come to take a seat of caution among the regional deliberations, this rapid change has however, put severe stress on the natural resources and on protection of human rights for which not enough policy, legislative and monitoring mechanisms exist in the region.

The global experiences of communities and especially ethnic minorities and indigenous communities, who live in mining affected areas, are found to be seriously and negatively impacted where governments have compromised on their security, livelihoods, resource ownership, development and right to decision-making in most countries (TF/FPP 2003). The open door policy of inviting FDI in South East Asia has led to a recent surge in mining concessions which, in the glaring presence of asymmetries of regional political power stakes, internal social disparities and fledgling legal and Constitutional structures that do not yet permit the development of a strong civil society or public accountability mechanisms, can predict violations of human rights and dignity. Further, any sector that leads to imbalanced social growth with little consciousness for parity in gender equality can fail to meet the MDGs set for their countries.

## Demography of the Lower Mekong region and gender disparities

South East Asia is a region that has historically experienced gender inequalities and various forms of abuse on women. The historical social structures within Lao PDR, Vietnam and Cambodia have ample evidence of this wide divide between the genders that are reflected in their human and gender development indices. Traditionally, all three countries have had highly gender equal social structures reflected in the status of women, their land and inheritance rights and women's participation in decision-making. Yet in all the three countries, the transition in political and economic structures have had their impact on gender relations, reducing women's status and subordinating their roles in all spheres with patriarchal systems dominating gender relations.

Lao PDR, with a population of 6.3 million, is an LDC country with a male literacy rate of 85% and a female literacy rate of 70%. There are huge gender discrepancies in literacy levels that are particularly low among women from ethnic minorities (LSB 2005). Infant mortality rate was 54.1 per 1000 live births in 2011 and the estimated maternal mortality rate per 100000 births was 580. In 2011 the life expectancy was 65.4 years and births attended by skilled personnel, was only 18.5% (LSB 2010). The Gender Empowerment Measure (GEM) for Lao PDR is 0.547 value, ranking 138th in the world (UNDP 2011) while Gender-related Development Index (GDI) was 114 (MoWA 2008). The sex ratio for 15–64 years is 98 males per 100 females and for 65 and above is 82 males per 100 females (LSB 2010) with an overall national sex ratio of 99.7. The labour participation rate for females is 76.6 with majority of them in the informal sector (WB 2013).

Vietnam has very high gender parity in literacy where the literacy rates of the population of 15 years of age and over has been 90.3% in 1999 and 94% in 2009. For the past 10 years (i.e since 2000), the literacy rate of women has increased 4.9 percentage points while male literacy rate only increased 2.2 percentage points, producing a narrower difference in literacy rate between men and women. The literacy rate of the male and female population aged 15 and over in 2009 was 96.1% and 92%, respectively. There are less than 4 million people who had never attended school in Vietnam, accounting for 5% of total population aged 5 years and over. Infant mortality rate of the 2009 Census estimated for 12 months prior to the census time-point has fallen to 16 per thousand as compared to 36.7 per thousand in 1999 Census. Sex ratio collected from Censuses was 94.2 in 1989,

96.4 in 1999 and 97.6 in 2009 (males per 100 females) (CPHCSC 2010). Maternal mortality is 69 per 100000 in 2009. Women accounted for 49.5% of the economically active population in 2007, with the majority being involved in agriculture (JICA 2011). Vietnam ranks 105 in GEM and 90 in GDI (MoWA 2008).

Cambodia, with a population of 14.74 million in 2011 (ADB 2012) has a sex ratio of 93.5 (males per 100 females)<sup>1</sup>, but has poor gender indicators. Cambodia ranks 83 out of 93 countries in the GEM and 113 out of 157 in GDI. Women's literacy rate is at 83% but it is significantly low for majority of poor and indigenous women. At the primary level girls comprised 47% of the enrolment in 2007, while at the lower secondary school level it declined to 45% and further to 39% at the secondary level. In higher education girls are negligible and 40% of women in the age group 25–44 are illiterate as compared to 22% of men. Maternal mortality is a cause for concern with 472 deaths per 100000 live births as well as the rise in unsafe abortions. Deliveries at health facilities are as low as 22% (MoWA 2008). While 71% of women aged 15 years and above comprise the national workforce, 83% of them are in the informal and unorganised sector or are self-employed workers. Only 17% of the women workers in Cambodia are paid employees (LICADHO 2004).

Despite the Constitutions of all the three countries laying down equality between men and women in all spheres, gender disparities persist in many key areas like education, health, economic levels, especially in rural areas and among some ethnic/indigenous groups due to social prejudices, early marriage or pregnancy, burden of household chores, low enrolment of girls in schools and lower employment opportunities. In the three countries malnutrition, anaemia, endemic diseases like malaria and maternal mortality due to inaccessibility of reproductive health services are some critical causes for serious health problems among poor women especially from ethnic groups. The low levels of education and literacy severely constrain the employment and livelihood opportunities for women although they are the majority contributors to agriculture, forestry, traditional crafts and businesses and more than 70% of them are in the informal sector. They are mainly relegated to domestic responsibilities, family and child care with limited decision-making role.



<sup>1</sup> The extended conflict in the country is a reason for this sex ratio where women outnumber men

## Gender Disparities and Status of Women

### Status of women in Lao PDR

Majority communities in Lao PDR practice matrilineal and matrilocal structures of social relations where women and daughters traditionally inherit land and property. In Lao PDR, according to customary practice, daughters make up the majority of those who inherit from their parents owing to the matrilineal system of the majority Lao-Tai group. Aside from the common property attained during marriage, the percentage of land that women receive from their families is greater than the percentage of land that men receive (UNDP 2007; GRID 2005; CEDAW 2003). Communal land tenure systems customarily practiced are also recognised within the legal framework such as the Forestry Law (1996) as well as Ministerial Decree 997 of the Ministry of Finance (MoF), acknowledges individual land use rights based on customary practices (Siedel et al 2007).

In spite of positive legal, political, and cultural conditions for recognition of women's rights in Lao PDR, there have been problems in issuing land documents to women. This is particularly so with respect to land allocation programmes in rural areas where land use certificates are being issued. On registration of land titles, in 58% of the cases only the husband's name appears in the land document, even though originally only 18% of the land belonged to men. As for women's land, only 16% is registered in their name, although women originally owned 30% of the land. This means only 52% of the registration of the land right of women is correct. The formal process of land registration under the Temporary Land Use Certificates (TLUC) has thus initiated a process of reducing women's ownership of lands due to lands being registered in the names of males (CEDAW 2003; Lastarria-Cornhiel 2007).

### Status of women in Vietnam

Although several political changes and conflicts have influenced the social relationships in Vietnam with women's status losing its earlier respect and parity, the Vietnam Constitution and the Vietnam Communist Party have enshrined the principles of gender equality. A unique structure within the party was the setting up of the Women's Emancipation Association, now called the Vietnam Women's Union (VWU) which provided for parity in all spheres of

political and economic institutions, but also evolved development measures to provide facilities for women's participation in these spheres (VWU n.d).

The Vietnamese Constitution, as well as the Civil, Criminal and Family Codes generally provide for de jure equality between men and women in the political, economic, cultural, social and family spheres. The Marriage and Family Law (1986 revised in 2000) states that ownership certificates for properties jointly owned by husband and wife must be registered with the names of both spouses, that all land acquired during marriage is considered to be a common asset, and specifies the equal obligations and rights of both wife and husband on joint/common property and requires that, "Buying, selling, exchange, lending, borrowing and other transactions related to large value property shall be made with an agreement of spouses". The Decree 70/2001/ND-CP stipulates that households that already received land use right certificates with only the name of the husband or the wife can request a new certificate with the names of both husband and wife. If the husband and wife do not ask for the new registration paper, such property shall still belong to their common ownership (FAO 2011a).

## Status of women in Cambodia

In Cambodia traditional societies were considered to be relatively gender equal with women having a greater decision-making role at the household level, having autonomy to handle financial transactions and being able to inherit and own assets like land, houses or rice fields. However, women were still accorded a lower status, also evidenced in the high rate of domestic violence, rape and sexual exploitation of women and children. Chbap Srey, the traditional code of conduct for women enshrined within its customary practices, views women's chastity and femininity from a patriarchal lens. These continue to be followed, although in the highlands among some indigenous communities, matrilineal customs are practiced (MoWA 2008).

Women and men in Cambodia have equal legal rights to land with women owning land. Property inherited by women can be registered in her name only, while land obtained during marriage is common property and needs to be jointly registered. However, cultural prejudices and social pressures prevent women from registering property they bring into the marriage in their own name for fear of offending the husband. These are compounded by practical obstacles



Indigenous woman from Pu Tang village, bauxite mining area in Mondulkiri, Cambodia had serious concerns about the exploration activities in their lands

that also prevent land registration like burden of household duties, problems of illiteracy and lack of documentation. Land ownership of female-headed households particularly in the case of widows is more precarious. Also while traditionally women could own assets, decision on sale of these assets, be it land, cattle or vehicles, were taken by the men. For example, while in practice, 14% of women own land alone, only 65% of these could sell it without permission (MoWA 2008).

The legal framework for gender equality in land includes the 1993 Constitution, the Law on Marriage and Family (1989), the Land Law of 2001, and Sub-decrees. While in many cases the land rights vest in the male head of household, the ownership is to be registered jointly in the name of the husband and wife. However, awareness among Cambodian women about their land rights is very low and they also have limited access to legal aid and support. This is further exacerbated by inconsistent approaches applied by local authorities and land registration officers, due to their limited understanding of procedural guidelines (USAID 2011; Mehrvar et al 2008; MoWA 2008).

## Governance institutions in support of women's empowerment

Lao PDR has politically recognised the need for formal institutional structures to advance and protect women's rights and built within its party structure, the LWU which runs vertically from village to national level in representing the women's agenda in all spheres of development planning. The setting up of the National Commission for the Advancement of Women (NCAW), the ratification under Convention on Elimination of all forms of Discrimination Against Women (CEDAW) and the Beijing Platform for Action and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) set a positive tone for supporting women's rights at a policy level. Yet, the lack of translation into programmatic action or sensitive approach to development planning is reflected in the failure to take cognizance of the impacts of these approaches on women's lives. The extractive industry impacts are a concrete example of this dichotomy between stated policies and gender disparities induced by mining activities.

Vietnam is a signatory to CEDAW and towards meeting the commitments under it, has instituted the National Committee for the Advancement of Women (NCFAW) and has a National Plan of Action, in consonance with the Beijing Plan. More than 50% of the women in Vietnam are members of the VWUs which is the largest representative body and the political voice of women (UNVn n.d). Several other national strategies and action plans provide the backdrop of Vietnam's intent to put gender equality within the development framework. However, these have not translated into real leadership for women or empowerment of their rights and, the extractive industry portends an increase in vulnerability for women affected by mining projects. The VWU forms the backbone of the political organisation in support of development of women in Vietnam and is the largest national women's organisation that offers membership to all women in the country.

The Cambodian government has enacted the Law on the Prevention of Domestic Violence and Protection of Victims 2005, has a National Action Plan to Combat Violence Against Women and the Law on the Suppression of Trafficking in Humans and Sexual Abuse. Further, the Labour Code 1997, the Land Law of 2001, the Organic Law passed in 2008 are some of the legal spaces for women's equality and rights. The Royal Cambodian Government has also committed to respecting gender rights by signing CEDAW and has submitted a combined initial, second and third report that was reviewed by the CEDAW Committee in 2006. It is a signatory to the Beijing Platform, signed the Declaration for Elimination of Violence Against Women in the ASEAN region, and has a National Strategy Plan which provides a framework for meeting the goals under the MDGs.

## The Extractive Industry Impacts on Gender Relations in the Region

With the above legal and national level indicators for women, this study tried to analyse the mining industry and its operations in the backdrop of micro level experiences of men and women from mining areas. The implied threats were observed mainly from a gender perspective of understanding existing and proposed mining operations in the three countries. The core findings are discussed below.

### Current regional trends vis-à-vis the extractive industry

All the three countries are fast entering into extractive industry contracts with transnational companies due to their economic policy of 100% FDI. In Lao PDR and in Vietnam moratorium has been declared on new mining exploration licenses due to overlapping of multiple licenses (DFDL Mekong 2010) and stated recognition of negative impacts due to indiscriminate mining. However, this has not discouraged engagement with transnational companies and investors, a clear indication of the thrust towards large-scale mining. There is a competing rush between regional companies from Vietnam, China, Korea, along with Western and Australian traditional players and these have implications for issues of human rights and environmental violations.

In Vietnam and Lao PDR, extraction of minerals by small and large companies, is already taking place for some time now and impacts of not only exploration, but of extraction are visible. In Cambodia, transnational mining licenses are mainly at an exploratory stage, and hence, the current study's observations are drawn from experiences of communities from exploratory activities. Even these are clear markers of future threats as far as people's consultation and consent are concerned. In the context of gender these have serious implications on land rights on the one hand, with particularly ethnic/indigenous communities involved, and on the issue of ASM.

Lao PDR and Cambodia are in the process of land registration and settlement of titles to local communities as their administrative and policy mechanisms have only now started institutionalising formal land registration processes to its citizens. This is a complex and laborious process considering that they have limited institutional capacities,

technical expertise and lack political will to complete this process early. Yet both countries have hastily encouraged a flood of land concessions and mining licenses and as Lao PDR being ahead on this issue, it has now declared a moratorium due to problems created by overlapping interests and conflicts. However, both countries have a larger political interest in mining licenses than in land registration/titling processes going by the number of licenses vis-à-vis communal title deeds granted. These have started creating not only fear but also legal complications as people have no formal proof of their ownership to the lands being licensed, have no rights to claim for compensation and suffer ambiguities on issues of consultation and consent.

In Cambodia, the indigenous people's lands are undergoing a process of communal land titling. While this gives them formal rights over their collective entitlements, the process of issuing mining licenses before communal titles is causing alarm. Although indigenous people enjoy a special status and privileges constitutionally, the case studies showed that the field situation was different.

In Vietnam over 2000 small-scale and transnational companies received mining licenses. Decentralisation is reported to have led to indiscriminate growth in the small-scale sector with a huge escalation in the number of licenses sanctioned, although State owned enterprises are more than 50% of the total licenses. Large-scale projects are again anticipated to be located in the mountain regions and highlands where ethnic minorities stand threatened.

### **Implications of land concessions and mining licenses on women's land rights and gender equality**

Although in Cambodia and Lao PDR the Constitutions provide for equal rights to men and women over land and property, and although in Lao PDR women traditionally inherit land and property, in reality, land is owned by male family members and most decisions regarding management, sale, concessions, and all transfers are the domain of men. Although land registration titles are to be jointly given, women do not have the opportunity or awareness of this, and rarely are lands registered in their names. In Vietnam the Constitution formally recognises equal rights for men and women over lands and property. Land is to be registered jointly in the name of both husband and wife and even if registered in the husband's name only, by law it is considered as a joint property. However, as in Lao PDR and Cambodia,

decision-making and management mainly vest with male members except in some of the ethnic groups.

When mining licenses are being given on individual or collective lands, the field studies in all the areas revealed that neither men nor women were consulted, or only a few male members were informed with women having no knowledge of the licenses until the time of evictions. This marks a dangerous trend where women are excluded from decision-making and consultation processes, despite their traditional rights over land and property.

In Lao PDR women from affected communities had limited knowledge of the mining operations, and had not been consulted either at the time of land acquisition or during the process of mining activities on their core issues related to land, compensation, resettlement, environment management, natural resources and their contamination and with respect to employment opportunities for women. They were merely involved in community welfare programmes to supplement their incomes.

In Vietnam, women said that they tried to form into groups and stop the mining trucks when the local authorities did not listen to their protests, but these are not considered legal, so women felt unsafe using this strategy. Focus group discussions revealed that in Vietnam women did participate in local meetings, that they represented their concerns to the people's committees, not on invitation of the company or government, but because they wanted to express their anger and protest at the negative impacts of mining. They said that they represented their problems to the local authorities who in turn forwarded them to the district and provincial levels, but there were no responses from the higher levels.

In Cambodia, even where mining is at an exploratory stage, women complained that their consent was not taken, and their objections against their lands being given for mining operations were ignored. Neither did they receive any response while trying to engage with the mining companies either not to mine or to ask them to refill the mining pits (testimonies from Monduliri and Ratnakiri provinces).

This brings to question the issue of the UNDRIP and the right to Free Prior and Informed Consent (FPIC) of indigenous women. In Lao PDR and in Vietnam, even where the governments are a signatory to the UN Declaration, they do not fully recognise the status of indigenous people. They are merely recognised as ethnic groups, thereby raising a primary contention on the Constitutional guarantees and

safeguards to these vulnerable communities. Hence, it is not clear in what context the UN Declaration is meant to be respected. Where mining licenses were issued, as in Sepon, Phu Bia and Sakai mining projects in Lao PDR and in the iron ore mining project in Yen Bai province of Vietnam, where majority of the local communities are ethnic groups, there was little consultation. Women were even less aware of the license conditions, licence area and period of mining licenses, or of compensation. In Vietnam the situation seemed to be similar where women from both Yen Bai and Hah Tinh provinces did not receive any prior information. As one woman stated,

*“ When mining began in the area we were neither consulted nor our consent sought. We were informed in a community meeting that the land and mineral resources were a property of the State. We are not allowed to disagree with this decision. A land valuation list was given indicating compensation for different types of land and door to door signatures were taken. Even those who were reluctant to sign in the beginning soon gave in when they felt that in future they might not get any compensation for land. ”*

In all three countries women reported having faced difficulty and intimidation where they tried to protest or stop the company operations. Given that in all three countries, the status of women, particularly indigenous/ethnic women is very low in all matters of literacy, employment, social and cultural rights, participation in government bodies, they face serious obstacles to active participation. In the case of mining, there were no State institutions, not even the LWUs or the VWUs who were involved in bringing about this participation or representation to raise women’s concerns at policy-making levels.

In Cambodia the women complained of denial of access to their own lands even when they had standing crops, and their access to their forest routes were blocked by drilling operations. Although the mining operations were at an exploratory stage, the companies are not taking permission from the communities, and least so from women when they drill holes or lay roads in their farming and forest lands. The concept of FPIC has not been applied to a large extent with ethnic groups in Cambodia.

In Lao PDR the women complained that they did not receive any prior information, not even of the Nam Kok river

being used to dump mine tailings until they experienced health problems from these chemical toxins (Khouangvichit 2010). In Lao PDR and Vietnam where mining projects are operational, there were serious lapses in access to project information by affected communities or project impact assessment documents. It was difficult to access the Environment Impact Assessment (EIA) documents of mining projects but those that were available did not have any specific mention of proposed impacts on women, details of environmental, disaster and risk management plans or how the project would address the needs of women.

## Compensation and rehabilitation

With respect to compensation, in Cambodia as projects were at an exploratory stage, it appeared that there was no felt need to compensate families whose lands were taken for drilling holes or collecting samples. Communities reported that the companies merely walked in and out of their lands without their permission with limited dialogue on the forms of compensation. Hence they could not give any information on the nature of compensation or rehabilitation received. As most communities have not yet received the communal land titling records, it appears that the company and government are operating as if these were State owned lands.

In Lao PDR, there is no clear law on rehabilitation and compensation as the ministerial decrees are still under formulation although several provisions of the Constitution state that affected communities should be duly compensated. Compensation followed so far in mining projects has been ad hoc and inconsistent. Sepon mine is a standing example of the manner in which compensation was dispensed. The men and women complained that the monetary compensation given was below the market value and they experienced several complications and delays in receiving it. Different categories of losses were not clearly enumerated (trees, horticulture crops, houses, etc) and often valuation of these assets by the government was rejected by the company. There was no clarity on lines of responsibility between the company and government creating several hurdles for affected families to get proper compensation. Ethnic minorities and their specific cultural, resource and livelihood contexts were not seen to have been distinguished while providing for compensation (Khouangvichit 2010).

Women also stated that they were not clear of the compensation received as it was only given to the men and

spent by them. Resettlement is learnt to be involuntary, from secondary reports, as people had to leave their original villages due to the contamination of the Nam Kok river and where agricultural lands were made unfit for cultivation. They did not report of any consultations where women were called to discuss compensation or resettlement issues. Several testimonies from the women on problems with compensation revealed that legal mechanisms as well as institutional mechanisms were poorly placed. Similar were the experiences of women from Phu Bia and Sakai mining projects. In the interviews conducted the participants also reported that they had lost access to communal lands, forest lands and other kinds of resources like grazing lands. Accessing firewood became critical and so was bamboo, rattan and other important forest items. Compensation and resettlement did not cover any of these losses (Khouangvichit 2010).

In Vietnam, women said that they were forced to take compensation as they were threatened that compensation would not be provided later. Those who did not receive compensation had difficulties in surviving as they had lost their land. Some of the families who received the compensation spent the money on purchase of livestock which sometimes died and hence all the compensation money was lost, while some created assets for themselves. They also reported how their family relations were disrupted when either the husband or the wife had to migrate in search of work. If the husband left the village, the burden of housework and agriculture fell entirely on the wife. The law on rehabilitation and compensation for mining projects in Vietnam is similar to other industries. As mineral resources are considered State assets, land acquisition is allowed if environmental regulations are complied with, and compensation is paid as per consultation with affected land holders.

### Impacts of mining operations

Women in all the mine sites in the three countries reported that the loss of land and access to forest had negative impacts on their livelihood and food security. In Mondulakiri and Ratnakiri provinces in Cambodia, indigenous women said that exploration activities led to destruction of forest resources, and some of their crops were damaged. They expressed anxiety over future threats to their forest resources, livestock and incomes when the mining



Rich natural resources and farmlands in indigenous people's area facing contamination from iron ore mining in Vietnam (Kim Binh village)

operations would bring in equipment and bulldoze their lands. It is in the indigenous people's areas that majority of mining projects are proposed and where there are thick forests, protected areas and rich biodiversity.

In Lao PDR impacts can be seen from the Sepon and Phu Bia mines where the mining companies have occupied large areas of land for their extraction and township. There is little information on the impacts of losing land and relocation as only some people managed to get work in the company. One of the most visible impacts has been a growth in the physical infrastructure of the mining area where concrete roads, houses and restaurants have come up as a result of the cash incomes earned from mining and its service sectors. It has also translated into increase in consumer goods available and purchased. However, these physical impacts also provide a contrasting picture where those families who have jobs or contract work (mostly semi-skilled and unskilled) have better incomes and amenities, but those who lost their lands and survive on smaller plots reported reduced access to food and more poverty (Khouangvichit 2010). However all families alike reported the loss of traditional food in their diet and of being forced to purchase food in the market which has put severe pressure on women's ability to raise cash. Earlier there was more variety of food available even if there was no cash, and women being the central figures in the family responsible for cooking and providing food, did not find it difficult to gather wild food, collect home grown vegetables and rice from their farmlands to ensure food security. In the mining context, they have low cash incomes from contract labour which is unpredictable and requires them to do multiple forms of labour, and work for longer hours in order to earn enough for purchasing food from the market.



Thus loss of land, access to food from the forest which has depleted due to an expanding township and mining operations have had a direct impact on women's burden of work as well as on their mental stress. Those who work in mining companies reported that their work has doubled as the men have reduced some of their domestic responsibilities after shifting to mine labour, forcing women to take on all house and farm work. This has been a direct impact on the gender relations and division of work after mining has come in. Many families had to take hard decisions like shifting away from rice cultivation which is their staple diet or leaving their lands fallow for lack of human resource. Villages which had to relocate still go back to their original village for agriculture and forestry activities. This has increased the strain on women who have to walk longer distances to collect forest produce and do farming. None of these losses or burdens has been taken into account. Due to groundwater depletion from mining activities, crop yields have decreased although burden of work has increased. Women's income from the forest has reduced due to the distance to the forest and depletion of forest resources. Therefore, women reported that they are forced to take up small contract activities in the company even if the wages are low and payments are delayed.

Gender relations within the family were found to be strained due to economic losses and cash incomes leading to social pressures. While many reported that men tend to use their income on consumer goods instead of on essential food items, cases of alcoholism have increased in Sepon and PhuBia mining areas in Lao PDR. Women spoke about the incidence of domestic violence and sexual abuse due to more modernisation and external influences, migration of outsiders into the area as a result of mining. Commercial sexual activities are also evident today in the mining areas which was a serious concern expressed by the women in Sepon mining region. Social security was another concern pointed out due to the large floating population from elsewhere. The women expressed their unhappiness that more non-locals were hired by the company although Sepon mine has had a reputation of hiring a good percentage of local people. The wage differential between locals and foreigners was also a cause for women's anxiety. Women who are doing petty businesses like running restaurants or small shops felt insecure about their dependence on the mining company for their business and how these incomes are controlled by the men in the family. This insecurity was lesser in a non-cash survival where diverse food was collected, not bought.

In Vietnam the women reported that they experienced loss of forest resources which were critical to their survival.

As one woman explained, after the mining operations, they were left with a degraded forest where "there is no fuel wood even to cook the pigs". Water resources were depleted visibly and women found it difficult to meet their domestic water needs. In the focus group discussions they shared their problems that loss of their lands and forest resources forced some of them to work outside their villages, sometimes in the mining activities. This has caused disturbances to the gender relations where some women experienced suspicion from their husbands when they worked with other men in the mines. Some reported facing violence from their husbands due to conflicts within the family on issues of employment and migration.

Health and environmental degradation were widely reported in all the three countries. In Cambodia, as mining is only at an exploratory work, the anxiety over water and dust pollution leading to diarrhoea, stomach and skin problems, increase in malaria and fears over HIV/AIDS were expressed by the women. They find it dangerous to use the roads to go to the health centres during pregnancy as the mining trucks have damaged them. Injuries caused to children and cattle by falling into uncovered mine pits became a source of anger among the women as they felt that the companies were not being responsible. Earlier women could walk safely in the forest and to their farmlands but they started feeling insecure due to the presence of mine workers and company agents, creating tensions between the community and companies.

In Lao PDR, local communities complained that when they started experiencing skin problems, diarrhoea, stomach infections and other ailments from toxic pollutants in their Nam Kok river which was their traditional source of water and spirituality, they were merely told by MMG Sepon that they should shift their villages and relocate to the roadside. They were neither warned in advance nor were any measures to prevent water pollution taken by the company. In Lao PDR all the mine sites of the study reported water, air and land being contaminated with heavy metals which resulted in crop yields getting reduced, fisheries being adversely affected and water for domestic consumption becoming hazardous. Both, women working in the mining companies and those living around the mine sites complained of chronic respiratory illnesses, anxiety due to noise pollution and blasting operations.

In Vietnam women living downhill where iron ore mining operations are taking place complained that the red mud from the mine tailings flooded into their agricultural fields, and led to loss of crop and reduction in yields. There was no proper precaution taken to contain the spill over from the mines. They also reported of blasting operations causing

cracks and damages to their houses, often creating anxiety. Although the mining company assured people that they would be warned before blasting was done, it was not strictly followed. No compensation was paid for damages to property or to lands caused by blasting or dust pollution. As one of the women officials from the local authority commented, the damages caused by mining operations to public assets like roads was serious, but financial contributions from mining were very low compared to the damages caused or the investments made by the government on construction and repairs.

In none of the three countries did any women mention of medical facilities or medical treatment especially for environmental problems created by mining operations being provided to the communities. Nor did they find any damage control, mitigation or prevention being taken by the companies. In Vietnam although sprinklers were to be used to contain dust pollution, they were used only occasionally which was ineffective. In Lao PDR women demanded that government should conduct water testing and the companies should take responsibility for testing and treatment as their complaints were not taken seriously.

## Employment and work opportunities for women

In Lao PDR the Sepon and Phu Bia mines are demonstrated as a good practice of hiring local women to work in the company. It is reported that in Sepon, female employment so far fluctuated between 15% and 19% of the total workforce, whereas in Phu Bia they were 27% of the workforce in 2007 but dropped to 19% in 2009. A small number in both companies are also hired as truck drivers due to the perception that female drivers are more reliable and risk averse. However, majority of them are reported to be working in the 'softer' jobs or contract labour like administration, accounts, cooks, cleaners, weavers and other product making tasks under the community development project. Of the 216 women who participated in the research in Lao PDR, 71 were working in Sepon and Phu Bia put together. The few women who managed to get work in the company had lost their land and had no source of livelihood, or to supplement the incomes of their husbands. Women workers have long working hours—on an average of 11 hours per day.

Besides, their work is mostly uncertain and paid on a piece rate and resulted in low wages. While local men who started working in the company stopped doing many of the domestic tasks, for the women who worked in the mines,

including truck drivers, their traditional responsibilities at home not only did not decrease, but they had to also take on the traditional household activities performed by men.

Discrimination in terms of the nature of jobs, training and salaries was experienced by a considerable number of women, including truck drivers. They find it difficult to cope during maternity leave, pregnancy and other requirements. Further, the stereotyping of women as being unfit for technical skills alongside illiteracy are creating barriers for them for undergoing training or for upward mobility within the industry.

Women are however, found in large numbers in the informal artisanal activities. In Cambodia no women in the study area have yet been hired by mining companies, and only a few migrant workers are involved in the exploratory work. As in Lao PDR, Cambodia has a tradition of artisanal mining with women forming almost 70% of the workforce.

In Vietnam, the research covered both small-scale limestone quarries and large iron ore mines. There are women workers in the quarries but interviews revealed that there was clear gender-based division of labour where the men performed tasks like drilling, blasting, exploding rocks and other heavy and 'important' work while the women were given tasks of breaking and carrying stones, loading them into trucks and assisting the men. Although some of the research participants felt that, as men were physically stronger they perform the tasks of blasting and exploding rocks, others expressed that women would be more suitable for such tasks as they are more careful in handling the explosives whereas men try to be too fast and make mistakes.

The women from the mine sites recounted that women were also involved in setting the explosives in the past when certificates and licenses were not required and these tasks were gender neutral, but as women do not have access or resources to obtain training or licences for themselves, they stopped being hired for such tasks. The tasks that women perform are perceived as less dangerous although they are equally exposed to the hazards of working in the mines, and sometimes are more vulnerable as they do not have any work safety gear. Due to these perceptions of performing less hazardous tasks, it is mainly the husbands and male workers who get covered under accident insurance and not the women. Women are also relegated to the smaller tasks at the mine site like cooking, cleaning and other unskilled work that is low paid.

This discrimination also corresponds with the wages women and men receive. Women reported that men are

paid double the wages paid to women due to perceptions of male tasks being more hazardous, however, laborious the work of women maybe. Due to these low wages, they can never put aside enough money to get any training, certification or licences for blasting. Majority of men and women came to work in the quarries because their lands had turned unproductive due to dust pollution and groundwater depletion and hence the quarries have families of manual labour working together.

The situation with iron ore mines is a contrast where large-scale mines do not use local labour for want of education and technical skills. Women were hired only for temporary work like road construction or repairs which are low paying and uncertain.

### **Artisanal mining activities: Their impacts and problems**

Contrasting with the large-scale mining, women have traditionally had a strong presence in artisanal and small-scale mining activities. Historically, artisanal mining was found along the rivers and in the highlands in the three countries where indigenous people have practiced it as a livelihood and seasonal occupation. Gold, gem stones and other precious stones were collected and panned where whole families worked with primitive tools and sold them to local traders. This still exists and a large part of mining operations are mostly illegal and unscientific. While indigenous communities were pushed out of artisanal mining in many places and replaced by small contractors and migrant populations, these have resulted in conflicts and environmental problems between local communities and the miners.

The three countries allow only local nationals to undertake artisanal mining as per their mining laws and specific regulations regarding their extraction exist. In reality, the miners have informal negotiations with local authorities and operate without licenses. Therefore, they often face harassment and threats of eviction causing uncertainty in operations and availability of labour. In Lao PDR, artisanal mining by ethnic groups living along the Nam Kok river was reported to have been displaced by the Sepon project. In Cambodia, both in Monduliri and Ratnakiri provinces, indigenous people were pushed out by small-scale miners panning for gold and gem stones who in turn are being evicted by transnational companies like Oz Minerals, Zhong Xin Industrial Investment (Cambodia) Co Ltd and others.

In the field the study found no formal systems of hiring, payments and the working conditions were hazardous as workers were handling toxic chemicals manually. While men were blasting and crushing the stones, women and children mainly work in breaking stones, washing and panning.

Child labour is widely prevalent as wages are more lucrative when the families work in groups. Health hazards were found in all places with chronic respiratory problems, diarrhoea, skin infections, malaria, blisters and injuries as they are working with no safety equipment. Local communities downstream also complained of similar health problems, losses to their crops, road accidents and other pollution and safety issues. In some places where artisanal mining is more rampant, access to forests and destruction of forest produce were reported. Due to migrant populations moving in the areas, social issues of alcoholism, lack of safety for women, commercial sex trade, HIV/AIDS and domestic violence were reported.

A serious problem is the conflict with land titling processes in Cambodia and Lao PDR as the mining licenses are creating unjust practices of giving away indigenous people's/ethnic minorities' lands and forest areas for foreign investments. This is disturbing the rights of local communities as well as small-scale miners. While communities are restricted in the use of protected forests these restrictions are being relaxed for mining companies. This delegitimation of indigenous people's land rights has more serious consequences on women who mainly survive on these lands.

The research also brings out the stark contradictions in the declared potential for employment generation, poverty eradication and bringing in scientific mining practices through FDI to control environmental problems created by ASM. However, testimonies in all the three countries show that employment generated so far has been very low, with lesser or almost non-existent opportunities for women, and the economic benefits to local communities are reported to be low, except for those few who get formal employment, as seen in Sepon and Phu Bia mines. Local communities also complained of water contamination, air and dust pollution and lack of responsibility in cleaning up or in safety of managing the mine tailings. The O Te, the Nam Kok, the O Kob, O Chong Va are some of the rivers mentioned in the field interviews to have been polluted by both large-scale and ASM. So far only relocation of communities and not cleaning up were reported by the research participants.

## Community Projects in Mining Areas: Best Practices

In all the three countries studied, only the Sepon and Phu Bia mines have widely received recognition as having set up a community development programme and involve local communities. Where employment is concerned, both Sepon and Phu Bia mines have tried to take majority workers from the local areas and Lao PDR nationals, and these companies also demonstrate evidence of hiring female workers in a higher percentage (between 15% and 27%) even by global standards which is approximately 14% in Canada (Barrick 2012) and 12–18% in Australia (MOGJ 2013), and 15% in a company like Anglo American (Anglo American 2013) to give some examples. Women are also hired as truck drivers recognizing their skills and ability to perform on parity with men on these 'hardcore mining jobs', and with the perceptions that women are more responsible and efficient drivers. These two companies (MMG Sepon and Phu Bia Mining Ltd) have also extended training and skills development for women workers in order for them to qualify for these jobs. This should set a precedent in the region and shift back the informalisation of women's work in mining to its past reality when women played a critical role in the core activities.

Historically, mining in Asia has been characterised by the involvement of women. Feminist historians such as Dr. Sachiko Sone have shown that women formed a major part of the colliery workforce in Japan until around 1946 when they were completely banned. In colonial India the 'modern' coal mining economy also depended heavily on women's labour, often as part of family labour units (Lahiri-Dutt & Macintyre 2006). In more recent times, modern mechanised mines have hired women to operate trucks and other heavy equipment. In some Indonesian coal and gold mines, women operators drive state-of-the-art, mechanised shovels and dozers in open cut mines. At the same time, prohibitions against women workers in industrialised mining gradually relegated women to ASM and the informal sector (Lahiri-Dutt & Macintyre 2006).

Hence, it is important that companies approach mine employment with a gender parity policy where women should be enabled to access training and skills for equal opportunities not only as truck drivers, but in other technical sections as well. Yet, in Sepon and Phu Bia, there is a downward trend in hiring female workers which does not predict well for women. Besides, majority of women are on low paid unskilled contract work and many women who lost



Traditional slash and burn cultivation in Mondulkiri province, Cambodia

lands for the companies did not get employment. These are areas that need more focus if the companies were to take gender parity in employment seriously.

The community development project initiated at Sepon mine needs appreciation for its efforts to improve the economic status of women. A number of programmes like women's groups, vegetable gardens, setting up of local market for women to sell their produce, skills building in weaving and marketing of products, were reported. These provided windows of opportunity for a few women who had no means of survival. It is reported that it helped them diversify their livelihood in small ways and some of them started businesses and restaurants taking advantage of the modern amenities and markets that the mining town demanded.

But these programmes are criticised for being ill-conceived and poorly implemented in terms of the support they provided to women, the half-hearted attempts to buy their produce, delays in payments, inconsistent market linkages, lack of buyers for items of crafts and silks made by the women and some of these activities have become defunct today. Hence mere symbolic programmes that do not result in concrete and long-term livelihood assistance would lead to initial promises that are not sustained as the Sepon example does. It has enabled some women to come out of their traditional taboos and participate in meetings and articulate their opinions. But these meetings did not appear to dwell on the more serious issues of land, forest degradation, compensation, resettlement, in addressing the problems of water pollution, alcoholism, women's employment and training needs in mining and other more critical areas that concern local women. Hence, there is no

correlation between the colossal losses and negative impacts that mining has induced on women, with the trivial nature of community programmes offered as incentives to women. State institutional mechanisms for monitoring these programmes as well as monitoring the impacts of mining on environment and social security have to be improved to build a corresponding seriousness at the company level on undertaking these community programmes not simply as voluntary welfare measures but as strictly mandatory responsibilities with clear deliverables, accountability, defined performance standards and gender equity.

## Future Threats

Whether the current mining transnationals entering the South East Asian region are in a position to commit to human, gender and environmental justice issues of accountability and whether the three governments have capacities to scrutinise and enforce laws on them, need urgent review at this juncture. One sees a larger trend in investments coming from within the region, particularly, China, Vietnam and Korea. While the Western and traditional players in mining sector investments have a history of disrepute and shame, they have also been under pressure from civil society and human rights groups for a few decades now, and have to some extent, started speaking the language of human rights and their intent to partner with communities affected by their projects, albeit pronounced as paper and verbal elocution. Several allegations at local levels and by international human rights groups monitoring the industry, in their reports have exposed the high levels of corruption, bribery and scandals involving mining companies. The most recent OECD report on the Australian government's lack of enforcement regulations on its companies like Oz Minerals (Beck & Butler 2013), operating overseas may not be an individual case in aberration. This points to the danger of the Western mining industry having potential to take advantage of the lack of a strong community voice, a fledgling and marginalised civil society and the restricted political and media democracy, to escape legal and human rights standards.

On the other hand, most regional companies have not even made any pretence at human rights or environmental standards and safeguards built into their policy documents, and the lack of these commitments are evident in all the projects covered in this report. During 1998-2009, China's FDI inflow made up 91.7% of the total amount of FDI in the mining sector in Cambodia (CDRI 2011). There needs to be a strong precautionary principle adopted particularly with respect to the regional companies from China, Vietnam and Korea which do not have strict compliance mechanisms, social policies, gender policies and human rights as an agenda for business. Vietnam's inability to enforce standards within its own territory validates its lack of seriousness in influencing its companies in respecting laws or international agreements like the UNDRIP in the neighbouring and less dominating countries like Lao PDR and Cambodia where it has mineral stakes. China which is a major player in the region on extractive industry (and other industries as well), has poor performance standards on human rights, labour and environment. While it is also part of ASEAN, MRC and other regional coalitions, not enough pressure and bilateral monitoring is being successfully achieved by the lower Mekong countries on China due to its economic domination.

Mining operations have a short life span where land, forests and water resources are depleted at an alarmingly short period leaving behind farmers with lands unfit for cultivation and workers who lose their livelihood in the mines. The Sepon mines are to be exhausted by 2013 and 2020 as per the company's own statements and the life of Phu Bia mines is declared to last 10–15 years more. The implications of this short period of exploitation of natural resources on the communities and particularly on the local women in the three countries have not been addressed so far. Both companies, MMG Sepon and Phu Bia Mining Ltd, in Lao PDR have officially acknowledged the importance of initiating mine closure processes with community partnerships but what this entails is yet to be seen. The experience of community programmes with the local women in Sepon does not provide encouragement for engagement with women in mine closure planning and implementation

or their core issues. The reports of Giap Lai Pyrite mine in Vietnam where failure in enforcement of mine closure despite regulatory frameworks existing again reflects the inability of governments in this region to bring corporate accountability from the extractive industry (Tarras-Wahlberg & Nguyen 2008). The lack of seriousness in addressing complaints of communities over issues of environmental damages, weak remedial actions stated in all the three countries, non-vibrant public participation on issues of public concern as well as the lack of effective institutional mechanisms for monitoring, are grounds for suspicion over accountability towards mine closure and post closure sustenance of local communities and workers. This is a critical area of intervention for the governments in all the three countries.

Economic returns from mining may be at the cost of other sectors and resources, given the vast natural wealth along the basin. The indiscriminate and unscientific manner in which mining operations are happening causing pollution downstream and deforestation across the Mekong Basin have serious implications on its fisheries, agriculture, horticulture, forestry and other economic sectors for local people as well as for national economy. Economic cost benefit analysis therefore needs to be done at different

levels. Further, public services and utilities have been badly damaged due to mining operations but the burden of reconstruction and repairs falls on the local people and government. This has not come into public scrutiny. Hence the different dimensions of losses need further careful study.

Most importantly, given the high numbers of women involved in ASM activities traditionally in all the three countries, the regional cooperation plan for mining as well as the national bodies involved in women's programmes should lay stress on the need for training, skills building and encouragement of women's cooperatives in strengthening their traditional mining rights. Given also the large indigenous/ethnic populations in the three countries, where traditional land and forest resources form the mainstay of livelihood, their demands for protecting their resource rights against large-scale industrialisation and mining projects should be respected. Consultation with these communities and particularly with indigenous women, and their right to exercise FPIC should form the backbone of any development planning. Foremost is the urgency to complete the land registration process with women getting formal and legal rights over their lands, properties and collective resources.



Small-scale gold mining in Chong Plas, Keosema district, Mondulkiri province, Cambodia-  
Migrant families live on the site



Nam Ngum River, A tributary of the Mekong - threatened by mining - the dam across the river built to provide hydel energy for major projects like mining, Lao PDR

## **Section II**

# **Lao PDR Country Report**



# Lao PDR

## Introduction

Lao PDR, a landlocked country, is located in the heart of the Indochina Peninsula in Southeast Asia. The Lao Statistical Yearbook for 2012 gives the population of the country as 6.5 million of which 3.25 million are women, 3.24 million are men and the sex ratio is 99.7. According to the 2007/2008 Lao Expenditure and Consumption Survey (IV) 21% of the population have never been to school, with 29% of women not attending school as compared to 13% of men. Male literacy was overall higher at 85% compared to women at 70%. The MDG report gives the under-five mortality rate as 42 per 1000 live births in 2011; in 2005 it was about 70 per thousand live births. In 2011 the life expectancy was 65.4 years. From the 2005 population census the estimated maternal mortality per 100000 births was 405 (LSB 2005); this fell to 357 in 2012 as per the Lao Social Indicator Survey 2011-12.

## The Extractive Industry

### Mineral reserves and the mining industry

The mineral reserves in Lao PDR have not yet been systematically explored to estimate the extent and range of minerals to be extracted. So far, the total number of mineral deposits and prospects is 511 with majority licenses given for gold followed by copper, zinc, iron ore and lead, with various other minerals like gypsum, limestone, rock salt, and industrial material like coal and gemstone. The reserves of different minerals are gold 44402 million tonnes (ore), 12 million tonnes of alluvial gold, 152 million tonnes of copper, 0.09 million tonnes of zinc, 32.4 million tonnes of tin, 26 million tonnes of iron ore, 8 million tonnes of gypsum, 5 million tonnes of clay, 4 million tonnes of glass, 14 million tonnes of limestone, 0.01 million tonnes of barite, 0.01 million tonnes of phosphorite, 7 million tonnes of coal (Boungnaphalom 2010). Another source gives the recorded mineral deposits to number 570 with the main ones being lead, zinc, copper



and gold (ICMM 2011).

The mineral industry is segmented in three groups—artisanal, small and medium scale mines, and large-scale mines. Artisanal mining is undertaken primarily by rural communities as an additional source of livelihood; small and medium scale mining partnerships are between domestic companies and regional partners while the large-scale mining is partnerships of local companies with international corporations from Europe, North America and Australia (ICMM 2011). Large-scale modernised mining in Lao PDR has a very recent history beginning with the Sepon gold mine in 2003. Until this mine began operations there were 32 producing mines of which 13 were national mines and 19 were private. The national mines were managed by different ministries—seven by the Ministry of Industry and Handicrafts, five by the Ministry of Defense and one by the Ministry of Commerce and Tourism (Shingu 2006). As of

2010, there are 111 exploration concessions in an area of 1,026,873 ha, of which 56 are foreign licenses and 46, domestic. This amounts to 41% domestic, 50% foreign and 8% joint ventures. China has the largest area and number of exploration concessions followed by Australia and Vietnam. There are 30 mining exploitation licenses in the northern region and 58 in the central region (Schönweger et al 2012). Another source gives the current mining scenario, as of March 2010, where there were 269 projects (82 prospecting phase, 110 exploration phase, 74 exploitation phase) and 3 feasibility stage phase, held by 36 domestic companies (83 projects) and 119 foreign companies (186 projects) (Boungnaphalom 2010).

The government gives out land concessions for mining, plantations, and hydroelectricity generation to foreign and domestic companies. In the mining sector alone, 131 such contracts were granted to 113 companies in 2008, covering an area equivalent to about 10% of the country's land area—larger than the total rice area in the country (MoPI 2009). According to the International Monetary Fund, in 2009 the total government revenues accounted for over 14% of Gross Domestic Product (GDP) and of this, mining accounted for 2% (ICMM 2011).

## **Employment and wages in the mineral sector**

The National Human Development Report 2009 of Lao PDR reports that mining employs about 1.3% of total workers in the non-farm sector, or 0.28% of the total workers in the economy (majority of workforce i.e 78.5% are in the agriculture sector). In absolute numbers, this is not more than 8000 workers (MoPI 2009). Another estimate gives direct employment at about 20000 with indirect employment estimated as being between 30000 and 40000 (Thompson n.d). Surveys on artisanal mining indicate that between 15000 and 50000 people are employed, with women making up approximately 75% of those involved. At MMG Sepon, one of the larger mines, direct employment started at 1848 employees in 2004 and grew to 2467 employees in 2008, after which it dropped to around 2300 in 2010, making for about 1% of the national labour force. The average number of people indirectly employed also reduced considerably from 3545 in 2004 to 1600 in 2010. In the case of Phu Bia's Phu Kam, the mine, at present, engages only around 3600 workers, both direct and indirect (ICMM 2011).

## **Artisanal mining and key concerns**

Lao PDR has had a long tradition of artisanal/alluvial mining by local communities for their livelihood, particularly

in panning for gold, precious stones as well as tin. As per law, only Lao PDR citizens using their own funds can obtain licenses as artisan miners and are liable to income tax. However, export of gold or sapphires without special export permits is forbidden by law. In practice, few artisanal miners possess licenses or pay income tax due to the informal/illegal nature of these mining activities, making it difficult to provide an accurate estimate of the number of mines and extent of production. Some studies estimate that the vast number of part-time and seasonal miners could be between 15000 and 50000, with 75% of them being women. The activity is seasonal, depending on the water level in streams and rivers and on the harvesting of rice and other crops. In the wet season, 15% of villagers living near rivers pan alluvial gold while this drops to about 5% during the dry season. In Ban Houayxay, in the wet season 8% of people living near the rivers and streams flowing from the basalt area are artisanal miners panning for blue sapphires (ICMM 2011; UNDP 2006a, 2006b)

There has been an unprecedented increase in the number of artisanal miners due to the hike in commodity prices. It is reported that gold panners can extract up to one ounce (31 gm) of gold per year and although an ounce is sold at USD 1200, it is unlikely that the artisanal miners receive anything but a paltry sum of this amount as majority is taken by middle men and traders (ICMM 2011). In the case of tin, the panners sell the same to companies that are situated in the same river valleys. For example, a Lao-Korea tin company in Khammouane province purchases tin ore produced by the local people at a price of USD 2 to USD 5 per kg depending on the tin content. In 2004, the company purchased 60000 tonnes of panned tin ore paying the small-scale miners a total of between USD 120000 and USD 300000 (UNDP 2006b). Some of the key areas for artisanal mining activities as identified by the Department of Geology and Mines are Ban Nakadok in Borikhamxay Province, the Sekong river in Saravanh province, tributaries of the Nam Ngum in Vientiane province and the Mekong and Nam Ou rivers in Luang Prabang. ASM is hard labour with very little assurance of a steady income. The miners possess no skills, safety gear or proper tools to undertake this task. Being an informal activity and often done illegally the miners face exploitation from traders, middlemen and police, and enter into conflict situations with local communities over resources. Moreover the extent of the trade and contribution of the artisanal mines is hard to estimate. Yet, this forms a critical source of income for vast population of poor rural and ethnic minority groups who depend on this activity as a seasonal livelihood.

ASM also poses serious threats to the health of women and children who work in the mines. The division of labour is such that it is the women and children who perform the work of gold panning and processing by using mercury, a very toxic chemical that is crudely handled with no awareness of the serious consequences. The lack of work safety gear forcing them to inhale toxic vapours and the hazards posed due to re-use of the chemical in order to make it cost effective leads to great harm to the workers' health (Shingu 2006).

## Foreign direct investment and the mining industry

The Lao PDR government has been creating a climate legally and politically conducive for FDI in the mining sector. It began with the New Economic Mechanism of 1986 (termed Doi Moi) whereby the economy was geared to move from a planned to a market oriented economy through revision/ amendment of laws and extension of other incentives (GTZ 2009a; ICMM 2011). At present the Lao PDR government allows for foreign ownership of investments up to 100% and in the case of joint ventures, upto 30% (USDoS 2011).

While logging was the first sector that was opened up for FDI, other sectors including mining soon followed (Schumann et al 2006). The New Economic Mechanism particularly facilitated the setting up of the two large mines, one gold (and copper) and the other copper, with the help of FDI (Fullbrook 2010; ICMM 2011). Mining investment by foreign firms stood second with an investment value of USD 3.2 billion (BIA 2011). Private investments in the mineral sector increased 34% over the years 2002-06 with an increase in the FDI inflow (IS 2010; MoPI & UNDP/UNEP 2011) estimated in more recent years as amounting to 80% of total FDI. The Foreign Investment Licensed in Lao PDR for mining, from 2000 through December 2011, was USD 5010916187, covering 220 projects. Mining was ranked second in terms of foreign investment preceded by the power sector (USDoS 2011). Mining is the largest subsector in terms of both area and number of projects—21% of all projects and 50% of the total area (Schönweger et al 2012). FDI in the mining sector in Lao PDR as of 2010 include 59 Chinese companies (102 projects), 38 Vietnamese (55 projects), 6 Thai (7 projects), 4 Australian (7 projects), 4 Korean (5 projects), 1 Canadian (1 project), 1 German (1 project), 1 Indian (1 project), 1 Japanese (1 project), 1 British (1 project) and 3 Russian companies (6 projects) (Bounghaphalom, 2010)

## Mineral laws and regulatory framework

The specific legislation and regulatory framework related to the mining industry consists of the Mining Law 2008 (the older Law was the Mining Law 2007 and Mining Law Implementing Decree 2002), Investment Standards for Mining Regulations 2005, Regulation Regarding Environmental Protection and Management of Mining in the Lao PDR 2004, Policy for Environmental Protection and Health and Safety in the Mining Sector 2004, Temporary Technical Provision Regarding Geology—Mining Survey and Exploration, 2003, Industrial Waste Discharge Regulation 1994 and Industry Processing Law 1999 (Toorn 2009).

The regulatory framework includes the Law of the Government of Lao PDR, Environment Protection Law 1999 and its implementing decree 2002, the new and revised Decree on Environmental Impact Assessment 2010 and the National Strategy for Environment. The Water Resources and Environment Administration, the successor to the earlier Science, Technology and Environment Agency (STEA) is a key entity in monitoring environmental aspects of developmental projects (Toorn 2009) including overseeing the EIA. Two of its units are the Department of Environment, responsible for the national policy, planning, and public outreach; and the Department of Environmental and Social Impact Assessment, responsible for implementation of the ESIA process which gives the Environmental Compliance Certificate. As per the revised Decree on Environmental Impact Assessment (2010) the project affected people and general stakeholders need to be consulted during project approval and implementation and also need to be informed about the environmental and social impacts of the projects through public hearing and consultation meetings (MEM 2009).

## Women in mining and concerns

According to the Deputy Director General, Ministry of Energy and Mines (Department of Geology) women account for about 10% of the workforce due to limited knowledge and training in mining. The number of women applying for jobs is also limited (WB 2009b) in the formal sector although they form the majority workforce in the artisanal and small-scale mining. The percentage of female employees in the two large-scale mines of Phu Bia Mining Limited and MMG Sepon has fluctuated from approximately 15% to 27% of the total workforce. The Phu Bia mine statistics show that the number of female employees dropped from 27% in 2007,

to 22% in 2008 and finally reached 19% in 2009. The MMG Sepon mine provides segregated numbers for the years 2004, 2005 and 2009 and over this time their numbers for female staff have varied between 15% and 19%. Women are also still mainly working in the “softer” departments such as communications, accounting, social development, health and safety. However, both Phu Bia Mining Limited and MMG Sepon have relatively high employment rates for female equipment operators. Due to lower risk factors like alcoholism, accidents and absenteeism in the case of women than that of men, preference for hiring women as truck drivers for transporting the ore in particular has been the stated reason (ICMM 2011). In the Sepon mine which operates more than 100 dump trucks, among the largest ore carrying trucks in the world, more than half of the drivers in Lao PDR are women from the local area (UNDP 2006a).

### Concerns with regard to the mineral sector

There are several social and environmental concerns with regard to the mineral sector in Lao PDR. Several cases of water contamination as a result of mining like cyanide spill in Phu Bia mine in June 2005 (Dwyer n.d), chemical spill into the Nam Mo river that led to fish being killed in the Phu Kam Heap Leach gold operation (Anon 2011) and water turbidity making it unfit for consumption as a result of discharge from tin mining site in the Nam Pa Thene basin (UNDP 2006b) have been reported. Subsistence farmers from Ban Phongga in Vilabouri district, Savannakhet, were forced to purchase water at Kip 3000 for a 20 litre can due to water contamination near the Sepon mine, an expense they could ill afford. Livelihoods too were marginally impacted. In Ban Luang Prakham of Luangnamtha, as a result of untreated dumping of wastewater by a copper mining company, people were unable to collect and sell seaweed that was an additional source of income to the families. They were forced to travel longer distances upstream using motorbike and this additional cost of fuel reduced their incomes further (MoPI 2009).

There are additional concerns related to implementation of mining regulation owing to a shortage of regulatory staff (MEM 2009). According to the Minister of Energy and Mines, 30% of these companies are not complying with regulations (ICMM 2011). With mining proceeding at a rapid pace, Lao PDR is under the threat of a resource curse with potential long term impacts on its population and its natural resources. While mining is expected to contribute 10% of the GDP, concerns about the hidden costs of displacement and environmental damages also exist alongside (WB 2010a).

## Land Rights and Natural Resources

### Land laws and policies

The population of Lao PDR is predominantly rural (80%) and hence land is an important source of survival (Onphanhdala 2009). Post-independence land and property rights reform since 1976 laid emphasis on collectivisation and formation of cooperatives which disappeared since 1986 under the New Economic Mechanism and market oriented economy. Post-socialist period in the mid-1990s saw land reforms to ensure tenure security but this took different forms—in rural areas it took the form of land allocation while in urban and peri-urban areas there was actual land titling (Evrard 2004). The Land and Forest Allocation (LFA) Policy 1996 of the government initiated land management in rural areas. The policy was shaped by two legislations—Prime Ministerial Decree No. 169 and 186. The former elaborates on principles of co-management of resources, and recognises local people’s rights to access and use natural resources, while the latter recognised the rights of individual, private and collective enterprises to manage degraded forests. Under the LFA, community rights to manage forests and individuals’ rights to lands and degraded forests were recognised by issuing a TLUC in accordance with the Land Law. While the TLUC are inheritable they cannot be sold; however sale of TLUC has been reported (Evrard 2004; Rock 2004; Fujita et al 2006).

While land and forest allocation happens in rural areas, in the urban and peri-urban area titles are issued for land. The process of land titling was initiated with the Land Titling Project (LTP) funded by the World Bank with technical

Field interviews with mining affected communities in Vientiane province, Lao PDR



assistance from AusAid. The titling involved providing the legal document termed Bai Ta Din or land certificate/title deed that recognised the private entity's land use rights including the right to transfer, sell, lend, inherit or use as collateral (Fujita et al 2006). LTP was done in two phases with the first phase beginning in early 1996. The purpose was to accord an economic value to land which was seen as a means to foster economic development. The Department of Land was the original implementing agency under the MoF. In 2006 it was placed under the newly established National Land Management Authority (NLMA) (WB 2010b).

Communal or customary land tenure systems are also undergoing considerable changes in recent years with land under communal management reducing in size. There are several reasons for this, including government policies and programmes—for example granting concessions on communal lands, market forces that are commercialising resources and changes within community structures over time. The current legal framework has no clear rights for securing rights over communal land (Takahashi & Liang 2010). However in a recent land mark development the first communal land title in a development project site was issued in the Sangthong district (Chokkalingam 2011). The success of land titling has been largely restricted to the urban areas. Rural and ethnic communities have been the least to benefit.

### Land concessions

In total, an area of 2.1 million ha has been granted to investors in 2012. This however, includes roughly 1 million ha granted for mining exploration alone. The mining subsector contains 564 projects constituting 21% of total projects. They cover an area of 548756 ha, or approximately half of the total area under investment in the Lao PDR. Within the primary sector, investment in mining accounts for 44% of all projects and 55% of the total area under investment. The vast majority (95%) of all mining investments are concession agreements, while lease agreements only cover an area of 700 ha (Schönweger et al 2012).

According to an NLMA source, 1219 land concessions

have been granted to foreign and domestic companies; 482 to foreign companies and 737 to domestic companies (Chanhchom n.d.). The process of granting concessions has not been without conflicts either. Community rights have been undermined in the process of granting concessions. The process has created confusion as a result of lack of coordination between the government agencies and ministries at different levels. Concessions have resulted in livelihoods and food security of communities being impacted as well, with little or no compensation for the losses suffered. Concerned over the ecological, social and economic impacts the Prime Minister had, in May 2007, announced a moratorium on land concessions (over 100 ha) for industrial trees, perennial plants and mining (Hanssen 2007; Sipaseuth & Hunt n.d). However, in 2009 it resumed the issuance of large-scale land concessions (Phouthonesy 2009).

### Land acquisition and resettlement

The government laws, decrees and guidelines that deal with land acquisition and resettlement include the Lao Constitution (1991), Land Law (2003), Road Law (1999), Decree of the Prime Minister on Compensation and Resettlement of People Affected by Development Projects (No.192/PM, dated 7 July 2005) and Regulations for Implementing Decree of the Prime Minister on Compensation and Resettlement of People Affected by Development Projects (No.2432/STEA, dated 11 November 2005) (CR Decree). The EIA process also allows for the participation of stakeholders in project development and monitoring (MIWRM 2010).

### Forests and development conflicts

Forests in Lao PDR are an important source of livelihood for nearly 70% of the population (Khatri et al 2011) but these stand threatened today with loss of forest cover—from 40% in 1940s to 64% in the mid-60s, 47% in 1989 and to 41.2% or 9.7 million ha in 2002 (Worldstat 2011). The quality of forests too had deteriorated over the years (Tong 2009). Lao PDR is a country that has a large population located in rural and forested areas which depend on the forests for

subsistence. The State has the primary rights over forests and merely allows individuals and communities to manage forest areas allocated through the government. The Forestry Law of 2008 does not recognise community or local rights over forests (Sipaseuth & Hunt n.d). In recent years, as a result of various development projects that include mining, infrastructure, plantations and hydropower there are increasing incidences of conflict between the State and communities. The unclear demarcation of village boundaries with the complex regulatory framework and non-compliance of laws has further contributed to the situation of conflict (Chokkalingam 2010; Tong 2009).

## Ethnic Minority Groups: Protection and Rights

In Lao PDR the term indigenous peoples is not officially recognised by the government. The 2005 Census identified 49 ethnic groups with at least 240 sub-groups which were earlier divided geographically into three groups— Lao Loum (lowland Lao), Lao Theung (Upland Lao) and Lao Soung (Highland Lao) (IFAD 2010).

While Lao PDR has no separate legislation to protect the rights of ethnic minorities, their rights are enshrined in the Constitution and other laws relating to land and forest (IFAD 2010). Internationally, Lao PDR voted for the approval of the UNDRIP and has signed and ratified the International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination and International Covenant on Civil and Political Rights.

Ethnic minorities in Lao PDR face problems of displacement and dispossession from their land and access to forests as a result of the increased demand for natural resources. It is estimated that thousands of ethnic minorities have died or suffered as a result of displacement and ill-conceived and poorly implemented resettlement policies. Relocation has resulted in the breakdown of traditional structures, threatened their cultures and induced conflicts with lowland communities where resettlement has taken place (Baird & Shoemaker 2007). Thus ethnic groups face several challenges related to their land, livelihood and resources from development policies of the government and due to commercial interference. The incidence of poverty, low health and education levels especially among girls, are characteristic of ethnic minorities in the country (IFAD 2010).

## Gender Equality and Women's Empowerment

### Development indicators and status of women

While women account for 50.5% of the population (in 2005) and play an important role in the household and economy of the country, gender disparities exist in several areas including health and education. The vulnerability is more so for women from ethnic minorities and rural poor. Several reasons are attributed for gender disparities in health and education including social prejudices, early marriage or pregnancy, burden of household chores, low enrolment of girls in schools. Malnutrition, anemia, malaria and other diseases and inaccessibility of health services particularly in remote and highland areas along with superstitious practices are considered to cause serious health problems among poor women. Maternal and child mortality are very high in Lao PDR with reproductive health being a serious concern (GRID 2006; ADB 2004; WB 2012).

Women's labour force participation (70%) in Lao PDR is amongst the highest in South East Asia. Women comprised 48.6% of the agricultural labour force in 2003–05. They have a critical role in agriculture and forestry—for both subsistence and family incomes. While both men and women spend equal amount of time in agricultural work, wages and income levels differ vastly with women performing most of the unpaid work. This demonstrates that critical to the deprivation of access to development facilities is the practice of gender inequality. Owing to low skills and lack of education, a large number of women also work in the informal sector where wages are very low. In 1999, there were about 37075 workers employed in mining, manufacturing, electricity, and water supply. Of these, 54% were women and 46% were men (GRID 2005, 2006). That there are very few women in decision-making is reflected in the low percentage of women's participation at all levels of government—the national average being a mere 1.6% (UNDP 2007).

### Institutional and legal framework for gender in support of women's empowerment

The LWU and the NCAW are the two institutions advocating for the empowerment of women. While the LWU is constitutionally mandated to represent and protect the rights of all Lao women, the NCAW takes the lead in mainstreaming gender concerns as well as in outlining policy

and strategy. The LWU is a mass organisation authorised under Article 7 of the 1991 Constitution with a presence in most villages of the country to reach out to women. LWU focuses on socio-economic development at the grassroot level to enable women in participating in policy and decision-making by putting gender on the agenda of every sector of the government (GRID 2005, 2006; UNDP 2007).

The 2003 Constitutional amendment affirmed that efforts were to be made in enabling women's progress as well as protecting the rights of women and children (UNDP 2007). Under the Lao Family Law 1990, both men and women have equal rights in all aspects regarding family relations (GRID 2005). The Law on the Development and Protection of Women of 2004 defines principles, rules and measures relating to the development and protection of women (FAO 2011b).

The principle of gender equality is also reflected in other laws as well, like the Labour Law 1994, Electoral Law 1997, Law on Lao Nationality 1990, Family Law 1990, Contract Law 1990, Inheritance Law 1990 and Property Law 1990 (ADB 2004). Policy documents including those on Population, Health and Human Resources, and National Strategy for the Advancement of Women for the years 2005-10 also reflect commitment to women's advancement. Gender equality is emphasised in poverty eradication programmes (GRID 2005, 2006; UNDP 2007), with the 2004 National Growth and Poverty Eradication Strategy aiming at addressing the concerns of rural women (FAO 2011b). Lao PDR is a State party to the CEDAW and has joined the global consensus on the Beijing Declaration and Platform for Action (GRID 2005; UNDP 2007).

However, in spite of traditional systems and legal mechanisms that emphasise gender equality, concerns have been expressed about skewed land allocation in rural areas with slightly lesser discrimination towards women with regard to land titles issued in urban and peri-urban areas. The research wing of the LWU, the Gender Resource Information

and Development Center (GRID), in a research study, reported that land titles did not reflect the true owners and while more women may inherit land than men, majority of the land use certificates and titles were issued only in the husbands' names. In addition, where couples (husband and wife) had acquired over half of the land parcels, only a small percentage of them received joint certificates and titles (Lastarria-Cornhiel 2007).

The CEDAW 2003 report provides some insights into the gendered inequalities in the land titling project. It states,

*“In comparing the origin of the land with the registration of permanent land rights in 58% of the cases only the husband's name appears in the land document, even though originally only 18% of the land belongs to them. As for the women's land, only 16% is registered in her name, although women originally own 30% of the land. This means that only 52% of the registration of the land right of women is correct. It seems clear that the remaining 48% of the land has fallen under the name of the husband. As for the land which is originally common property, 52% of the land, the percentage showing both the husband's and wife's name is extremely small, only 7%. This means that only 13% of this land is correctly registered. This also means that 87%, the remainder of this land is registered in the husband's name alone.”* (CEDAW 2003:10)

When compared to rural areas, the land titling in urban and peri-urban areas has met with a little more success. With regard to gender equality, the second phase of LTP is said to have issued 37.5% title deeds in favour of women (compared to 23.4% for men) and 29.3% were issued jointly to spouses (WB 2010b).

Lao Tai who form the dominant group in the country follow a matrilineal inheritance system where the land, whether agricultural or homestead, is inherited by the daughters. Owing to this system of the dominant group, Lao daughters make up the majority of those who inherit property. But the land titling process as shown above has led to women losing out land in their names rather than legally inheriting what is traditionally a practice. Lao PDR's inheritance laws for property and land are, however, gender neutral. These include the rights of inheritance and sharing of property under different legislations like the Family Law 1990, Inheritance Law 1990, Land Law 2003 and Property Law 1990 (ADB 2004).

Nam Ngum, a tributary of the Mekong River faces ecological threat by proposed mining projects, Lao PDR



## Understanding the Impacts of Mining Activities on Local Communities: A Gender Equality Perspective

From the above national scenario of mineral laws, and the status of women and ethnic groups vis-a-vis the land and natural resource policies, the study presents the impacts of mining projects on women and gender relations in specific project affected sites. This is to understand the practice of law and policy at the field level and the extent to which existing governance institutions, political and administrative support structures and legal mechanisms can enable the upholding of the spirit of the Constitutional commitments in empowerment of women in Lao PDR, again particularly women from ethnic groups. To a large extent, according to a survey commissioned by the ADB (2001) the causes for poverty widely recognised are land reforms, policies to eradicate swidden cultivation, large-scale concessions for plantations, mining and other industries, relocation of villages and the low priority given to improvement in agricultural activities (Evrard 2004). Particularly the government programmes of relocation of ethnic communities and the large concessions in their lands offered for mining, hydropower and plantations are stated to be reasons for impoverishment. The study attempts to capture these concerns in three sites in Lao PDR.

### Country study methodology and collaborating partners

The study was done in collaboration with SODA in Lao PDR. The research methodology included literature review, individual interviews and focus group discussions. For the individual interviews a structured questionnaire was administered to 216 women from eight villages from the three sites of Sepon (70), Phu Bia (89) and Sakai (57). The ethnic composition of the respondents comprises a majority from the Phutai community, numbering 62. In terms of distribution of age, the majority of respondents numbering 192 were from the age between 20 and 50 years. The educational level of the female respondents is very low with only 10 women having completed upper secondary school and the majority (nearly 50%) with primary level education. In general, the employment of women is in various traditional occupations. The majority of the women respondents comprising 75.9% or numbering 164 were engaged in swidden cultivation and low land rice farming. Eleven others were employed as workers, 28 were officers and nine were engaged in retail trade. Only two were engaged as drivers and an equal number were housewives.

The sampling methodology was purposive non-random. The research participants were local communities from immediately affected villages due to mining company operations, and particularly women from ethnic groups. Eleven focus group discussions were held with four groups—village authorities, women living around the mines, female and male workers in mines. The total number of participants was 314 (W: 174; M:140)<sup>2</sup>. Discussions with other key informants from government departments like the DoNRE, DoM, LWU, research institutes and NGOs were also held to record their perspectives. The social, cultural, environmental and economic factors affecting women in communities were also recorded through observations.

### Case studies from mine sites

Three large mining projects in Lao PDR were selected as sites for this study—Sepon, Phu Bia and Sakai mining projects. This study focuses on eight villages in the three mining projects. The first major commercial private sector mine was established in Sepon in 2002 (locally known as MMG Sepon) in Savannakhet province, and originally owned by Oxiana Resources Limited of Australia. Gold production commenced in 2002 and copper in 2005, and both exploitation and processing is carried out in Sepon. Today, the mines are owned by MMG Lane Xang Minerals Limited which is a subsidiary of the Australian Mineral and Metals Group (MMG) and listed on the Hong Kong Stock Exchange. Minmetals Resources Limited owns 90% of Lane Xang Minerals Limited, while the Lao PDR government owns the other 10%. The MMG Sepon project is spread over an area of 1250 sq km and the total MMG reserves of gold is 0.2 million ounces and copper is 0.7 million tonnes (as of June 2011 MMG Mineral Resources and Ore Reserves Statement). The expected mine life for the current gold mine is 2013 while that of copper is 2020. In 2009, annual production amounted to 67562 tonnes of copper and 105037 ounces of gold (ICMM 2011). It employed (as of December 2011) 1832 workers and 2365 contractors (MMG 2013).

In Sepon mining project, the three villages of Nongkadeang, Nonesomboon and Hoaydang in Vilaboury district of Savannakhet province were selected for this study. Nongkadeang has a total of 101 households and a population of 476 (W: 256; M: 220), Nonesomboon has a total of 91 households and population numbering 522 (W: 263; M: 259) and Hoaydang has 27 households with a population of 157 (W: 80; M: 77). There are 125 persons (W: 30; M: 90), 80 (W:24; M:56) and seven (W: 0; M: 7) members from Nongkadeang, Nonesomboon and Hoaydang respectively who are directly employed in mining. The ethnic

<sup>2</sup> W=women; M=men



communities in Nongkadeang and Nonesomboon are the Phuthai and Tri, while that of Hoaydang has only Tri community. While Phutai form an ethnic sub-group under the Lao-Tai linguistic group the Tri are a sub-group of the Mon-Khmer linguistic group.<sup>3</sup>

The second site is the large privately owned copper mine that was established in 2008 (smaller gold mine had been operational since 2005) by Phu Bia Mining Ltd (located 120 km north of Vientiane capital) and is a Lao PDR registered company that is a subsidiary of PanAust Ltd (90%) of Australia and 10% owned by the Lao PDR government. The company operates the Phu Bia gold mine and Phu Kham copper/gold project which has an expected life span of 12 years. The large open pit copper-gold mining and processing where concentrate is exported, is at a cost of USD 241 million. Phu Kham produced 63285 tonnes of copper in concentrate, 59516 ounces of gold, and 469945 ounces of silver for the 12 months to 31 December 2012. The Phu Kham 2013 ore reserve supports a mine life of more than 10 years, assuming an ore processing rate of 17 million tonnes per annum. In January 2013, PanAust announced Phu Kham guidance for 2013 with expected production of between 62000 and 65000 tonnes of copper in concentrate at an average C1 cash cost of between USD 1.15 per pound and USD 1.25 per pound. The Ban Houayxai gold-silver operation is located 25 km west of the Phu Kham copper-gold operation in Lao PDR. Following a 15 month construction and commissioning phase, the Ban Houayxai operation commenced production of gold-silver in May 2012. During the 8 months of operation in 2012, a total of 76449 ounces of gold and 146742 ounces of silver were produced (PanAust 2012).

The Phu Kham operation employs over 1600 people directly and 3600 indirectly, with 26% from local communities in the immediate vicinity and a further 9% from the surrounding Xaysomboun district. The company has eight staff responsible for community development activities. The

<sup>3</sup> The term indigenous peoples is not used in Lao, but the government refers to Lao as a multi-ethnic society. The groups are divided under four broad ethno-linguistic groupings—Lao Tai (8 subgroups); Mon-Khmer (32 subgroups); Hmong-Mien (2 subgroups); and Chinese-Tibetan (7 subgroups). The Lao-Tai comprise 67% of the population, Mon-Khmer 21%, the Hmong-Lu Mien 8% and China-Tibetan 3% (King & van de Walle 2010). The Lao-Tai dominate politically, culturally and economically and have substantially lower poverty incidence than the other ethnic groups. Living in the lowland areas they have greater access to healthcare, education and livelihoods. The Mon-Khmer have poverty incidence more than two and a half times the rate of the Lao-Tai. All three non-Lao-Tai groups who live in remote mountainous regions have poverty rates above 42% (AIPPNET 2011). Non Lao-Tai have fewer years of schooling when compared to the Lao-Tai and the children from former are less likely to attend school owing to problems of access. Non Lao-Tai women receive significantly less education than the Lao-Tai. For example, 34% of rural non-Lao-Tai girls had never attended school in 2002–03 compared with 6% of Lao-Tai girls. Non-Lao-Tai access to health services is also limited, and this is worse still for the women (IFAD 2010).

mining area is directly adjacent to two villages, Nam Mo and Nam Gnone (Saisombon district) that formed the sites for the current study (ICMM 2011). There were 543 households and 3133 people living in the two villages. Even since 2008, when the Phu Kham operation started, the local economy of both villages has changed dramatically from subsistence agriculture to a cash-based economy. In 2005 the direct employees numbered 514 and in 2009 this was 1664, following the commissioning of the Phu Kham copper-gold project. In indirect employment, 80 persons were employed in 2006 and this number was 2000 in 2011, mainly as temporary workers (ICMM 2011).

The two villages selected for the study, Nam Mo and Nam Gnone, are located in the uplands of Vientiane province. The former has a population of 1938 (W: 958; M: 980) and 435 households while the population of Nam Gnone numbers 1757 (W: 862; M: 895) in 253 households. The ethnic communities in Nam Mo are Lao-Tai and Khmu (Mon-Khmer sub-group) while that of Nam Gnone is Lao-Tai. The number employed directly in the mine sites are 300 (W: 144; M: 156) and 181 (W: 75; M: 106) in Nam Mo and Nam Gnone respectively.

The combined Sepon and Phu Bia projects account for over 90% of total national mining production. From 2003–09, the volume of gold production averaged about 162000 ounces annually, with 158000 ounces being extracted in 2010. Similarly, copper production has increased considerably during this period, growing from 30480 tonnes in 2005 to 121580 tonnes in 2009. It was estimated to reach a record 136000 tonnes in 2010 (ICMM 2011). The combined production value reached USD 550 million in 2007 and exceeded USD 600 million in 2008, representing 85% and 90% of total production value of the Lao PDR mining industry, respectively (WB 2009a).

The third site is the mining operations of Sakai Mining Joint Venture Company in Ban Sakai of Sangthong district, Vientiane Capital City, officially inaugurated in July 2012. It is a joint venture between a Lao PDR company, the Sakai Mineral Processing Factory, and the Vietnamese based Hong Quang Work Construction and Real Estate Investment Company and the Vientiane Trade Ltd Company with a joint investment of USD 30 million. The exploitation of silver and gold ore over an area of 11 ha is proposed with concession contract lasting till 2018. Nearly 250 tonnes of raw material per day are to be mined till the year end (2012) with production aimed at being doubled in 2013. The operations were started to mark the 50th Anniversary of Diplomatic Relations and 35th Anniversary of the Lao-Vietnam Friendship and Cooperation Treaty (WLL 2012; Sacom 2012).

Table 1: Details of study sites, Lao PDR

Village characteristics	Phu Bia Mining, Vientiane Province		Sepon Mining, Savannakhet Province		Sakai Mining, Vientiane Capital City		
	Nam Mo	Nam Gnone	Nongkadeang	Nonesomboon	Sakai	Houykhamb	Nahoy
Number of Households	435	253	101	91	192	173	164
Inhabitants	1938	1757	476	522	842	1018	878
Ethnic affiliation	(958W, 980M) (862W, 895M) Lao-Tai		(256W, 220M) (263W, 259M) Phuthai, Tri		(409W, 433M) (409W, 433M) Lao-Tai		(453W, 425M) Lao-Tai
Distance to nearest clinic (km)	16	19	2	3	10	9	15
Road access for motorized vehicles	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Primary school	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Drinking water	Yes	Yes	Partly, Yes	Yes	Yes	Yes	Yes
Public electricity net	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Sewage system	No	No	No	No	No	No	No
Distance to district center (Km)	16	15	2	3	10	9	15
Number of direct employers in mining project	300	181	125	80	36	14	0
	(144 W, 156 M)		(30W, 125 M) (24 W, 56M)		(1 W, 35 M) (0 W, 14 M)		



## Study Findings

### Perspectives from women working in the mines

Mine managers in both Sepon and Phu Bia mines say they provide preferential employment to local people. Between 2004 and 2006, people living in the vicinity of MMG Sepon's operation filled more than 50% of job vacancies. There was a decline but seems to have stabilised at around 35% in 2008 and 2009. Over the period 2006–09, there was an initial increase in nationally recruited employees, from 1275 to 2658, and falling to 1467 employees in 2010. The Phu Bia's Phu Kham operation employed 26% from local communities in the immediate vicinity and a further 9% from the surrounding Xaysomboun district. Between 2004 and 2009, the rate of international employment for both mining companies was at around 10% of total employment, the remaining required job placements being filled by domestic recruitment (ICMM 2011).

The Sepon mine provides segregated numbers for the years 2005 and 2009 and over this time their numbers for female staff have varied between 15% and 19%. Besides this, the company sustainability reports suggest that women are still mainly working in the “softer” departments such as communications, accounting, social development and health and safety. Men, however, have a stronger presence in departments such as operational maintenance, exploration and excavation. Phu Bia statistics show that the number of female employees dropped from 27% in 2007, to 22% in 2008 and finally reached 19% in 2009. It is noted, however, that both Phu Bia and Sepon have relatively high

employment rates for female equipment operators (truck drivers for transporting the ore in particular), again possibly due to women being considered more risk averse and thus less likely to have accidents. In both the mines, gender mainstreaming remains a challenge despite equal employment opportunities and anti-harassment policies. Phu Bia has a positive discrimination strategy to ensure that minority groups and women are part of the workforce. Similarly, in 2007, MMG Sepon initiated an Opportunity and Equality Policy throughout the company. MMG Sepon has standard gender and diversity policies preventing discrimination in the workplace but does not have any specific policies aimed at promoting gender issues (ICMM 2011).

Of the 216 respondents, 71 were working in the mining projects in the three sites—20 in Sepon, 50 in Phu Bia and one in Sakai. Economic reasons—earning an additional income and poverty reduction—was the motivation for taking up employment for a majority of the respondents (numbering 64 or 90% of respondents). Two of them said that they had taken up employment as it was close to their village.

Out of 71 female workers three were cooks working for the companies, 17 were cleaners, 22 were truck drivers, 16 were house workers, four of them work in administrative units of the company; seven were involved in clearing UXOs (Unexploded Ordnance) and two were accountants. All three mining companies employ women mostly in administrative jobs or menial activities that require low skills and paid a low remuneration.

Among the 145 who were not working, different reasons were given but the majority, 33%, felt that they did not

Table 2: Type of work done by women in mining

Task	Phu Bia Mining		Sepon Mining		Sakai Mining		Total	
	Number	%	Number	%	Number	%	Number	%
Cooking	2	4	0	0	1	100	3	4.2
Cleaning	17	34	0	0	0	0	17	23.9
Driver	13	26	9	45	0	0	22	31
House work	14	28	2	10	0	0	16	22.5
Administration	4	8	0	0	0	0	4	5.6
UXO clearing	0	0	7	35	0	0	7	9.9
Accounting	0	0	2	10	0	0	2	2.8
<b>Total</b>	<b>50</b>	<b>100</b>	<b>20</b>	<b>100</b>	<b>1</b>	<b>100</b>	<b>71</b>	<b>100</b>

possess the required skills or knowledge to work in mining. Twenty-three percent said their time was consumed by household work, 23% cited being employed elsewhere, 17% of them said that the company did not give them work and 4% said that their husbands did not allow them to work with the mining company. From interactions with men in the focus group discussions the men's response to women's participation in mining work was found to be somewhat positive. They said that the women's participation can contribute to production and sharing of the work load. The men felt that some tasks were done better by women like working as truck drivers as women did not consume much alcohol.

While mining has created employment opportunities for some, women continue to benefit the least. Women lag behind men in all the mining projects in terms of both incomes earned and employment opportunities. Low and unstable incomes were cited by 53% or 115 of the respondents. Of the remaining, 71 worked in mines and the other 30 said that there was an increase in income, not necessarily from mining. Of the 145 not employed in the mines a majority of the respondents, (93) felt that there were lower employment opportunities for local women in mining as compared to men; 32 said it was mostly the men who had increased opportunity for employment.

Many women workers said that their work usually started at 6 a.m. and finished at 6 p.m. The majority of the female

workers (numbering 45 or 63%) said that they worked about 11 hours each day, followed by 34% or 24 respondents who said they put in 10 hours a day. Only two of the respondents (3%) said that they had an 8 hour work day. In Sepon mining project, female truck drivers work for two weeks (first and second week) and then have a third week break (holiday). In Phu Bia, they work 20 days and break for 8 days. In addition, the women also performed household work and home economy activities which increased after mining operations diverted the time men gave for domestic work. While all women had a major responsibility of housework, 50 women or 71% do household work only while 21 women do both household work and home garden and work from very early to very late in the day, causing them greater distress. A woman in Phu Bia, Vientiane province said,

*“ I have triple role in a day. I work in the mining company during the day time, work in the garden and do all the household work in the early mornings and late evening, but men only work with the company.”*

Women get less training opportunities than men in all three mining projects. They work in the most menial, low paid positions. Although the companies have created employment and have equal employment opportunities and anti-harassment policies, they do not pay enough attention



The controversial Nam Ngum hydel project built for fast track development of Lao PDR, including mining projects

to women's issues of 'unhygienic' times, pregnancy and maternity needs. In addition, women are not allowed to bring their young children to work, as is common practice in Lao PDR, thereby preventing women from working. The women reported that sometimes the technical aspects of mining are over-stressed just to create a barrier for them.

## Project participation

Men's participation in project consultation was found to be high while women's participation was found to be very low and not significantly on the increase over the years. In the Sepon site one of the first large-scale mines operational in the country, 89% or 70 of the respondents said that they had not participated in the consultation process. In the more recently operational Sakai mine site, that began operations in 2012, 84% or 57 women reported not having been a part of the consultation process. Across the three sites 769% or 164 respondents said that they did not participate in any consultations and only 16% or 35 respondents had participated in the first consultation meeting about the project. It was primarily the men as household heads who attended the village meetings. As one of the women in the focus group discussions said,

*“As the deputy head of household, I cannot participate in the village meeting because they always invite the head of household who is my husband. If they would like women's participation, they should strictly specify the female name who should attend each activity.”*

Men were more involved in the decision-making process. Women were thus sidelined in decisions regarding the project and were not consulted about important matters like land loss, compensation and resettlement. Therefore their awareness about the mining concessions and operations

was found to be very low. Only three from three project sites said they were aware of the area under mining—two from Sakai mining site mentioned that the total area to be mined was around 300 ha and one woman from the Sepon site mentioned that about 20 ha were to be mined. None of the respondents from Phu Bia were aware about the concession details of their villages. About 42 % or 90 of the women respondents were also not aware of the type of mineral that was being mined.

## Participation of women in community development programmes of the industry

The study looked at the community development activities and best practices adopted by the mining company and women's participation in these programmes. Community development schemes were initiated in Phu Bia and Sepon sites while the Sakai mining project had no such schemes. Sepon and Phu Bia report that they contribute USD 500000 and USD 300000 respectively each year to community development trust funds. At Sepon programmes such as drinking water supply, infrastructure development, village banks, training in traditional handicrafts, community health and education services and vocational training were promoted. Most of these activities are reported to involve local women. Similarly, the PhuKam project has livelihoods improvement programme that provides training in microfinance to women for supporting small businesses. It provides training in technical trades like welding, mechanical engineering, electrical fitting, etc to local youth. It claims to consciously work with local communities to reduce impacts due to disturbance to land, pollution, and other social risks.

The company reports that they undertake socio-economic surveys at periodical intervals, to assess the health, economic and gender aspects of the impacts due to company operations. In 2011 it is reported to have commissioned programmes like community health projects in collaboration with district authorities, livestock vaccination and community infrastructure for sanitation. The company also claims to be adopting the International Finance Corporation Performance Standards on Environmental Sustainability and the Minerals Council of Australia's Enduring Value Guidelines (PanAust 2011).

It is stated that in all consultations associated with the development of impact assessments for changes in mine plans, provision has been made for women to be involved in separate hearings. Similarly, in the 2007 and 2009/10 MMG Sepon household surveys, interviewers of household heads were instructed that, wherever possible, respondents should be alternately male and then female. However, most formal consultation groups in contact with MMG Sepon are dominated by males (with the exception of the presence in all groups of representatives of the LWU), as is the membership of the Sepon Development Trust Fund, the main source of community funding established by the company (SODA interviews).

The participation of women in community development activities initiated by the companies in the sites was found to be low. About 49% or 107 of the respondents said they were not involved. However, some women participated in a few types of activities—34 respondents or 16% participated in consultation meetings, 19% or 41 were group members of the fund, 9% or 19 participated in agricultural activities; and a very nominal number, just one or two, were involved in infrastructure and environment protection activities respectively. Twelve of the respondents or 6% underwent vocational development.

Sepon mine is one of the most acclaimed in the region as a demonstration of corporate accountability given its community development projects with local people, mainly women. Khouangvichit (2010) in her study, 'Socio-Economic Transformation and Gender Relations in Lao PDR' reports that from her interviews she could conclude the following: a number of activities were started with good intent and brought women together to work in groups. However, there were several problems that the women faced as the work given to them (for example weaving) was not very remunerative and the delays caused in making payments

along with the fact that they were wholly dependent on the company to take their material was a factor that led to constant uncertainties. The vegetable gardens supported by the company which purchased the stock from the women for its own canteen again had several problems because of delays in payments and the company being the sole client which dictated what should be grown and how much. Although Lane Xang Minerals Limited built a massive building for a market place as part of its community programme, the actual commercial activity was limited to some meager stocks purchased by the company alone, and hence the expenditure on the building did not seem to match the extent of business transactions generated for the local communities in order for this to be a sustainable livelihood.

Further, incomes from the activities supported by the company were far from adequate to meet their basic needs as the payments were delayed, uncertain and inadequate. After the initial thrust given to these community activities, they gradually tapered off, but the women commented that they were made to put up a pretense of these activities being very regular and successful whenever visitors were around. This created a lot of discomfort for them (Khouangvichit 2010). Therefore, the community projects, while they should be appreciated should also be understood that their seriousness to ensure socio-economic transformation and accountability to local communities was lacking.

## Impacts of mining

The impacts of mining on women can be viewed from different lenses—environmental, social, cultural and economic.

### **Loss of land**

Loss of land is one of the greatest impacts that affect women adversely. Of the 216 respondents, 94 had land in the name of their husbands, 35 said it was in their names, 61 were joint titles and 26 were cultivating land belonging to the State. About 25% of women or 55 respondents had lost their land as a consequence of mining concession. It is generally considered appropriate to consult only men on the process of compensation, and consequently women reported to have no knowledge of the benefits that they are entitled to receive. Although all the women interviewed said they were compensated for their land lost, they got a lower rate than its value and they were not satisfied with what

mine where Lane Xang Minerals Limited had caused negative impacts due to delays and non-payment of compensation in many cases. The study reports that although the Lao Constitution (Part III, Article 6, paragraph 6) 'recognises the right to compensation for the population in remote areas who do not have a legal land certificate', in Vilabury where the project affected communities lived, this was not applied.

Interviews conducted by Khouangvichit (2010) revealed that individual families faced several complications in receiving compensation which related to lack of clarity on division of responsibility between the company and government, lack of knowledge of departments in the government that dealt with assessment and disbursement of compensation, the manner of valuation of land, trees, houses and other assets, and most importantly, the very definition of stakeholder was ambiguous. As there was no clarity over the rules and procedures, even directly affected families and villages could not get proper compensation. Those who were indirectly affected where their crop yields drastically reduced due to company operations, or where there were damages to lands, houses, forests which did not get directly enumerated in the losses, there was no compensation received. Even those who received compensation could not sustain their previous quality of life due to reduced crop yields and produce.

Further, due to lack of information about the project and compensation procedures, and lack of communication by government and company, the researcher (Khouangvichit 2010) found that there were conflicts between the communities affected and the company. Some reported that their horticulture trees (Souan) were destroyed without prior information and when they sought compensation, this was rejected. In some cases, the company rejected the valuation and rates fixed either by the landowners themselves or by the concerned departments. Although the compensation decree and regulation of Lao PDR government adopted in 2005 states that compensation should be fixed after due consultations and discussions between the landowners and the project holder, in the case of Lane Xang Minerals Limited, the study (Khouangvichit 2010) reported that this did not happen in many cases. On the contrary, it reports that land owners faced threats and intimidation from the company where the people felt they had no power to negotiate. As quoted in the report, the District Governor stated,

was received as their food security and access to traditional food was much reduced.

In Khouangvichit's (2010) research five villages which fall under the Sepon Project Development Area are reported to have been most affected by mining operations. Two of these villages, Ban Vang Ngang and Ban Nongkadeng were 'resettled'. The latter was located downstream of the Nam Kok river which was their main source of water and spiritual rituals. However, the study found that the residents experienced skin infections and other water borne diseases soon after the copper-gold mining commenced, which led, especially to children and even cattle facing serious problems. To the grievances of the people regarding water pollution caused by mining, the company responded by informing the residents not to use the river and that they should instruct their children accordingly. The Nam Kok river is also traditionally a source of livelihood and income for artisanal mining of local communities who practiced Hone Kham or gold panning. When the river became too contaminated for use, the company 'encouraged' them to leave the village, and relocate next to the highway. However, there was no formal process of resettlement or compensation or even cleaning up of the river according to local people. But as they are dependent on the natural resources, they go back to their original village for cultivation and forest produce causing a lot of disturbance and burden to their life (Khouangvichit 2010).

Khouangvichit's study(2010)covered the issue of compensation of project affected communities in the Sepon



A mine site in Phu Bia mining project, Vientiane province, Lao PDR

“...lands that the villagers inherited from their ancestors a long time ago passed on from generation to generation. All their life is based on that...it is an important source of their food and basic livelihood. The company will compensate only for Kip 30 million (around USD 3000), which is nothing, it is not enough for family subsistence..” (Khouangvichit 2010)

That is why the villagers felt more secure with their land and cultivation than mining (mee ngeum tem pha bo tho na pheuan koang that metaphorically means having a lot of money which is not equal to a rice plot). The study showed how there is no marked reduction in poverty levels after mining operations as is the example of Vilabury district where the villages closest to the copper-gold mine are considered some of the poorest in Savannakhet province (district survey 2006). This led to new forms of hidden poverty which were overshadowed by the appearance of improved living standards and material benefits like houses, televisions, motorbikes, clothes, etc (Khouangvichit 2010). Hence it was felt that if there were more expansion of mining licenses, it would lead to future conflicts as it was not only about how much to compensate and who is responsible for it, but also about the feelings of the people and whether their choice of traditional livelihood over mining would be respected. The report also pointed to the fact that there was a high incidence of school drop-outs as the mining operations led to different kinds of casual work and young people were attracted to these due to cash flow available. However, the women who took up these jobs (habchiang which meant contract work or no work) in the company were most often temporary and felt insecure about their jobs and inadequate in the payments they received (Khouangvichit 2010).

While there is an apparent increase in wealth and quality of life through better housing, assets and consumer items owned, the field reality was different. This wealth was not distributive across all communities and families and those who managed to get jobs like truck drivers, mine operators, or semi-skilled workers like carpenters, masons, electricians had improved life styles but were few in number, while those who were only casual workers or who did not work for the company were more impoverished than earlier and were the majority population. The women interviewed commented on social dangers of this unequal distribution of wealth.

Some families who lost land got into small businesses like running restaurants, shops and other service activities, but their businesses were solely dependent on the existence of the company. It was commonly perceived that when the mine closes, their economic activities would collapse, and hence this uncertainty and temporary nature of company operations became a point of distress as the people felt that earlier, they may not have had much cash incomes, but they had a stable livelihood through land. It is this kind of socio-economic perspectives that do not get accounted for in national policies and in their understanding of the concept of sustainable development and in measuring poverty. (Khouangvichit 2010)

Yet, younger women with education seem to have scope for opportunities to work in the company. Those who managed to get recruited and trained as truck drivers among the women, have an improved quality of life and income higher than most male members. Such opportunities have given women greater exposure and security which they would not have otherwise enjoyed. However, for majority of the women, whether working in the mines as skilled or casual workers, their traditional responsibilities at home have remained the same, or have increased due to the male members giving lesser time for domestic activities.

Field interviews in the three mine sites revealed that women who have previously contributed to household incomes by farming now must rely solely on their husbands' income from the mining project to support their families. Some of them said they fell into deep poverty as a result of losing land. Some of the women participants of focus group

A biodiversity rich indigenous area in Vientiane province, Lao PDR







The far hills proposed for mining in Lao PDR

discussions stated that there were cases of women left with no support as the husband does not share the compensation money or incomes after getting the job in the mining, which has increased their workload and domestic responsibilities. The payment of compensation to men on behalf of families and communities had denied women access to and control over the financial benefits of mining and loss of land and natural resources for their self-sustenance. This has forced women's economic dependence on men, disempowering them, skewing gender relations or exacerbating existing inequalities. As one woman interviewee said,

“ *My husband will get money of compensation fee, he sometime keeps some money for his personal expenditure.* ”

### **Impact on traditional roles and social status**

Some of the respondents said that they did not perceive a change in their traditional roles but a majority of them (62%) said that mining had altered certain functions they performed. These included finding food sources in different ways, food security, exploring new ways of income generation and also adapting to changes to cope with new livelihood practices. There was some perceptible influence on social status of women where 73 of the respondents or 34% said that there was no impact on social status, 28% or 61 felt that their

social status was worse off. Twenty-seven of the respondents felt that they were able to meet and interact with a wider group of people while 19 of them felt that they had better rights and commanded more respect.

Some women in the focus group discussions felt that they had increased freedom of movement and expression, access to social spaces and participation in social networks or groups outside their family. While external features like changes in food and dressing habits can be said to have influenced local communities, these are only apparent changes. Some participants were concerned about the impacts on traditional practices. The loss of traditional livelihood opportunities has forced women, as well as men, to look for informal work outside the communities. Many women, who are tied to the home by childcare responsibilities, experience increased unpaid domestic work and economic dependence due to limited livelihood opportunities when land and forest resources got depleted by mining activities.

One of the men in the focus group discussions in Sepon site said that,

“ *Now, we are depending more on cash income and not relying on our traditional livelihoods any more. We cannot access the forest resources easily or go for hunting. Now everything is changed and we are increasingly depending on the market.* ”

## Social safety and risk perspectives

While 31% or 67 respondents said that they did not face any issues of safety a majority of them perceived risks of different forms. Nearly 37% or 81 respondents felt that there was an increase in social risks, 29 or 13% expressed concern about the increased vehicular traffic and pollution; 32 respondents felt an increased risk in livelihoods while a small number (7) perceived increase in social conflicts. More than 55% or, 118 of the respondents mentioned social problems such as increased number of beer shops leading to more alcoholism, domestic violence and brawls, and in some cases, drug addiction especially among the youth. Mining activities may have contributed to this increase in negative impacts. This was expressed by 122 of the respondents. While the majority (115 or 53%) said that they were not sure about increase in domestic violence the remaining respondents (101) mentioned that they were subject to one of the forms of violence—physical, sexual or emotional. Of this 64 or 30% identified emotional violence as a major problem at home.

Learning to manage changes post-mining has not always been easy, and some women complained that unlike before, their husbands now drink whiskey everyday because they have the cash to buy it. The focus group discussions found that women who have a partner in the mining industry are more likely to experience social and psychological abuse. According to one of the research participants,

“*My husband drinks more beers because he has more cash from his employment with mining company and sometimes he makes very loud noise.*”

## Impacts of migration

While 38% or 82 respondents said that the projects did not have any adverse impacts as a result of migration into the sites, more than half, 114 or 52%, of the respondents expressed dissatisfaction that the projects were hiring a larger number of non-locals. Twenty of the respondents cited that there was out migration but in-migrants increased considerably (from 219 families in 2004 to 292 in 2007 in 5 villages) causing distress to locals with local authorities being unable to regulate it (Khouangvichit 2010). The influx of migrant workers and poverty are key factors contributing to increased levels of sex work in areas where mining activities are taking place. According to 26 or 12% of the respondents

sex work is considered an additional job for workers, while 30 or 14% felt that there were more sex workers. The inflow of foreign workers in search of employment, especially single men, and the division of the labour markets generate opportunities for commercial sex and human trafficking. Fears of breakdown of family and social fabric were expressed. A majority of people are unemployed and living in poverty, so some of them are involved in commercial sex with male construction workers as a way of supporting their families. They said that young women struggling to make a living also turn to sex work to support themselves and their families or to meet the high cost of living.

## Access to natural resources

According to the respondents all three mining projects have had negative impacts on natural resources, especially reduced access to forest, land and water resources. Mining has made water, food, and firewood less accessible—either because access has been restricted or because nearby sources have become polluted. About half of the respondents numbering 111 or 51% found it increasingly difficult to access resources like land. A small number, 21 or 10% said that they had lost resources for mining. Reduced access to forest resources and non-timber forest produce (NTFP) were also cited by the respondents. Sixty-five or 30% of the respondents said that the mining company restricted their access to forests by not allowing local villagers to the concession areas. Another 75 research participants or 35% said that they faced difficulties in accessing resources in the forests. A very large number of participants, 66% or 143, said that NTFPs, an important resource especially for poor women, had become more scarce and difficult to access. Seventeen (10% of participants) also said that the forest produce was covered with chemicals and dust; this was true in all the three sites.

In the focus group discussions the villagers said that they had lost access to important communal lands, including forests and pastures. In the past, these lands were crucial for local livelihoods. While pastures were grazing areas for cows and water buffaloes, forests provided important resources like firewood and wood for making houses, as well as NTFP like bamboo shoots, wild mushrooms, forest fruits, wild cardamom, wild honey and medicinal plants. Fish was also caught from forest streams earlier. Nowadays few NTFPs are collected, and women in almost all of the villages visited complained about not being able to easily find firewood, thus having to spend much more time to collect it. As one woman from Sepon site said,

“ Before I took 20 minutes to collect firewood in nearby forests, now I have to travel far away and spend more than one hour to do this task. ”

Some others said they are forced to buy charcoal for cooking, increasing their family expenses.

Khouangvichit (2010) in her study revealed that the shift from traditional agriculture and Na(rice) cultivation to non-agricultural activities affected their food security. The women stated that although their husbands worked in the company and they received cash incomes, they felt that it was not an assured income like the continuity of food from the land. They also felt the loss of traditional food as they had to purchase all items from the market because of which they constantly felt the pressure of daily expenditure they had not faced in traditional livelihoods.

With the commencement of mining 68% or 146 of the respondents said that there were adverse impacts on access to food. While 91 of the respondents said that they had to spend a longer time finding food sources from more remote forest areas, 55 of them said they were more dependent on buying food in the nearby markets and 166 in the shops. There seems to have been some increase in accessing markets with 22% or 47 of the respondents citing the same, and 14% or 30 respondents saying that there was creation of opportunities for trade.

### **Environmental impacts**

All three mining operations have resulted in adverse environmental impacts. Air pollution and water contamination have affected all nearby villages, with serious consequences

for human and economic activities, for instance fisheries and agriculture. Concerns were expressed by the research participants on water pollution as a result of toxic materials from mining operations seeping into the rivers and affecting water quality (48 or 22%), strong or bad smell (95 or 44%) and smoke and dust pollution (56 or 26%). After fetching water, people let the dirt settle for a while before using it for drinking. They did not feel that it was a solution but say they have no choice. Women interviewed in Vientiane province found water contamination one of their most serious concerns, and felt it was the responsibility of the project to undertake water treatment. As per Khouangvichit (2010) villages around the mining project were forced to relocate due to the water pollution of the Nam Kok river.

Dust from the mine sites was another main cause for concern. Even women and children who are not working in the mines are constantly exposed to various respiratory illnesses due to inhalation of dust particles, skin diseases, and malfunctioning of various sensory organs, were experienced. The women stated that they were compelled to expose themselves and their children to severe health risks, especially posing hazards to pregnant women. The most common diseases reported by people from the mining area are cough and cold, malaria, skin diseases, diarrhoea and other respiratory illnesses. Environmental degradation has undermined women's capacity to provide food and clean water for their families, and subsequently led to an increase in their workload such as having to walk greater distances to access water, fuelwood, forest products and land for cultivation. There is no clear information regarding environmental studies or assessment conducted in Sepon as per the environmental guidelines although some reports of baseline surveys conducted exist (Shingu 2006).

Traditional fishing in Vientiane province impacted by water contamination due to mining upstream, Lao PDR



## Analysing Mining Impacts Based on Field Study and National Policies

The findings from the above field observations, and from the national level policies, regulations and institutional mechanisms show that there are some fundamental concerns arising out of the extractive industry operations that affect the rights of local communities and their gender relations. The foremost is the issue of the new economic policy that has taken a direction of large industrial projects and land concessions through private and FDIs as a vehicle of poverty eradication. As part of this process, the country is shifting to large-scale mining projects in lieu of alluvial and artisanal mining that was traditionally practiced. From a gender equality perspective this study puts forward some observations and analysis with regard to extractive industry operations in Lao PDR and empowerment of women.

1. While Lao PDR has achieved impressive targets in meeting the MDGs like female literacy, work participation of women and higher percentage of women in political governance, the indices over maternal mortality, higher education, landholding rates of women and primary health are still cause for concern. Whereas the government has initiated women's empowerment programmes, has created institutions like the LWU, NCAW and provides for gender equality in all its Constitutional laws, these have limited ability to effectively address the needs of women so far, as the processes of strengthening these institutions and programmes are still at a formative stage.
2. The policy of land titling as a national programme for regularisation of land entitlements is a significant move towards formalising people's resource ownership and management. As the law and customary rights accord better or equal status for women on land and property, this land titling process should enable women to get joint formal titles over land. If implemented quickly and sincerely, this process would ensure security to men and women, along with upholding gender equity in land ownership.
3. In Lao PDR, although majority of land is in the names of women or jointly, and where inheritance is traditionally with daughters under matrilineal customs, in reality, the ownership, decision-making and negotiations over land vest with men. Particularly ethnic minority groups do not have legal validity for their lands as the land registration process is incomplete. The case studies showed how whether the lands were registered or not, the problems with compensation, negotiation, valuation, and even decision-making persist, where the mining companies have taken away lands. Men, and more so, women did not have any access to information about their lands being licensed. Land laws are not being implemented in a gender equal manner where persisting gendered prejudices, women's lack of access and understanding of laws and non-accessibility to resources prevent them from getting their entitlements.
4. Stronger institutional support mechanisms and legal awareness on land rights should be consciously built into government programmes to supplement good policies. Strengthening the capacities and resources of institutions like the LWUs. Only when land titles are credibly gender equal, can new economic programmes like land concessions be received with equal negotiation capacity by women.
5. The extractive industry is one of the major sectors of land concessions with a growing potential for large-scale eviction and loss of lands, forests and natural resources. A large majority of ethnic groups are directly impacted by this sector. There are implications for food security, income, cultural practices, social relations and spiritual health, besides inter-village conflicts over sharing of natural resources. Compensation for loss of natural resources has been minimal or none at all. This problem is more severe in ethnic minority populations who are scattered, have low levels of literacy and are vulnerable to exploitation by outsiders.
6. Agricultural land, water systems and protected areas are threatened by diversion of these resources for mineral extraction. Although Lao PDR has policy documents and regulations on rehabilitation, resettlement and compensation with respect to industrial projects, the actual implementation of compensation and resettlement at the field level faces several challenges. Rehabilitation and compensation laws are not sufficiently explicit as the mineral law and law on rehabilitation are still in the making. Institutional mechanisms like the setting up of ministries like NTFP, streamlining of responsibilities, granting of licenses and monitoring the environmental and social impacts appear to be unclear and in need of drastic improvement.

7. This leaves open the problem of lack of consultation and community participation in decisions over lands and resources. In the field studies it was shown that ethnic women had difficulties in getting their voices heard, as consultation with local communities was not taken seriously by all stakeholders. Lao PDR needs to provide more legal safeguards and respect the international agreements like the UNDRIP with respect to women from ethnic groups.
8. The above repercussions have led to severe problems for women and brought changes in their livelihood, economic and social status and in the gender relations that in some ways enhanced their opportunities for negotiation and in many ways, disturbed their status. Loss of land and forest resources directly impacted women's ability to provide food security, bring income from the diverse forest resource collected without providing alternative sources. On the one hand, the mining sector in Lao PDR has taken a big leap in maintaining community relations through its policy of engaging local people in jobs and community activities. It provided jobs for women and even hired them as truck drivers, which is a positive shift from the stereotyped labour roles envisaged of women. Yet, most jobs were contractual in nature with high levels of uncertainty and low wages. There is a higher incidence of poverty among those who completely lost their resources. For large-scale projects, unless they commit to clear, quantitative gender equitable employment generation and resources, indirect employment generation is not a stable indicator of providing sustainable economic development for local communities. Working conditions of women in mining projects need to be seriously reviewed, where labour laws in relation to working hours, payments, training, upward mobility for technical employment and other facilities are not applied due to the very nature of contractual work.
9. The responsibility of large corporates and their performance standards need to be more clearly laid out and formally agreed upon with the government playing a proactive role in safeguarding the rights of local communities. While community projects like the Sepon mine need to be appreciated for their initiative, they are grossly inadequate. They are mostly targeted at women with petty income generation programmes which do not fulfill the mandate of consultation, grievance redressal, monitoring, legal and land rights. Responsibility to the women from the families and villages directly affected should be a priority. A formal systematic process for settlement of claims, compensation, grievances where women can participate without intimidation and with little obstacles for travel, should be set up at the mine site. Information should be available in the local language of the women. Ensuring women's safety and security is also a responsibility of the industry and that of the government as new problems are generated by the factor of mining.
10. Social impact assessment should be made mandatory as a periodical process of review in consultation and with participation by men and women working and living in the mining area.
11. Safeguarding the rights of children should become a critical responsibility of the government, since child labour and trafficking are known to be highly prevalent in mining areas. Laws related to labour and children were not found to be monitored while child labour is an indicator of the low economic levels. Mining as a sector is a most hazardous industry under International Labour Organisation (ILO), and has potential threats for child labour and vulnerability of children to social abuses.
12. The women from the mine sites in Lao PDR demanded for periodic water and soil testing as they constantly faced problems of contamination and related health problems. These assessment results should be disclosed to the public and protection of their rights vis-à-vis economic policies. They should also include periodic health assessment of communities, particularly reproductive health monitoring as most gold, copper and silver mining operations have testimonies of reproductive health problems in many mine sites in the world. The expenditure for these should be borne by the companies as part of their project costs. Independent audit of these expenditures and medical records should be available for public scrutiny.
13. ASM is a major local economy for many communities in Lao PDR. This is being taken away from them by licensing these regions to transnational companies. However, a serious legal and programmatic support needs to be given by the government to boost the highly decentralised economy of ASM. The arguments on behalf of large-scale mining as leading to employment generation, scientific and environmentally safe practices and poverty eradication, do not seem to reflect in actual practice. In both ASM and large-scale mining, communities complained of toxic pollutants, resultant

health problems and non-compliance with environmental norms. While ASM has had greater scope of providing livelihood to a large local population, particularly women, the larger companies employ much smaller number, and lesser women in formal employment. Hence shifting from ASM to large-scale mining has negative impacts on women's livelihoods. Undoubtedly there are problems with workers' health, wages and working conditions. So far there does not appear to be much thrust given by the government on organising the artisanal miners, strengthening their skills, providing resources and training to them for improving their technical skills, developing trade links and following safety measures. This should be a thrust area involving women miners.

14. In Lao PDR, as in the rest of the region, mining has generated a few positive impacts for those who found employment but it has largely created stress on communities and on their rights to land, natural resources and livelihoods. While mining projects provided a few windows of opportunity for some women in unskilled and semi-skilled work, they are more disadvantaged than male workers. This disadvantage is evident in access to employment, education, and access to services and control over the benefits of development. In addition, women are under-represented everywhere in decision-making. The mining projects give a false notion of development and improved quality of

life as only material assets and use of modern gadgets or changes in housing are used as benchmarks. The more sustainable indicators of access to and quality of food, knowledge over traditional medicine unique to ethnic groups, social and economic equity and security, women's control and decision-making over land and resources, rights to agriculture and forestry occupations, rights to good health, water and air quality and such other critical areas of human dignity are not treated as benchmarks for assessing impacts. Also, direct gains from employment in the mining sector did not significantly contribute to overall poverty reduction. Even though poverty among mining sector workers fell by more than 235 points between 2003 and 2008 (compared to falls of 9% in manufacturing and 6% in services), because of its small share in overall employment, the mining sector's total contribution to poverty reduction was less than 0.1% out of the 6% nationwide poverty reduction achieved between 2003 and 2008 (WB 2010a).

Hence these gains and losses from mining sector operations in Lao PDR have to be weighed carefully vis-a-vis gender equality without making light of the impacts that mining operations have on women's lives. Future development programmes, land concessions for mining projects and expansion of its FDIs should significantly take into account the experiences of women from the mining areas.



The Nam Ngum River- a source of livelihood for indigenous communities



Hung Thinh commune, Tran Yen district, Yen Bai province, Vietnam

*Courtesy CGFED*

**Section III**  
**Vietnam Country Report**



# Vietnam

## Introduction

The Socialist Republic of Vietnam, an 'S' shaped land strip, lies on the eastern part of the Indochinese peninsula with China bordering it to the north, Lao PDR and Cambodia to the west, the Eastern Sea to the east and the Pacific Ocean to the east and the south. As per the latest Census (2011) the population of Vietnam is 87840997 with a population density increasing from 231 persons per sq km in 1999 to 280 persons per sq km in 2011 (USAID 2013). The literacy rate of the population of 15 years of age and over has continuously increased for the most recent two censuses—90.3% in 1999 and 94% in 2009. For the past 10 years, the literacy rate of women has increased 4.9 percentage points while male literacy rate only increased 2.2 percentage points, producing a narrower difference in literacy rate between men and women. The literacy rate of the male and female population aged 15 and over in 2009 was 96.1% and 92%, respectively. Data of the 2009 Census also show that the difference in literacy between urban and rural areas is also very small: 97.3% in urban areas versus 92.5% in rural areas (CPHCSC 2010).

There are only under 4 million people who had never attended school, accounting for 5% of total population aged 5 years and over. Infant mortality rate of the 2009 Census estimated for 12 months prior to the census time-point has fallen to 16 per thousand as compared to 36.7 per thousand in 1999 Census. Sex ratio at birth from the 2009 Census was 110.5 male births for every 100 female births. Sex ratio of population aged 0–4 was 108.7 boys for every 100 girls. Vietnam's sex ratio has always been less than 100. Besides, the main cause (male mortality has exceeded female mortality) for this situation of Vietnam has been the impact of wars in the twentieth century. Yet, this ratio has tended to increase gradually after re-unification of Vietnam since 1975 (CPHCSC 2010).



# The Extractive Industry and Natural Resources in Vietnam

## Mineral reserves and their spread

Vietnam has diverse mineral resources and has, till date, discovered nearly 5000 deposits and occurrences of 60 different types of minerals that can be classified into three groups. The group of minerals with large-scale reserves include bauxite, rare earth, titanium (iliminite/zircon), coal, limestone, silica sand, facing stone and building stone that can be exploited both for domestic use and export. Those minerals of medium reserves marked for domestic consumption include coal, iron ore, chromium, manganese, tungsten, copper, tin, lead/zinc/silver, gold, antimony, uranium, feldspar, kaolin, talc, fluorite, barites, graphite, ashlar paving stone, dolomite, apatite, phosphorite, bentonite and diatomite. The third group are those that have been detected but not yet to the extent of exploitable resource are platinum and lithium. Gemstones like ruby, sapphire, beryl (aquamarine), topaz, tourmaline, spinel, zircon, peridot, tektites and pearl also occur in several parts of the country (Binh et al 2011).

## Exploration, exploitation and processing of minerals

Exploration and mining licenses were issued on a large-scale from the year 1996 in Vietnam. Earlier, the Ministry of Natural Resources and Environment (MoNRE) issued exploratory licenses for over 20 minerals to an extent of 640 projects, and subsequently, the Provincial People's Committee started issuing exploratory licenses since the amendment of the law on minerals. Since the year 2005, about 350 exploratory licenses were issued, majority of which have been extended to extraction.

There has been an increase in the average growth of the mining industry with a 21.7% per year increase in the number of companies. There were 427 extractive companies in 2000, which quintupled by 2008. Within the period of 1988-2008, the number of FDI projects was 126, with a registered capital investment of USD 10583.6 million. Nearly 2000 companies have participated in exploitation activities with the majority (90%) being small-scale. The 10% large operating mines are projected as having vast potential in employment, with the coal sector alone accounting for 60% of the value of the mining sector and providing 100000 jobs (Binh et al 2011).

As per licenses issued by the central authorities, there are 150 mining companies operating in 37 provinces of which State owned were 54.41%, FDI 8.82% and the rest were privately owned Vietnamese enterprises (Binh et al 2011). Countries that have shown interest in investing in the mineral sector in Vietnam mainly include Australia, China, Japan and India.

Since 2005 decentralised government decision-making has led to the proliferation of small-scale mining leases granted by the provincial authorities. Thus while the central ministry, in the previous 12 years, granted 926 licenses, the provincial and/or municipal authorities granted over 3495 licenses between 2005 and 2008 (VDR 2011). The mining industry in Vietnam has matured in a limited way in the areas of processing and refining due to several challenges related to technology, environmental pollution and lack of skilled man power. Processing plants like iron and steel, and tin were set up since 1996 particularly with companies like Song Cong Steel, Nguyen cast iron and, refining of gold was initiated with the Bong Mieu Gold refinery in Quang Nam (Binh et al 2011).

The most important mineral commodity produced in the country is coal. In 2009 about 44 million tonnes of coal was produced, half of which was exported. Largely, the minerals being explored are coal, bauxite, oil and gas (Fong-Sam 2009). However, the Prime Minister called to halt licensing of new projects as of 31 August 2011 citing reasons of negative social, environmental and economic impacts of mining (Vietnam Net 2011).

The development of the mineral and quarrying industry is guided by "master plans" in which are incorporated the potential areas for mining and processing, anticipated investments and development plans. At present there are 13 approved master plans for 39 minerals. These are drafted by the government to cover 10–15 years and they drive the exploration, exploitation and processing of different minerals. They focus on mineral deposits that are considered essential and may be developed and exploited on a large industrial scale. The MoNRE is the statutory authority for granting mining licenses. Minor minerals which are not included in the master plans fall within the purview of the provincial authorities. These master plans are usually prepared by the Ministry of Industry and Trade, MoNRE and/or the State owned Vinacomin. They are problematic for their erratic and ad hoc manner of planning, for lack of transparency and public disclosure and the lack of inclusiveness or public consultation. They do not deal with relevant topics like involuntary resettlement, environmental pollution, in-

migration, change in land use patterns and effects on livelihoods, incomes and health. Suggested reform is to move away from the past heritage of central planning towards a “resource assessment” model that takes into consideration all benefits whether direct or induced and covers all costs (VDR 2011). Both private investments and State enterprises are permitted to undertake mining operations, although some core sectors like coal, iron ore, gold and oil and gas are primarily granted to State owned companies. (Binh et al 2011).

### **Economic role of the extractive industry**

The total industrial production for mining and quarrying sector in Vietnam has been 107.3% for the year 2011, and 108.8% for 2010. The number of FDI projects licensed up to the year 2011 are 71 which are worth a total registered capital of USD 3015.5 million. The gross output of mining and quarrying in the year 2010 was VND 250465.9 billion and for the preceding year it was VND 212164 billion. The contribution of mining and quarrying to the GDP of Vietnam stood at 4.81% for the year 1995 with an increase to 10.59% by 2008, with oil and gas accounting for majority of output value within the minerals sector (GSO2012).

As of the year 2002, the mining and quarrying sector employed 219000 workers. In 2009, the sector absorbed 475000 workers which stood at approximately 1% of total labour force in Vietnam (GSO 2012).

In 2010 the export value of Vietnam’s mining industry (excluding gas) was estimated at USD 7.74 billion and accounted for 11% of Vietnam’s total export volume (Conbuild2011). However, Vietnam was forced to import coal for the first time in April 2011. In 2011, five FDI mining projects were licensed with a registered capital of USD 98.4 million (Ha 2011).

### **Mineral legislation, policies and programmes**

State agencies like the Ministry of Industry and Trade, the MoNRE, the Ministry of Planning and Investment (MoPI), the MoF, the Ministry of Construction, and ministerial level bodies manage revenues and mining activities at the national level; the People’s Committees at all levels have responsibilities to manage mining activities and revenues in the local area.

The institutional framework of the DoMunderwent several milestones of structural development. In the year 1945, President Ho Chi Minh created the General Inspectorate of Minerals and Industry under the Ministry of

National Economy. In 1946, the Department of Minerals and Technology was created, in 1955 the Geological Survey and the Mining Department under the Ministry of Industry and Trade was set up and in 1987, the General Department of Mines and Geology was established. However, in 1990, this was dissolved and the Geological Survey of Vietnam and the State Department for Management of Mineral Resources was established under the Ministry of Heavy Industry. Further, in the year 1996, the Department of Geology and Minerals was merged into the Ministry of Industry. In 2002, the MoNRE was set up under Decree No.91/2002/ND-CP (VM 2012).

The State Assembly (now the Standing Steering Committee of the National Assembly) promulgated the Ordinance of Minerals in 1989 in accordance with the Constitution. The Law on Foreign Investment was also introduced in 1987 to attract foreign investment in mining operations (Whitney 2011). In 1996, the National Assembly adopted the Law on Minerals which was complemented and revised in 2005 (Binh et al 2011). This was further revised and a new Mineral Law of Vietnam (2010) came into effect on 1 July 2011. The New Mineral Law sets the focus of the mineral policy and gives priority to socio-economic, national defence and security to be safeguarded (Whitney 2011).

### **Environmental protection**

Environmental protection is mentioned in some instances in the New Mineral Law (2010). For example, mineral activities are to “be associated” with protection of the “environment, national landscape, historical and cultural sites, and scenic beauty spots and of other natural resources.” (Article 4.1); calls for mining operations to use “environmentally friendly equipment and materials” as well as taking measures “to prevent or minimise any adverse impact on the environment, and must reconstruct or rehabilitate the environment in accordance with the law.”(Article 30.1) Mining companies must pay for all expenses to protect, reconstruct, or rehabilitate the environment (Article 30.2); and solutions and costs of protection, reconstruction or rehabilitation must be identified in the investment project, EIA report, with a “written undertaking on environmental protection” that is approved by the relevant authority (Article 30.2); (Escrow) deposits for rehabilitation and reconstruction of the environment must be arranged before mining commences (Article 30.3) (Whitney 2011).

Vietnam enacted its first Law on Protection of the Environment in 1994 and a more comprehensive law

introduced in 2005, directs all citizens to take responsibility to protect the environment. The law also places remedial responsibility on the polluter, “Any organisation, family household or individual causing environmental pollution or degradation shall be obliged to remedy it and to compensate for loss and damage, and shall bear other liabilities in accordance with law” (Article 4(5)) (Whitney 2011). Under the environment laws of Vietnam, every project should submit an Environmental Impact Assessment Report and an Environmental Protection Undertaking and submit environmental management plans that comply with environmental standards. These EIA reports are mandated to be prepared with consent and opinions of local authorities and affected communities with the latter’s objections and questions clarified by the project proponents (Robinson 2010).

While strong legal mechanisms and policies exist in Vietnam, due to the lack of political regulation and capacity to enforce the EIA provisions, there is poor enforcement

and compliance at the field level. Furthermore, the participation and engagement of civil society organisations and local communities in monitoring and overseeing this process are still limited (Binh et al 2011).

### **Land acquisition, rehabilitation and compensation for mining projects**

In the case of mining, State can acquire lands for implementing investment projects on mineral exploration and exploitation in accordance with legal regulations on investment and mining. Subject to environment protection requirements or land use plans the business or service bases need land for relocation (bases are not allowed to be in industrial zone, high-tech zone or economic zone). The process for acquisition, rehabilitation and compensation is the same as followed for other industries, with the Land Law 2003 being the main legislation supported by its decrees and decisions.

View of the mine in Hung Thinh commune, Tran Yen district, Yen Bai province, Vietnam



Courtesy CGFED

## Land and Natural Resources

### Conflicts in mining

Conflicts over a proposed bauxite mine in the Central Highlands and its potential social and environmental threats, has led to clashes between the government and local communities and human rights advocates. The majority of bauxite in Vietnam is found in the Central Highlands such as the provinces of Tay Nguyen, Dak Nong and Lam Dong, believed to be one of the largest known reserves of the ore in the world. These regions, known for local tourism, are also home to ethnic minorities who produce a variety of food crops as well as cash crops like coffee, cashew and tea. Other regions have also been experiencing discontent over the government's decisions to give licences in people's lands for mining projects.

### Women and the extractive industry

According to the Mineral Law in Vietnam, women are not allowed to work underground, nor are they hired as truck drivers according to the statements given by the officials of Vinacomin when the research team interviewed them (dated 25 June 2012). However, women are allowed to study technical courses like mining engineering, designing of mine technology and related professional courses. Vinacomin, which is the largest State owned mining company in Vietnam, employs 26000 female workers, most of who are in non-technical and administrative jobs. The company reported that as per the Labour Law (Chapter X), women workers are allowed a maternity leave of 6 months, and an additional 8 months if they had put in extra hours of work earlier. The company provides medical check-up for pregnant women five times during the period of pregnancy. Although equal pay for equal work and gender neutral policies are present, in reality it is the male employees who are in leadership positions as women employees do not perform technical tasks, or go underground. However, even these facilities cannot be guaranteed for women working in the private companies.

### Legal framework for land

In Vietnam, land reform post-independence was taken up over three periods between 1945 and 1980; 1980 to 2003; and post 2003. While the Land Laws of 1987 and 1993 were important in reallocating cooperative land to farmer households for their long-term use, the Land Law of 2003 and the Decree 84 of 2007 came into force in order to enable industrialisation and conversion of land for market-oriented economy. The current land policy framework places an emphasis on the role of the State in bringing further amendments to the Land Law to hasten industrialisation (VDR 2011).

While earlier the land management system under the two Constitutions (1946 and 1959), recognised the existence of State, collective and private ownership, the Law on Farm Land Reforms 1953, transferred land from feudal landlords to farmers under the slogan "farms to the cultivators". In the 1960s projects in the northern part of the country were initiated to encourage farmers to voluntarily donate their land and livestock to farming cooperatives and production collectives to establish a socialist base for agricultural production. Private ownership decreased paving the way for the development of State and collective ownership (Tuyen 2010).

The legal instruments with respect to land also reflected the aims of State and collective ownership. Land law was not codified and took the form of decrees and decisions of the government, directives of the Prime Minister, orders and decisions of ministries, etc., seeking to regulate one or more issues of land use and management. After the national unification (April 1975), the most remarkable statutory document on land law was decision No.201/CP, on the strengthening of the nationwide management of farmland (Tuyen 2010).



Courtesy CGFED

Mining resettlement land in My Gia commune, Yen Binh district, Yen Bai province, Vietnam

Land Law between 1980 and 2003 mainly focussed on giving land to farmers on a barter system and had no system of pricing or financial land transactions. As this proved to be an obstacle for the process of DoiMoi (name given to the economic reforms initiated in 1986) in terms of land management, the law of 1993 was adopted. It permitted the State to transfer and lease out land to organisations, households and individuals for long-term stable use, and allowed land users to pass on the right of use of land to another user within the duration of the lease (Article 1) (Tuyen 2010). It allowed households to transfer, mortgage, exchange, inherit and rent land through the Land Use Right Certificates (LURC), which extended to a revision in 1998 to include the right to sub-lease and use them as capital for joint venture arrangements. The 1993 Land Law excluded ethnic minority communities from obtaining LURCs as it did not cover village communities, households or groups as eligible for rights, nor did it recognise the customary laws and practices (USAID 2013). This posed a problem when industries and projects came to occupy ethnic minority lands as the local communities could not show their eligibility to compensation or right to decision-making, although the 2003 Land Law brought in an amendment to include customary groups.

While the compulsory land conversion measure of 1993 was restricted to public purpose projects that include economic development projects like mining and energy, the rest of land transfers come under the voluntary land conversion measure based on negotiations between investors and current land users to make land transfer/land lease/land contribution as capital. Issues related to compensation, resettlement, land valuation and compulsory land conversion were based on this law. It also enhanced the participation of people's committees in monitoring and supervision of these land settlement issues, disputes arising out of land conversion and any complaints of those affected (Huyen & Ha 2009).

Some decrees came to be promulgated related to land management, land rights and use like the Decree No. 84/2007/ND-CP dated 25 May 2007 with additional provisions on issuance of land use right certificate, land recovery, procedures on land compensation, support and resettlement upon State's recovery of land, and settlement of land complaints. These provided incentives for FDI and private industrial investments (Huyen & Ha 2009).

The 2003 Land Law was brought under amendment in 2012 by the Vietnam National Assembly to address such issues as compulsory land acquisition, the processes of

determining market price, and the 20 year land use rights expiration (USAID 2013).

### **Land acquisition, compensation and rehabilitation**

Land acquisition in Vietnam is on a very high activity in order to multiply industrial operations on diverse sectors such as defence, infrastructure development for public utilities, tourism, forestry, industry and mining with some of them being 100% foreign funded. Land acquisition is undertaken by the People's Committees at the provincial levels and at the commune levels on behalf of the investors. The investors are required to submit a comprehensive plan for the project including components related to compensation and resettlement and the approval is given by the organisation in-charge of compensation site clearance (OCSC). It is the responsibility of the OCSC to inform the existing land users about the reasons for land acquisition, and the details of the project with respect to compensation and resettlement, sites for resettlement, alternate livelihoods and employment facilities, time frame for relocation, and such other details. The compensation is subject to the Land Law 2003 and guided by relevant Decrees and Decisions that includes compensation for land, houses, trees which the project investors have to provide. But these are usually offset against land use fee or land rental charges owed to the State (Hung n.d; Lee & Vinh 2010).

National laws guiding the land acquisition and resettlement process in Vietnam:

Land Law 2003; Decree No. 181/2004/ND-CP, guiding the implementation of the Land Law; Decree No. 197/2004/ND-CP, on compensation, rehabilitation and resettlement in the event of land recovery by the State; Decree No. 84/2007/ND-CP 25 May, 2007, on supplementary regulations with regard to land use claim, rights and settlements;

Decree No. 123/2007/ND-CP 27 July, 2007 on supplementary regulations for Decree No. 188/2004/ND-CP, specifying methods for land pricing and land price frameworks where land is recovered by the State; Circular No 06/2007/TT-BTNMT of MoNRE guiding the implementation of Decree No. 84/2007/ND-CP 25 May, 2007; Circular 116/2204/TT-BTC, guiding the implementation of Decree 197; Decree No. 17/2006/ND-CP, amending Decree No. 181/2004/ND-CP, Decree No. 197/2004/ND-CP and other decrees; Decree No. 188/2004/ND-CP, specifying methods for land pricing and land price frameworks in the event of land recovery by the State; Circular 114/2004/TT-BTC, guiding the implementation of Decree 188, Decree No. 79/2003/ND-CP, promulgating the

regulation on the exercise of democracy in communes, including requirements for consultation with and participation of people in communes; Decree No. 17/2001/ND-CP, on the management and use of Official Development Assistance; Direction 17/2004/CT-TTg, on speeding up the disbursement of Official Development Assistance capital source;

Decree No. 17/2006/ND-CP, amending Decree No. 181/2004/ND-CP, Decree No. 197/2004/ND-CP and other decrees;

The main points relevant to land acquisition and resettlement are:

- \* The State reserves the right to allocate land and determine its usage;
- \* Families and individuals who have been allocated land have the right to exchange land, transfer right of use, rent bequeath or use land as collateral;
- \* The People's Committee at all levels (viz., province, district and commune) is responsible for land administration in its jurisdiction and managing land use;
- \* The State has the right to acquire land for defence security, national interest, and economic development, in which case the land user is entitled to compensation;
- \* The land user must be fully informed of the reasons for land recovery, evacuation, and schemes for compensation and resettlement prior to land recovery.

Decree 197/2004, Decree 188/2004, Decree 17/2006, Decree 84/2007, Decree 123/2007 and Circulars 116 and 114 are the main legal instruments for guiding the regulation of compensation and rehabilitation as a result of land recovery by the State. Where differences may arise with the policies of international projects, Decree 197 states that “where the international agreements which Vietnam has signed or acceded to contain provisions different from those of this Decree, the provisions of such international agreements shall apply” (Article 1, para. 2) (Anon n.d (a)).

FDI routes for land acquisition are through 1) land lease either by annual lease or lump sum payment from the State; 2) project transfer; 3) contribution of land as equity into a joint venture company by a Vietnamese party to a joint venture with a foreign entity. The State first acquires the land on behalf of the investors from the existing users and is responsible for compensating them. The foreign company, in turn, pays the State or sometimes, make direct purchase from land owners (Lee & Vinh 2010).

## Forests and forest management

The country has an area of 13.1 million ha of forest lands which constitutes 44% of total land area as of 2010 which is close to 6.5% of total area as of 2013 (REDD 2011). Forest area is categorised into three types of forest: Special use Forest (2.1 million ha or 15.7% of total forest area), Protection Forest (4.7 million ha or 36.1% of total forest area) and Production Forest (6.2 million ha or 48.2% of total forest area) (CERDA & CSDM n.d).

Many studies have reported that deforestation is a serious problem in Vietnam due to the pressures of overpopulation, over-exploitation and conversion of forest lands for agriculture and commercial plantations. The rapid industrialisation and large-scale projects like hydro, energy and mining occupy large areas of forest lands. In addition, policies relating to forest land rights are not concrete and local authorities are unclear about how to ensure policy implementation (CERDA & CSDM n.d) and negotiate a price for compensation.

An estimated 25 million people live in or near forests including several ethnic minorities (VDR 2011) particularly in the northern and central highlands. The Constitution of Vietnam states that all forest resources (including land, trees, and wildlife) are owned by the people and by the government, on behalf of the people, by legally entrusting the management of forests to specific groups (CERDA & CSDM n.d).

Key institutions related to forestry include the Ministry of Agriculture and Rural Development under which are the Directorate of Forestry, the MoNRE, the MoPI, the MoF and the State Committee for Ethnic Minority and Mountainous Area Affairs (CERDA & CSDM n.d).

Due to pressure on forest land, unsustainable management practices and imbalance in land allocation, issues of inequity especially among ethnic minorities and women are serious concerns with respect to rights over forests and land. Lack of transparency in land acquisition procedures, increasingly for mining projects, and incoherent compensation policies have led to disputes with local communities and individual land users. Most communities reported to not having been consulted in land use planning and allocation. Therefore policies are to be reviewed particularly in view of the rapid industrialisation spreading to forest areas and regions where ethnic minorities are high in number and there is a clearly emerging conflict of usufruct and rights over these resources between the government and forest dependent communities.

## Ethnic Groups/Indigenous People: Demography, Distribution and Protection

In the context of the extractive industry and mining, it is important to focus on the situation of ethnic minorities as most extraction projects and mining activities are concentrated and proposed in their regions. There are 54 ethnic groups in Vietnam as per Census 2009, of which the Kinh form the majority group with a population of 73594341 and account for 85.7% of the total population. The remaining 53 are ethnic minority groups accounting for 14.3% of the total population. With a population of more than 1 million they include: Tay: 1626392 (1.9%); Thai: 1550423 (1.8%); Muong: 1268963 (1.5%); Khmer: 1260640 (1.5%) and Mong: 1068189 (1.2%) (CPHCSC 2010).

The ethnic minority groups are mainly scattered over mountain areas (covering two-thirds of the country's territory) spreading from the north to the south, and concentrated in the mountainous regions—mainly the Northern Mountains bordering China and the Central Highlands bordering Lao PDR and Cambodia. The Committee for Ethnic Minorities Affairs, a ministerial level agency under the government, is responsible for performing functions of State management on ethnic minority affairs nationwide (CPHCSC 2010).

The process of Doi Moi and rapid industrialisation negatively impacted the ethnic minorities in Vietnam worsening their economic status, and with persistently low levels of literacy and development. The overall development scenario of these groups indicates that 40% of the poor in the country in 2004 (Tich & Bao 2008) were from ethnic minority groups. Another estimate gives 61% of the ethnic minorities to be living in poverty in the year 2004. With the exception of the Mekong delta the ethnic minority poverty rates are above 50% in every region and are well above 70% in several regions. In the Central Highlands extreme poverty and hunger is widespread among the ethnic population (Swinkels&Turk2006).

The emphasis on equality fails to recognise that most ethnic minority people are underprivileged and marginalised. Vietnam does not offer special protection to them, despite their

historical status and contemporary marginalisation. Thus the plight of ethnic minorities, particularly those in remote areas, has worsened due to the external pressures brought about by intrusion of forest investors for plantations, mining and other projects. Although in the year 2007, Vietnam became a signatory to the UNDRIP, several reports state that there is no corresponding Constitutional safeguard for ethnic minorities nor has there been a respect for the right of FPIC in relation to State interventions. Customary land and forest rights do not hold a legal position in the constitution of Vietnam (Truong & Genotiva n.d).

There are no special land laws or policies for ethnic minorities although they have received LURC over agricultural and forest lands according to the Land Law decrees. However, as most of the land under their occupation is classified as forest land for which majority of them have not received land use certificates, and, as customary authority over land management and use are ignored by general law, ethnic minorities do not, in reality, hold decision-making rights over their lands. It is also reported that in the Central Highlands which has the highest forest area in the country, only 4% of ethnic minorities have access to forest lands (USAID 2013). Hence protection of their lands and their right to FPIC in the context of the increasing commercial interests like mining has become a critical concern as in the case of the proposed bauxite mine in these Highlands (Tay Nguyen). Several mining projects especially for several aluminium processing plants in the Central Highlands are very advanced (Truong & Genotiva n.d).



Courtesy CGFED

Group discussion (local key leaders) - Hung Thinh commune, Tran Yen district, Yen Bai province, Vietnam



## Status of Women and Gender Equality

### Historical changes in women's status

The status of women in Vietnam underwent several changes in the history of the country. Traditionally women had a higher status when a matriarchal system was followed but patriarchal norms are said to have crept in with the arrival of Confucianism and later by the French Colonisation, thus weakening the position of women. Gender equality in the Constitutional and legal framework is said to have existed since 1945 with equality in electoral participation (OMCT 2011). Prior to this, in 1930 when the Vietnam Communist Party was set up, the Women's Emancipation Association (later called the VWU) was simultaneously established under the leadership of President Ho Chi Minh who emphasised the need for gender equality in the Party. The socialist politics of Vietnam are stated to be incorporated within the Constitution (of 1945, 1959, 1980 and 1992) by providing for entitlements to women in the spheres of politics, economics and social security. Labour rights and equality of wages, maternity leave, childcare facilities were some of the privileges created under the influence of the Vietnam women's movement, without women having to wage a battle for these rights. The Labour Code 1994 has a special chapter on provisions for women workers (FAO 2011a).

Further, in 1980 in the same year as the new Constitution of Vietnam, the country became signatory to CEDAW. In 1984 it set up the National Committee for Women, later renamed the NCFAW, in order to strengthen women's participation in politics. Vietnam formed its National Plan of Action for women in consonance with the Beijing Plan of Action, with 20–30% reservation of seats for women at different levels of electoral participation (Mitchell 2000).

However, despite these policy actions in favour of equality of women, and gender parities in literacy levels, these have not been translated into real leadership for women or brought them real entitlements over land, forests and other properties or even gave them rights over decision-making. Particularly women among the ethnic minority groups have low levels of literacy and schooling, face severe impoverishment and have little awareness of the policies that give them entitlements. Discrimination against women continues to exist in Vietnam and women encounter substantial legal and social obstacles when attempting to enforce their rights (OMCT 2011).

### Formal institutional machinery for women's empowerment

The national machinery for the advancement of women and gender equality includes the NCFAW, the Committees for the Advancement of Women in different provinces and ministries, and the VWU (FAO 2011a) a political-social organisation with a four level system at the central, provincial, district and commune level. More than 50% of the women in the country are a part of the Union. The Ministry of Labour, War Invalids and Social Affairs is assisted by the Department of Gender Equality that exists within the Ministry (established in 2008) to meet the goals of gender equality. The Family Department of the Ministry of Culture, Sport and Tourism is primarily responsible for coordinating programmes for dealing with domestic violence (UNVn n.d).

In 1997 Vietnam approved the Strategy and Action Plan for Advancement of Women in Vietnam with visible achievements by the year 2000 in creation of employment opportunities for female labourers. The National Strategy for the Advancement of Women in Vietnam by 2010" brought labour, education, health as priority issues. At present, the Department of Gender Equality and other ministries are developing the "National Strategy on Gender Equality (2011-2020)" and the "National Targeted Programmes on Gender Equality (2011-2020) (JICA 2011).

### Gender disparities

In 2007 women constituted 49% of the economically active population of which 65% are engaged in agriculture, comprising 49.5% of the entire agricultural labour force (this is excluding rural women's unpaid work in farm and family economies). Women are a key source of labour in rice production and also account for 60–70% of the workforce in food processing, including fish processing, and marketing, as of 2005 (FAO 2011a). Female employees account for 46% of workers in the production and business sectors, 41.12% of all working women are self-employed, and 49.42% of women contribute to the household economy. However, the average income for men is higher than for women in the same type of labour; the wage for women in skilled jobs is 77% that of men (JICA 2011).

In terms of education, there is only a marginal difference between male and female literacy levels (90% and 89.3% respectively). Women's health has improved with a reduction in maternal mortality rate from 233 per 100000 in 1990 to 69 per 100000 in 2009. Life expectancy is 72.9 years for men and 76.8 for women. The preference for a male child is prevalent in the country with the sex ratio (male per 100

females) at birth at 110.5. In terms of political participation Vietnam has a larger percentage of women in leadership and decision-making, which at the national level is 25.76%, at provincial 23.88%, at district 23.2% and at commune level 20.11%. Women form 12.5% of ministers in the government. In the Committees women constitute 56% of the Ethnic Minorities Council, 37.5% in the Social Affairs and 32.4% in Technology, Science and Environment (JICA 2011). Despite these impressive statistics and women centred laws, the physical safety of women in Vietnam continues to be a cause for concern with domestic violence a main cause for divorce (SIGI 2013).

The Vietnamese Constitution, as well as the Civil, Criminal and Family Codes generally provide for de jure equality between men and women in the political, economic, cultural, social and family spheres. The Marriage and Family Law (1986 revised in 2000) also states that ownership certificates for properties jointly owned by husband and wife must be registered with the names of both spouses, that all land acquired during marriage is considered to be a common asset, and specifies the equal obligations and rights of both wife and husband on joint/common property and requires that, "Buying, selling, exchange, lending, borrowing and other transactions related to large value property shall be made with an agreement of spouses." The Decree 70/2001/ND-CP detailing the implementation of the Marriage and Family Law 2001 states that:

- \* properties under the common ownership of husband and wife, which require names of both husband and wife as per the Marriage and Family Law include houses, land use right and other properties, to which the ownership right must be registered as required by law;
- \* households that already received land use right certificates with only the name of the husband or the wife can request a new certificate with the names of both husband and wife. If the husband and wife do not ask for the new registration paper, such property shall still belong to their common ownership.
- \* Vietnamese women also have equal access to property other than land (SIGI 2013).

Other laws and decrees include Law on Domestic Violence Prevention and Control 2007, Decree No.70/2008/ND-CP (implementation of some articles of the law on gender equality), Decree No.48/2009/ND-CP (definition of measures to ensure gender equality), and Decree No. 55/2009/ND-CP (penalties for administrative violations of gender equality) (JICA 2011). The Land Law 2003 stipulates that LURC are registered in both the men and women's names (SIGI 2013).

Much as these Constitutional rights provide gender equal land rights in Vietnam, in reality there is a vast gender imbalance in ownership and enjoyment of lands and properties. Women have fewer rights with regard to access and use, receive less land and hold fewer titles with unequal representation of women on LURCs (USAID 2013). Even if women have equal ownership rights there is limited awareness of their right of access to land and traditional customs that place the husband as the head of the household. Women continue to be dependent on a male relative for access to land. Consequently, LURC are usually issued in the husband's name. This causes problems for widowed and divorced women. Women who are not registered land users also face problems in taking loans.

### Indigenous/ethnic minority women

The situation of indigenous and minority women is often compounded by multiple layers of discrimination based on ethnicity and gender, with disparities between tribes and regions. Among ethnic minorities patriarchal traditions persist and cultural norms continue to place women in a subordinate position, and women continue to be disadvantaged in aspects of health, education, access to production resources and extension services. While the percentage of children from ethnic minorities who complete primary education is only 60% the figures are far lower for girls from these communities especially in higher education. According to a report by the United Nations Education, Scientific and Cultural Organisation, 16% of ethnic minority girls (11% of boys) do not attend primary school and 32% of the girls (20% of the boys) do not attend lower secondary school. The net attendance rate in secondary education for boys from ethnic minorities is 67.8% and for girls from ethnic minorities, 61.6%. In the Northern region and the highlands of the Middle region, the illiteracy rate of ethnic minority women is as high as 24.2% compared with 0.9% for Kinh women (JICA 2011). At least one-quarter of ethnic minority women are illiterate as per the Vietnam Household Living Standards Survey 2004. Moreover, ethnic minority women are doubly disenfranchised when it comes to accessing credit and land (ADB 2005). The problem of HIV/AIDS is also serious especially in the mountainous northern region (JICA 2011).

In the backdrop of these social impacts, it is important to study the situation of women impacted by various mining projects in Vietnam and the extent to which legal and Constitutional safeguards, international commitments and the development policies of the country have the scope to protect the rights of women, particularly from ethnic minority groups who are the most severely impacted.

## Understanding Gender Equality and Gender Relations: Field Study Design

### Study methodology and collaborating partner

The study was undertaken in Vietnam in partnership with CGFED, which works on gender equality, research, training and advocacy. The current study is the first research being conducted on gender issues in the mineral sector in Vietnam. This study is divided into four sections (1) Impacts experienced by women; (2) Gendered perspectives on mine-labour; (3) Gender mainstreaming: Laws and policies; and (4) Perspectives of local authorities. It is primarily a qualitative research and as an initial report, lays out some critical steps and suggestions that can guide future interventions for addressing gender concerns in mining.

The qualitative methodology adopted for this study included administering in-depth questionnaires to individual interviewees, focus group discussions with affected communities, interactions with government officials from the study area and at the provincial level, and interviews with company officials. In addition secondary data analysis through literature review was also conducted.

### Study sites

The study sites selected were from the two provinces of Yen Bai and Ha Tinh. In Yen Bai the two sites selected were Hung Tinh commune of Tran Yen district and My Gia commune in Yen Binh district. Tran Yen is a lowland mountainous district with 22 administrative units including several remote and very poor communes. The population of Tran Yen district is 83027 persons (2008), of which men numbered 40932 accounting for 49.3% of the population and the remaining numbering 42905 were women accounting for 50.7% of the population. The district is predominantly rural covering 92.9% of the area. There are six ethnic communities residing in the district, with the Kinh accounting for 66.5%, Tay 20.5%, and the remaining comprising the Dao, Muong, Cao Lan, Hmong and others. The population density is 132 persons per sq km.

The total population of Yen Binh district is 107398 people. There are five main ethnic communities in the district namely Kinh, Tay, Nung, Dao, Cao Lan (San Chay). The average population density of the district is 139 persons per sq km. Yen Binh has 26 administrative units including 24 communes (YB 2013).

In Ha Tinh province the research was conducted in the two wards of Dau Lieu and Nam Hong in Hong Linh Town. Hong Linh Town has six administrative units including five wards of Nam Hong, Bac Hong, Dau Lien, Trung Luong, Duc Thuan and Thuan Loc commune. The total area of the mountainous town covers 5844.64 ha of land, 2100 ha of agricultural land and 2704 ha of forestry land. In addition the land included residential and special purpose land<sup>4</sup>. The population of the town numbers 36730. The urban population comprises 41.11%. Currently, in Hong Linh Town, there are 17505 people in working age group and among them 452 are working in the mineral sector (2011). The population of Dau Lieu precinct is 4939 of which the male population is 2379 and female is 2560. Nam Hong precinct has a population of 90580, with men numbering 47200 and women 43380 (Data provided by VWU of Hong Linh town).

In Yen Bai province 20 individual interviews were conducted—10 in Hung Tinh commune, Tran Yen district, and 10 in My Gia commune of Yen Binh district. In Ha Tinh province individual interviews were conducted in the two wards of Dau Lieu and Nam Hong of Hong Linh Town; 10 interviews in each of the wards were conducted. In all 40 individual interviews were conducted including with women who lost land or access to resources, women working directly in mining and ancillary work, women and men from impacted villages but not directly suffering any losses, male employees of mining companies, and two village heads, one each from the affected communes.

Four focus group discussions were conducted with local communities and community leaders. One group discussion each was held in Hung Tinh commune, My Gia commune and in the two wards together with 10 participants in each (total 30). The participants included representatives of the communes, People Committee, Party Executive Committee, justice office, health care, Fatherland Front Committee, unions like VWU, Veterans' Union, Farmers Union, Youth Union and Commune Cadastre.

Individual interviews with representatives of mining companies were held in the two provinces. At the provincial level seven interviews with representatives from the DoNRE, representatives of Women's Unions, Office of Natural Resources and Environment, Research Institutes and NGOs. Five individual interviews at national level were conducted with DoNRE, and with mining corporations.

The two principal minerals covered as part of the field case studies are limestone quarries and iron ore mines.

<sup>4</sup>As per Decree 181/2004/ND-CP special purpose land includes land for office buildings, public buildings, land for military or security aims, land for production and business outside agriculture and land for other public aims

## Impacts of Mining and Study Findings

### Impacts of mining experienced by women

From the individual interviews and focus group discussions, the research study reveals that among the women impacted by mining the sense of exclusion from any form of consultation is very high. The low awareness among women about their rights or laws and policies with regard to environment and mining further sidelines them from decision-making processes. As one woman farmer explained,

“*When mining began in the area we were not consulted and our consent not sought. We were informed in a community meeting that the land and mineral resources were a property of the State and we cannot oppose the mining. A land valuation list was given indicating compensation for land, and door to door signatures were taken. Even those who were reluctant to sign in the beginning soon gave in when they felt that in future they might not get any compensation. Now, damaged roads, dusty environment, cracked houses are evident in all the villages and we did put these problems at the village meetings, women union meetings. But no clear solutions were provided. All the problems are reported to commune authority, from commune to district, from district to province through the meetings with electors...but nothing happened. I am just a normal citizen, if they asked me to go to the meeting, then I will go and also express my opinions. Local people cried a lot but nothing works out.*”

(Iron ore mine, Hung Think commune, Tran Yen district, Yen Bai province)

Mining activities often take place in remote areas as was seen in the field sites visited for this research. Severe destruction caused to the few roads that exist in these remote areas due to the transportation of minerals by heavy trucks was one of the first concerns raised by the women. They expressed that due to non-accessibility of roads, traders increase the price of commodities that are brought to the local

market. Similarly, produce that go out of these areas fetch a poor price due to difficulties cited in transportation. Besides, since local communities have been forced to move to urban areas, large areas of land are being left fallow leaving the elderly and children behind. This has been a direct tangible result of agricultural lands being licensed for mining operations.

The local women tried to express their opposition to mining activities but these were ignored by local authorities. For example, they gathered in small groups to stop the trucks carrying mineral ores. These protests were considered illegal and the women felt intimidated

Women, and local authorities, expressed concerns about the environmental degradation and its harmful impacts as well. These included reduced access to forest resources like fuelwood and contamination of soil that impacted livelihoods. As one woman farmer said,

“*There is nothing left, not even fuel to cook pigs.*”

(Iron ore mine, Hung Think commune, Tran Yen district, Yen Bai province)

Women also spoke of reduced access to water as a result of mining. In one of the communes, mining activities had destroyed the water supply and infrastructure and reduced the community's access to water.

Mine site in Hung Think commune, Tran Yen district, Yen Bai province, Vietnam



Courtesy CGIED

...It has been more than 20 years since the mining activities started in this area affecting our daily life. There are mines far from here such as manganese mining factories, when they process the raw materials, the harmful smoke covers almost my whole village...In the day time, they explode the mine to extract stone. At night, they grind these big stones until next morning. There is too much noise. And in the day time, they drill, explode, mine, etc... If you are newcomers here, you will never sleep because of the noise. I have lived here long, so am accustomed to the noise. It's economical because if they grind stone at night, they can save the electricity cost and people cannot see the dust pollution. When we recognise the huge environmental pollution, we asked for meeting to discuss the problem. I think what is most dangerous is the mine drilling and explosions. Each time, they explode tons of mine. They also grind stone both day and night as well as transport frequently on the local roads. Children are often suffering from pharyngitis and acute bronchitis. Many adults have contracted cancer such as lung cancer, hepatothoma and some have already died of lung cancer. In my village, there are about 80 households. However, this area is far from the main road, and has no access to health care centre or culture centre. Every day, I have to take my children to school and it is very risky crossing the road.

(Women from limestone mine, Hong Linh town, Ha Tinh province comment on the impacts of nearby manganese mines.)

Traditional livelihoods from agriculture have been impacted with inadequate compensation provided for damages. As one of the women farmers said,

“Previously, we didn't have to suffer from economic crisis. Since mining started my family income reduced significantly as my field was contaminated. Last year, water from the hill slopes where mining was being done, flooded my field, turning it red. When I harvested, the red mud covered my whole body. I don't know who can solve this problem. A group of people including the commune officials came here to assess the damages for deciding compensation...I had 3 sao<sup>5</sup> of rice field and my oldest son had 1 sao, all of which were damaged. Ideally I could have had four crops in the 4 sao and my income would be VND 8 million per year. However, the compensation they paid me was just VND 2 million. I am 70 years old. My husband and I have to take care of my parents who are over 90 years old. With the current situation, I even don't have enough rice to eat.”

(Iron ore mine, Hung Think commune, Tran Yen district, Yen Bai province)

Even if compensation is given, the residents complained that contamination of the fields is more long-term. For the women who have a major role in farming, this economic crisis is bringing them great distress. At the iron ore mine sites, the communities complained that fish catch has

<sup>5</sup>\*Sao is the unit for area use in the north of Vietnam: 1 sao = 360 m<sup>2</sup>

reduced in the rivers and the water flow from the rivers and streams has both reduced and was contaminated. The women complained that cattle were falling ill after drinking the water, so they hesitate to collect water from these streams. According to them, of the four streams in the area, three are badly affected where drinking water is polluted and water flow has reduced in the dry seasons. When they try to dig wells next to the streams, they are facing problems where the water is red in colour and contaminated with iron ore dust. According to their estimates, in Yen Bai province 106 families between three communes are affected directly, but no compensation has been given by the company.

They started experiencing respiratory problems which did not exist earlier. As the iron ore mining operations take place on top of the hill, there is denudation of forest cover and the soil erosion on the hill-top is affecting their crops and agricultural fields. The mining equipment like drilling and blasting machines are using gasoline and polluting the rivers and in the rainy season, the people complained that this is getting washed downstream. Local people reported that they have perceived changes in the waterfalls dotted along the hill being used for iron ore extraction. However, these experiences and observations are dismissed by the authorities as having no concrete evidence and of having insignificant impacts. So the women feel that their observations of the changes in the colour of the rivers, the contamination, the reduction in aquatic life, respiratory illnesses, new illnesses of cattle and other impacts on the forest are not being taken seriously by the government, as they are illiterate and do not have 'scientific' ways of presenting the proof.

As the iron ore mining has only just started 2 years ago, the ill-effects have only started showing in terms of water contamination and dust pollution, but they have been informed that the iron ore would expand beyond the present area being mined leading to fears of serious damages in the next few years. They have not been informed of any environmental management plan and do not have a clear

picture of the extent of land that would be acquired. The women were opposed to the mining activity but said that their demands were not being taken seriously. They fear mining would reduce their forest produce, as the area has a diverse and rich natural resource base for food, medicine and incomes. Bamboo, rattan, wild tubers, yams, tapioca, wild meat and fish are abundantly available in this forest and water bodies while, the ethnic minorities grow a wide variety of vegetables and fruits in their kitchen gardens. Kitchen gardens, which are again mainly tended by the women, they fear will affect their cooking and nutrition.

The women from the iron ore and limestone mining areas reported that mining activities have also contributed to disruption in social life and increased domestic violence. With traditional agricultural production disrupted and crop productivity reduced, households are struggling to find new income generating opportunities. Due to low educational level, most of the indigenous people are not hired to work at the mine sites (except family size quarries of cooperatives in Dau Lien). This has resulted in lack of opportunities for local people from the mining activity and having lost their lands, there is an increase in migration to urban areas, especially among the young. However, being

unskilled migrant labour their income is unstable and always at risk. The women reported that this was one of the indirect reasons negatively affecting their family life.

They also complained of increase in domestic violence due to conflicts between the spouses on issues of migration, suspicions created by disrupted family life and the increased need for cash. The research participants referred to their own experiences of husbands suspecting their wives of being sex workers if the women have to migrate out of the village seasonally. Therefore, men find excuses to misuse the earnings they perceive as 'dirty money' of the wives by gambling, consuming alcohol and physically abusing them. In some cases, as a result of losing agriculture land, men cannot find alternate work and the women complained that some of the men became lazy and unproductive. This is



Indigenous woman whose village is affected by iron ore mining, Hung Thinh commune, Yen Bai district, Vietnam

also pushing them into gambling, excessive alcohol consumption and other vices, further increasing the burden of running the house on women. This is having a ripple effect where there is no money left for children's education and health expenses. Cases of men preventing their wives from working even when they remained unemployed, came up during the group discussions, citing examples of women being forced to leave home in search of work. In some other cases there were complaints of husbands going out of the village to work but not providing for family expenses due to the lure of new vices. These were some of the social problems which are directly a result of the mining situation, as narrated by the women. One woman testified that,

*“ I cannot focus on cultivation because I do not feel assured...men and young people find new job and leave. Families who received some compensation saved it in the bank or purchased ploughs and rake machines for their agriculture in other plots. Families which had not received any compensation, now work as labourers in others' fields. The fields are abandoned as young people are migrating out of the villages. Some families used all the compensation money to breed chicken but they all died because of diseases and they are penniless now without any land or livelihood. We think they (the traders) bring frost chicken, disease pigs and there is an epidemic for the poultry and livestock in our village. The only way is to send the children to urban areas and find work for them. They can work in Hanoi as cleaners in restaurants or hotels. The men also go to earn money; each month VND 1 to 2 million. But migrating out of the village has impacted family life. For example, young couples who lost their land, sometimes go in search of work leaving one of them behind with the children. The family happiness is coming under threat because the wife leaves her children with the husband who has nothing to do but gamble and drink. No one takes care of the children and also their education. It is shameful! Previously, gambling was not as popular but nowadays we have more cash flow from the money received as compensation. ”*

(Iron ore mine, Hung Thinh commune, Tran Yen district, Yen Bai province)



Indigenous elder talks of iron ore dust affecting their homestead farms and vegetables, Hung Thinh commune, Yen Bai district, Vietnam

Out-migration of men from mining areas as a result of loss of land, was reported to place increased burden on women. The only people who stay back are the elderly, the disabled children (of young couple who leave to urban areas) and middle-aged women. Women said they had to take over all the agriculture production activities (crop cultivation, livestock) and care of the family members (mostly the elderly and children). Thus mining has resulted in women farmers burdened with the entire agriculture, farming and livestock rearing in these villages without necessary support structures for them. As one of the women farmers interviewed said,

*“ Men have to leave and look for a new job. Now, if there is a village meeting, there are few men and it is mostly women who attend. The women have to take over the family responsibility and cannot leave, but men can go easily. Women have to work hard doing farming, taking care of children, raising pigs, and so on as it is double work for them without the men. In general, women have to work hard. ”*

(Iron ore mine, Hung Thinh commune, Tran Yen district, Yen Bai province)

Safety issues were also brought up in the discussions, especially in the villages around the quarries where explosives were used. While safety standards may exist on paper, they are not practised due to lack of monitoring, especially in the small-scale mines. Warning systems at the time of blasting operations, dust and noise pollution mitigation measures, prevention and compensation to

damages to houses or crops are a few examples given by the women, regarding the carelessness of mine owners while operating the mines. Local people find it difficult to represent these to local authorities whose response and punitive action against the offending companies is usually reported to be lukewarm. As one of the women said,

“My house is exposed to the dangers of rockslides by explosions in mining. As you can see my yard, there are some big holes on that because of the big rocks from the quarry. The companies said that alarm will be sounded before each explosion. But even though my house is located on the foothills I cannot hear the alarm. Two days ago, when I was cleaning my yard I heard people yelling “mine exploding”. I ran to the nearby hut for shelter. I am afraid I will be injured in a blast.”

(Limestone mine, My Gia commune, Yen Binh district, Yen Bai province)

Another woman, whose roof was damaged in an explosion, feared that in future, houses in the area would be cracked or damaged extensively and may collapse, with no compensation provided for the loss. Women interviewed also mentioned the fear of road accidents, especially with

Indigenous woman  
being interviewed to understand the impacts of iron ore mining,  
Hung Thinh commune, Yen Bai district, Vietnam



regard to children going to school and crossing the roads. Earlier there were no dangers faced and they could allow the children to walk to school without any fear, but now as there is a heavy traffic of trucks, they are constantly at risk of being injured.

As per law, mining companies are required to contribute to the revenues of the State which will then be allocated to enhance public services as well as to provide funds for mitigation of negative impacts of their projects on the affected community. The research findings indicate that companies usually fail to meet these requirements. As one of the women officials explained,

“Over the past 5 years, mining companies in this town have paid VND 17 billion as tax. However, the government has had to pay for kilometres of road damaged as a result of trucks transporting ore—this would be much more than the revenue received from mining. The money given by company is just simply used for road repair—roads damaged by mineral company itself—and not invested in developing public goods or utilities.”

(Iron ore mine, Hung Thinh commune, Tran Yen district, Yen Bai province)

This statement provides the hidden problems on the understanding of corporate accountability where responsibility to the damages are passed off as contributions to local communities, without providing any additional facilities, development opportunities or relief to them. Hence it is important to distinguish between mandatory costs that have to be borne by companies towards environmental, economic, and social damages, and welfare contributions as a goodwill measure. For local communities, personal and public losses are real life experiences from mining operations for which they are unable to get compensation. Even the women’s union officials say that since the project is already sanctioned, they have little scope for objection. As they have never seen a mine in operation, they did not know of the negative impacts until they started experiencing the problems. But they were not consulted in the process of sanctioning the licenses. However, what was observed during the research was the conviction of the local communities and the local authorities in the government’s and party’s ability to address their problems. They felt that the government would not allow negative impacts on their lands and hoped that steps will be taken to enforce laws



strictly. Yet, it was evident that laws were not being enforced, given the open flouting of laws and the problems of contamination and pollution reported by the communities.

### Gender perspectives of labour in mines

Interviews with the women working in the mines gave critical insights into the nature of their work, the gender disparities in terms of work and wages. Women workers reported that men are involved in drilling, breaking big rocks and boulders, handling explosives and driving trucks. Women are given work like breaking stones, sieving, carrying and loading material and some of the non-mining activities like cooking, cleaning, accounts and housekeeping.

This division of labour in mining described by the women reflects the clear gender segregated roles and prejudices of the sector. When asked why women do not perform tasks like breaking rubble, drilling or blasting, both men and women were surprised by the question as it was taken for granted that women cannot perform certain tasks, as men are more superior in physical strength and intelligence. However, there were some women workers who felt that they would also be able to perform the same tasks. As one of them in a quarry said,

“It’s very safe when women are given the job of breaking rubble using explosives. They do this quickly and carefully and the explosive is never a dud. Sometimes, men fail because they work too fast!”

(Limestone mine, Hong Linh town, Ha Tinh province)



Kitchen gardens affected by iron ore dust pollution, Hung Thinh commune, Yen Bai district, Vietnam

However, these tasks command higher wages and are restricted to men alone. The women reported that as it is men who undergo the required training and obtain certificates, these jobs are offered to men only. Women were allowed to take up the task of setting explosives in the past when the requirement of certification was not strictly enforced. Similarly the work of stone breaking in quarries is restricted to men on grounds that such kind of work is dangerous and toxic and seen as a protection for women. However, women explain that they do not have the resources to undergo training, and are not accepted when they apply. It is also a social stigma for them to undergo such training, apart from the constraints of financial resources involved with getting certificates.

Perceptions influence the issues of safety as well. With men’s work seen as more important and hazardous, the safety measures are also gender biased. Only the male members or husbands usually take accident insurance despite the fact that both men and women work in quarries and are equally at risk. But this social conditioning of risk perceptions pose real risks to women who are neither compensated by the companies when they meet with accidents or injuries during work, nor do they have the back-up insurance support. As one of the women workers in the lime stone quarries said, reflecting the cultural undertones of male superiority conditioned on the women in the community:

“Men are dealing with more dangerous work; hence, they should have it [insurance].”

Income from mine labour is limited and restricted for local women as they were not allowed to take on the tasks performed by men. As mentioned above, in the case of quarries, men who work with explosives make more money but women are not allowed to do this kind of work even if they may be good at it. Incomes of women working in the quarries is always half that of male incomes. As one of the women workers in the limestone quarries said,

“If there are many trucks transporting stones, each day men will receive VND 100000. In the case of women, the most hardworking, can expect to earn only VND 50000 a day by raking gravels”

(Limestone mine, Hong Linh town, Ha Tinh province)

Women workers in the quarries are in charge of logistics for mining activities such as preparing meals, cleaning the work site, doing administrative or accounting works for which wages are lower. Even in the family-size quarries manual labour is used. Men are often responsible for important works such as exploding, laying stone strap, and transportation while women are in charge of collecting smaller rocks after mine explosion, loading stone into trucks, and supporting men in other works. Accordingly, the income of men and women is different with men's income being usually higher.



Women are hired mainly as cooks or other non technical activities in the mines. Hung Thinh commune, Tran Yen district, Yen Bai province, Vietnam

Despite the low wages earned by women in quarries they were happy that they were able to contribute towards household income as their agricultural fields had become unproductive after mining operations started, due to the lands being filled with stones, rubble, dust and tailings from the mines.

In contrast, while small-scale mines and quarries have potential for generating some amount of employment for local people, it is even worse in the case of large-scale projects like iron ore mines. The focus group discussions pointed to the contrasting experience of the iron ore mines, where the people complained of lack of opportunities for them as they were unskilled, unqualified and did not have the expertise to operate machinery. Therefore, they reported their frustration that the main working force of these mines was workers from the outside. As one woman farmer said,

“ They only hire you when they need to repair the road. If there is a hole in the road, you have to fill it up. Or they hire you as cook or cleaner to clean the machine. ”

(Iron ore mine in Hung Thinh commune, Tran yen district, Yen Bai province)

Local women work mainly in seasonal labour such as patching or repairing roads which are damaged by trucks during the ore transportation process. There are also a small number employed as cooks for the mine workers. The technical skill for machinery operation required for iron ore mining is not one that women are allowed to do.

## Gender mainstreaming: Laws and policies

The legal framework for mining ignores issues of community participation and has no provisions that address the specific issues faced by women in mining. The current study focused on two legislations (1) Mineral Law 2010 and (2) Decree No 29/2011/ND-CP Providing Strategic Environmental Assessment, EIA and Environmental Protection Commitment. Both these legislations refer to communities in mining areas. While the Mineral Law has a provision that mentions community rights, the Decree refers to the participation of communities.

The most recent and updated Mineral Law was passed by the XII National Assembly on 17 November 2010, replacing the Mineral Laws of 1996 and 2005. Due to the general characteristics of law, this law is read along with other legal documents that include decrees, decisions and circulars. The Mineral Law does not have any specific mention of gender or gender concerns. However, that these gender neutral legal documents actually do not ensure gender equality in the mining sector was evident in all the field interviews. Not changing traditional perspectives on gender and ignoring these in legislations can perpetuate gender prejudices. For example, while Article 5 (2) (c) of the Mineral Law specifies that jobs have to be given to local communities, but the perception among the communities favours jobs for men. This was evident from the responses of both community members and local authorities. As one

of the male workers in the iron ore mines, when asked why men are recruited for mining jobs said,

*“I think women are not suitable for this type of job that involves dealing with excavator, car, and repairing. For me, I am working with machinery and I should have the certificate in this field. And only men learn in this field.”*

(Iron ore mine, Hung Think commune, Tran Yen district, Yen Bai province)

Gender neutrality in laws thus fails to account for prejudices against women and gender inequality can be exacerbated through passive policies. Further, in the name of protecting women from hazardous activities, the law and patriarchal practices that get extended to the mining sector, may actually prevent women from opportunities to work in technical and safer environments.

With regard to community participation, the Mineral Law does not make any mention of this process, either in pre-mining or during the process of mining. While Article 5 of the law specifies that benefits to areas where mineral exploitation is carried out, it ignores the fact that for distribution of benefits there is a need for participation of local communities. The Decree No. 29/2011/ND-CP (Article

Indigenous village in Hung Think commune, Yen Binh district, Yen Bai province, affected by iron ore mining, Vietnam

5 and 7) does require that the consultation processes include participation of related stakeholders including socio-political organisations. However, during the research it was found that the VWUs, the socio-political organisation that works to protect women’s rights, are not invited for any consultation on mining. This is a violation of not only Decree No. 29/2011/ND-CP but also Decree No. 19/2003/ND-CP that stipulates that government administrative units at different levels are responsible for ensuring the participation of VWUs at various levels of State management and to consult the unions on matters relating to rights and interests of women (UN 2003). As one of the women officials said,

*“VWU should participate and represent in Steering Committee at the local level; but this participation depends to a great extent on the local authority. I don’t know how the union at grassroot level operate, but at provincial and district levels, there is no participation of the VWU. In the case of mining under the management of the central government, we have heard that women’s participation is required but this is still very unclear and we do not know about the process till date.”*

Article 14 of Decree 29 promulgating the consultation with representatives of directly affected community and organisations has not been implemented appropriately. Moreover, this provision is understood in the most favourable condition for business enterprises. Specifically, it is understood that the consultation process only requires the final approval of local authority and representatives of Fatherland Front Committee at grassroot level. They explained that representatives of Fatherland Front Committee are on behalf of local people and community.

*“I attended many meetings and I realised that most of the mining projects consulted with mass organisations such as chairman and president of commune People’s Committee or leaders of commune Fatherland Front Committee.”*

Neither the Mineral Law nor the Decree No 29/2011/ND-CP thus has any space for specific women’s participation to represent challenging issues concerning women or to address gender concerns.

## Perspectives of local authorities

Women's representation in the political sphere (committees and councils) is rather low as well and this affects women's participation on issues like mining. For example in the political arena women's participation in the committees at the different levels is low—at the central level they constitute 8.13% and at the commune level 15.08% (2006-10). Similarly in the case of People's Councils the percentage of women in provincial and commune levels was 23.8% and 19.53% respectively (2004-11) (Munro 2012). Thus women's participation in decision-making process is very limited.

The role and participation of local authorities in granting licenses were found to be a mere formality. The process of granting mining leases is a top-down approach that begins with leases granted by MoNRE. The Provincial People's Committees have the responsibility to manage, on behalf of the State, mineral extraction activities as well as revenues in the localities. It is responsible for periodically reviewing and reporting to central agencies on use and expenditure of revenues at local levels. However, these local level authorities play a very passive role and are mainly involved in facilitating the procedures involved in issuing mining leases. The consultation process required under the EIA is mostly ignored. Once the process of mining is sanctioned there is hardly any monitoring that is undertaken.

Thus the women complained that the absence of women being represented adequately in the committees and councils with very few holding leadership positions also adds to the non-representation of gender concerns when granting licenses.

Kitchen gardens affected by iron ore dust pollution, Hung Thinh commune, Yen Bai district, Vietnam



## Conflict resolution

The local authorities interviewed were also aware that contributions from mining were insignificant compared to the damages and losses that the communities had to face such as the destruction of public utilities like roads and water bodies, decrease in public service quality like transportation, environmental pollution, and, importantly, creation of more burden to local authority (to settle the conflicts between the mining operators and local people).

The role of local authorities is limited even on issues of conflict resolution between mining companies and affected communities which their role being that of submitting the complaints to higher level with no power to take action. They reported that in many cases, the solutions provided from higher levels are improper, untimely, and unsatisfactory to the communities. They also expressed that people get suspicious of their co-optation by mining companies when grievances are not addressed. While they face the discontent of communities, they also face pressures from higher authorities to comply with company demands. Conflict resolution becomes harder between companies and local authorities in the absence of support from the higher level officials. The local authorities interviewed quoted a case where leakage of toxic chemical into the rice fields and streams resulted in damages, and it took seven to eight meetings to arrive at a final agreement on compensation.<sup>6</sup>

Often, compensation is inadequate. When houses were seriously damaged the amount of VND 7.7 million offered to 11 households as compensation was hardly adequate. Appeals by local authorities by sending repeated letters failed to elicit any response from the company. This has made local authorities feel helpless and exposes the lobbying capacity of the mining industry and the political vulnerabilities that lead to prioritising commercial interests over that of the communities'. This is further aggravated when family members of local leaders work for mining companies or even the government officials cooperate with mining companies.

Another constraint faced by officials was the lack of information to them on complaints mechanisms and legal safeguards. Resorting to some forms of protest like stopping trucks are not seen as legal procedures. On the other hand local authorities can take action only if complaints are submitted in the specified format. The women said that the formal procedures for submitting complaints prevent them from approaching the authorities to put up any complaints. They said that companies take advantage of these difficulties

<sup>6</sup> Iron ore mine, Hung Thinh commune, Tran Yen district, Yen Bai province

and resort to tactics like negotiating with the local people on ad hoc non-legally accountable ways where women are not involved in these settlements. As mentioned by one official,

“ As government official of Commune People’s Committee, we also have many difficulties. Sometimes, the local people negotiate directly with the mining companies and do not inform us. When conflict happens, or when they don’t agree with the compensation rate, they come to us. However, we cannot solve this problem because they already agreed to the conditions and accept the compensation rate. ”

The pressure from the communities and local authorities to monitor and mitigate the impacts of mining operations is insufficient as the stakes are high and companies resort to dodging mandatory processes. For example, the mitigation of dust pollution which requires the companies to regularly use watering trucks is not usually followed in spite of persistent complaints from communities. In one village, the company purchased a truck but never used it. Where there are multiple companies operating, while one company may contribute funds to the village, others cause damages in excess of the contributions, as reported by local officials.

## Analysis of Mining Situation Based on National Policies and Field Experiences

Bauxite, iron ore and coal are potential large-scale mining and FDI projects that could be a source of serious anxiety for local communities affected by these projects in Vietnam. Particularly bauxite deposits are under pressure to be opened up to multinational exploitation with protests of human rights violations catching international attention. With ambitions on large-scale mining, Vietnam has started sanctioning mining licenses, without much ground investigation on the anticipated impacts, without the EIA reports comprehensively addressing issues of land acquisition, compensation, rehabilitation, issues of direct and indirect losses and rights of local communities.

The field research sites in the iron ore mines reflects this hasty manner of sanctioning licenses without due consultation of local communities, or sufficiently providing formal space for important local bodies like the VWUs before granting mining leases. Only the Fatherland Front at the grassroots level was heard of being consulted. With respect to ethnic minorities, there is lack of clarity in Vietnam as in Lao PDR regarding their Constitutional status as they are not recognised as indigenous people. However, being a signatory to the UNDRIP, Vietnam has committed to respect

View of the mine in Hung Thinh commune, Tran Yen district, Yen Bai province, Vietnam



the FPIC of ethnic minorities. In reality, there was no consultation with these communities, and much lesser with women from these communities. The women reported that they were merely informed and coerced into giving their consent. They had no choice either of rejecting the mining, or suggesting changes in compensation, resettlement and community development decisions.

While land acquisition and compensation are inbuilt into the relevant laws, in practice, the losses are far higher compared to compensation received. Communities find it difficult to find alternate livelihoods or have decent sustenance from the cash compensation that government pays them and therefore, the research participants expressed that their decisions are based on coercion, and not on informed choices. Cash compensation was forcibly provided and no alternate land or housing was reported by the communities affected. Disbursal procedures for compensation are complex, with no proper valuation or criteria for assessment of losses, with inordinate delays in dispensation of cash, in verification procedures for affected families and lack of procedures for conflict resolution.

Reduced food security due to crop failures and environmental pollution, inadequate social impact assessment under the EIA procedures and poor representation of affected families reflects the poor quality of EIA documents. Issues around compensation, rehabilitation are serious as they have been dissatisfactory. Damages during the course of mining operations like pollution, damages to houses and crops have not been enumerated or properly compensated. Public services destroyed by mining companies due to the transportation of ore, and the resultant environmental damages have antagonised the local people. They pointed to the dubious nature of displaying the companies' contribution to local area where the losses incurred by the people and the government through damages to public and private properties was far more than the financial contributions or taxes paid by the companies. The contributions of the companies did not in any way provide additional facilities to the villages. Rather these were used to repair public assets like roads for which the local government had to spend large amounts from public revenues. Hence women did not feel that there was any scope for demanding contributions for women's needs from



Courtesy CGFED

View of the road to the mine, My Gia commune, Yen Binh district, Yen Bai province, Vietnam

the companies which are constantly dodging responsibilities.

One of the most common and widespread problems as a result of mining activities which the local women and community leaders reported was the increase in domestic violence and social conflicts within the family. For several families, the shift from cultivation based economy to contract labour and cash incomes resulted in escalation of alcoholism, gambling and prostitution which is reported to be rampant at mine sites and surrounding places. Forced migration and seasonal labour outside their villages for both men and women, have affected their domestic lives in different ways, creating serious stress and marital discord. These impacts are not measurable or tangible, and finding mechanisms for mitigation or prevention are complex. Yet these losses and impacts are not even considered important losses at a national policy level.

Domestic violence is a growing concern, as despite the limited disparities between the genders on several indicators, and despite the Constitutional and traditional customs providing for equality in land and resource ownership between men and women, domestic violence is a serious issue in Vietnam. When a sector like mining brings in greater gender disparities in employment and incomes, these existing imbalances in social relations can be predicted to multiply in forms of abuse against women. Further, national level reports point to the prevalence of HIV/AIDS in interior areas where ethnic minorities inhabit. It is in these areas that most mining projects are proposed to come up and the mining sector globally stands accused of bringing in HIV/AIDS and sexually transmitted diseases. Vietnam has to take serious cognizance of these sectoral connections.

Ability to influence higher authorities is seen to be limited both for local communities as well as local authorities. Whether with regard to land acquisition processes or on issues of environmental impacts, they have been received with little seriousness. On the other hand, Vietnam has taken a direction of decentralisation in decision-making as per the new policies, which reveal that there has been a spurt in small-scale mining due to indiscriminate granting of licenses at the local level. The situation reveals problems from both ends. The lack of monitoring mechanisms, defined standards and regulations could create a chaotic decentralisation, while non-consultation and centralised decision-making would lose the voices of the affected people. Vietnam's mineral policy would have to be reviewed from both these situations, which would otherwise lead to further justification for large-scale and trans-national mining only.

Local communities have not experienced the benefits from large-scale mining in terms of employment generation. The field situation demonstrates how local people, and particularly women do not have the skills and competencies to work in the mines, and their opportunities are restricted to seasonal contract labour or petty jobs like cooks and cleaners. Hence the stated objectives of employment generation from the mining sector should be seriously reviewed. National level statistics also reveal low contribution from the mining sector towards employment and GDP. With respect to opportunities for women, a sector like mining which is male biased and excludes women from technical training and work participation cannot be anticipated to build

a gender equitable economy, unless a conscious design in the policy and planning is directed towards providing greater inclusiveness for women.

Small-scale mining is providing some opportunities for employment to local communities and hence, it is more justified than large-scale mining on this aspect. For a country like Vietnam which has high population density and per capita landholding size is very small, eviction from their lands implies more unemployed and landless labour where alternate livelihoods, unless become built into project planning, will lead to induced poverty. Again, as the women workers in small-scale mines reported, there are wide disparities in division of labour and wages between men and women. Hence, mining as a sector and, more so the large-scale mining, is not very inclusive of women. Where they are absorbed in small-scale and artisanal mines, they are working under hazardous conditions, and lead uncertain lives. Their access to formal training, obtaining licenses and certificates for entry into jobs that are strictly the domain of men today, are areas of women's empowerment in the mining sector that needs national policy focus and institutional mechanisms of support.

Environment problems in both small-scale and large-scale/FDI mining are reported to be similar with non-compliance, poor performance standards and lack of responsibility in undertaking mining activities perceived in all areas. Hence the argument for large-scale mining whether in terms of national revenue, local employment or responsible and scientific mining appear to be unscientific and biased in favour of mining lobbies. The government needs to review its mineral policy and law with respect to ensuring these standards in both types of mining operations. Rather, large-scale operations imply large levels of impacts, where women and children would be most severely affected.

Vietnam has impressive development indicators with very narrow gender disparities in literacy, employment and other aspects of development. The country should take advantage of the growth factors in gender and generate opportunities that would enhance gender equality rather than widen the gaps. One of the most urgent requirements is the process of land use certificates to be issued to women and to provide support mechanisms at all levels for women to be able to utilise this Constitutional right.



Kim Binh village is home to an indigenous community-Dust and water contamination experienced by community since the last 5 years of iron ore mining, Vietnam





Adolescent migrant worker in small-scale gold mines, Chong Plas, Mondulkiri province, Cambodia

**Section IV**  
**Cambodia Country Report**

# Cambodia

## Introduction

The Kingdom of Cambodia forms a part of Southeast Asia that is referred to as 'Indochina'. The country is bordered on its northeast by Lao PDR, in the northwest by Thailand and in the southeast by the Socialist Republic of Vietnam. The population of the country as per Census 2008 is 13388910 (males: 6495512; female: 6893398). The density of population is 75 persons per sq km, percentage of urban population stands at 19.5% and the sex ratio (males per 100 females) is 94.2. The sex ratio for the age group 0–14 is 106.1 while for 15–49 is at 90.7 (MoWA 2008). In 2009 the under-five mortality rate was 88, infant mortality rate 68, neo-natal mortality 30 and life expectancy at birth was 62 years. The total adult literacy is 78% (2005-08), with women having a literacy rate of 83%. The reported maternal mortality ratio is 460 (2005-09) (UNICEF 2013).

## The Extractive Industry

### Mineral reserves: Spread, exploration and exploitation

The violent conflict in Cambodia in the years between 1960s and 1980s meant that a large part of the country's mineral resources remained unexplored till the beginning of 1990s. The Cambodian Constitution and the Mining Law of 2001 listed all mineral resources on or under the ground or sea as property of the State. Particularly since 2006 the mining sector has come to be considered as critical to Cambodian economy. Explorations till date have revealed the presence of metallic, non-metallic, gemstone and coal reserves spread across different provinces in the country (Monirath 2010; Reingsey 2009; Hong 2006). Mineral exploration was carried out since early 1970s by local and foreign firms, mainly on a small-scale or as artisanal mining (Cunningham 2011). More recently Cambodia has made the transition from independent miners to exploration by transnational corporations (CCC 2010).



The minerals currently extracted include gemstones and gold mined by small-scale and artisanal miners while the large-scale extraction is primarily of construction related minerals like marble, granite, sand and limestone (CCC 2010). In addition, mining concessions for exploration and extraction include minerals like iron, copper and bauxite.

There are no clear estimates for the number of licenses given for mineral exploration and exploitation. One source estimates the licenses granted for bauxite, gold, iron and chromium extraction to range from 67 to 114 with 21 being allocated in 2008 alone (LHWG 2009). Another source gives the number of concessions granted in the country as 100 and mostly in protected areas overlapping with indigenous peoples' lands (IPNN 2010). Most of these licenses were given to 50 companies (CCC 2010). Yet another source gives the number of domestic and foreign firms undertaking exploration as 63 with the main foreign interests being from Australia and China. The exploration is mainly for metallic minerals like gold, copper and iron with most of the exploration concentrated in the north-eastern part of the country (PPS n.d; Lazarus 2009). Yet another source gives the mining leases given to companies across 15 provinces as 66 of which the maximum were in the provinces of Mondulkiri (15) and Ratnakiri (10) (Global Witness n.d). Gemstones mined include blue sapphires, ruby, green and yellow sapphires, reddish brown zircon and red garnet.

The agreements for gemstone exploitation are drawn up in the provinces of Ratnakiri, PreahVehar and Battambang (Thaigem 2011). Five companies focused on coal industry concentrated in OddarMeanchey, SvayRieng, Stung Trent and Kratie provinces and are undertaking coal exploration (PPS n.d). As per reports of the national network EISEI, there were 128 mining licenses as of December 2011 covering an area of approximately 13% of land area of the country. According to their report some of the companies involved are Guangxi Nonferrous Metal Group (China), Indochine Mining Limited (Australia), Kenertec Co Ltd (South Korea), Liberty Mining International PTY Ltd (Australia), Oz Minerals Ltd (Australia), Brighton Mining (Australia), Angkor Gold Corporation (Canada), Southern Gold (Australia), Ultra Marine Kiri Co Ltd (South Korea), and Vinacom (Vietnam).

### **Artisanal mining**

As per the Cambodian Mineral Law 2001 artisanal mining licenses shall be issued only to Cambodians to explore and exploit mineral resources. Only locally available hand tools can be used and the labour in artisanal mining should be the licensee's own or his family labour not exceeding seven members (Spiegel & Hoeung 2011). Artisanal mining is mostly illegal, as the miners are either traditional communities or informal miners who find the procedures of obtaining licenses, complex and burdensome. However, it is a major livelihood activity for the rural and indigenous communities.

Increasingly, instances of conflict in artisanal mining areas between large companies that bring in workers from outside and the local communities or traditional miners have been reported. This was the case in a gold mining site in Sambo district, Kratie province where a Chinese owned company had brought in workers and was considering evicting locals from mine sites (Spiegel & Hoeung 2011). Similarly in MondulKiri province officials ordered artisanal miners to leave the site of OkvauOchung where Oz Minerals had identified an initial gold resource. The officials insist that the miners had come to this site after the company had been awarded the concession, a claim contested by the artisanal miners and rights groups (CCC 2010).

Conflicts between local communities and migrants are also reported. The illegal nature of mining operations further exposes the miners to exploitation by middlemen, brokers and military guards. Artisanal mining is a hazardous occupation as it involves the use of toxic substances like mercury and cyanide. Concerned about the environmental

and health impacts, the Ministry of Environment developed a strategic plan in 2010 for the management of these substances. Health of miners is of particular concern and while there are no definite figures available for those undertaking artisanal mining, one source gives the numbers as tens of thousands while another gives this as being between 5000 and 6000 (Spiegel & Hoeung 2011).

### **Foreign direct investment in mining**

The Cambodian government encourages foreign investment in industry, including mining, through its Law on Investment ratified in 1994 and later amended in 2003, and the Council for the Development of Cambodia (CDC), a 'one stop shop' for development and investment management in Cambodia (Melanie et al 2005). In the case of mining, with the exception of artisanal mining, foreign companies are allowed to engage in all mining activities. Since 2003 several countries have expressed interest in Cambodia's mineral reserves (USAID 2011) and exploration and exploitation licenses have been given till date to Australian, French, Chinese, Korean, Vietnamese, Thai, Japanese and Singaporean companies (Anon n.d (b)) for minerals like bauxite, copper, gold, iron and gemstones (USAID 2011).

China is one of the major investors in Cambodia with about 46.5% of FDI. It is primarily in natural resources sector, including mining. During 1998-2009 China's FDI inflow made up 91.7% of the total amount of FDI in the mining sector (CDRI 2011). A press report in April 2011 revealed that among the 70 odd companies investing in the mining sector, 17 were Chinese with 38 exploration projects (Sovan 2011).

### **Extractive industry contribution to economy and employment**

The contribution of mining to the country's GDP has been very minimal—0.41% in the year 2006. This is however expected to rise in the years to come as the sector expands and extraction is taken up on a large-scale. So far, mineral sector contribution to employment is miniscule with one estimate giving the number employed as 19000 in 2005 and 20000 in 2006, accounting for only 0.2% and 0.3% of total employment, respectively (CDRI 2011). It is estimated that the largest workforce are employed in gold mining numbering between 5000 and 6000 (USAID 2011). There is no separate legislation for mine workers as the mining sector falls within the legal purview of the Labour Law.

## Concessions in indigenous peoples' lands

The northeastern provinces of Mondulkiri, Ratnakiri, Pursat (Veal Veng district), and PreahVihear (Roveang district), home to a considerable population of indigenous communities, are also regions where a large number of mining concessions have been granted (UNCOHCHR 2007). There is no real estimate about the extent to which indigenous peoples' lands will be affected due to granting of concessions. However, the expanding mineral sector and the push to extraction especially in the northeastern provinces are a cause for concern where indigenous people are mainly located.

The Constitution of the country and the Land Law provide protection to the indigenous people, and the National Policy on the Development of Indigenous Peoples adopted in April 2009 upholds provisions of Mining and Land Laws for ensuring proper relocation, encouraging mining companies to build schools and hospitals for indigenous people, and to provide them with jobs and training that will allow them to gain employment in mining. At the international level Cambodia is a signatory to the UNDRIP, as well as other international covenants and conventions that protect indigenous peoples' land and resource rights (CCC 2010).



Migrant mine worker describes her life in the mines

the Department of Natural Resources Assessment and Environmental Data Management is responsible for the overall assessment of performance related to the environment management. Both these fall under the Ministry of Environment (DoEQP 2006).

The legislations pertaining to the mineral sector that govern exploration, exploitation and protection of environment include the Law of Minerals Resource Management and Exploitation in 2001 (Mining Law 2001), Law on Environmental Protection and Natural Resources Management 1996 and under it Sub-decree on Environment Impact Assessment (1999), Forestry Law 2002, Land Law 2001 and Protection Area Law 2007. Article 59 of the Cambodian Constitution also speaks of protection and management of natural resources including minerals.

The Mining Law of 2001 has six categories of mining licenses: (1) artisanal licenses available to those of Khmer nationality (2) pits and quarries licenses; (3) gem stone mining licenses; (4) mineral transforming licenses, mainly for processing gem stones; (5) exploration licenses; and (6) industrial mining licenses (USAID 2011).

## Institutional, legal and regulatory framework

The Ministry of Industry, Mines and Energy (MIME), its Departments of Geology and Mines, and Energy is the main government agency that implements the country's mineral law and policy as well as managing the country's mineral resources. The CDC grants exploration licenses to investors and reviews master project plans of investors before issue of license (USAID 2011).

The EIA, launched in 2000, is a mandatory process under the Environment and Mineral Laws. Department of Environment Impact Assessment is responsible for assessing the impacts of projects on the environment while

## Mineral production

While large-scale extraction operations are mainly in building materials like limestone, sand, gravel, crushed stone etc (Cunningham 2011), clay, gemstones, gold, and iron ore are reported to be produced to some extent. But there is limited information regarding their production and outputs (Fong-Sam 2011). Cambodian law prohibits export of minerals, and restricts its usage for domestic consumption and processing. Yet, as Cambodia has inadequate technology and knowhow in refining activities, mining operations are limited in area and range (Cunningham 2011).

Among metallic minerals, currently exploration for gold, copper, iron ore, bauxite, antimony and chromium are underway in Cambodia with around 65 domestic and foreign

companies from countries like China, Korea and Australia dominating the investments. Gold mining, concentrated in the northeastern provinces of the country is the predominant metallic mineral being exploited. Between 1994 and 2008, four local companies which were subsidiaries of Australian and Australian-Japanese consortium, Transol Corporation Ltd, BHP Billiton and, Mitsubishi Corporation were given licenses for bauxite mining. The four local companies include Liberty Mining International Pty Ltd (which received a bauxite exploration license in 2008), Maxum Metal Pty Ltd (2008)—which now forms a 100% owned subsidiary of Transol—AZ Distribution Co. Ltd (2005), Sonuba Paul Cham Co. Ltd (2004), which is owned by BHP Billiton and, Mitsubishi (2006) (Lazarus 2009). Exploration license was also granted to Alumina (Cambodia-Vietnam Co Ltd) in Mondulkiri province for exploitation for bauxite (PPS n.d).

With regard to non-metallic minerals, cement, limestone and construction minerals are being mined in Kampot region by around six firms. One company was granted license for extracting granite in Kratie province. Cambodia's first cement plant which is located in Kampot Province was commissioned in 2008. The Kampot Cement Co., Ltd. is the joint venture between Siam Cement Group of Thailand (90%) and KhaouChuly Group (10%) (PPS n.d).

Gemstone exploitation has been initiated in the provinces of Ratnakiri and Battambang and particularly in Pailin and in Battambang provinces which takes its name from the ancient Khmer word for "blue sapphire". Deposits of ruby, green and yellow sapphire, reddish brown zircon and red garnet are being extracted in Ratnakiri with PreahVehar being the centre for iron mining. Apatite, high quality ruby and sapphire are also found in Ratnakiri (Thaigem 2011). Coal mining is concentrated in OddarMeanchey, SvayRieng, Stung Treng and Kratie provinces where around five companies are at an exploratory stage (PPS n.d).

## Impacts and concerns with regard to the mineral sector

While mining is still mostly at an exploratory stage, there have been several reports of its adverse impacts. These include ecological, economic and social impacts to communities. Food security and loss of traditional livelihoods as a result of reduced access to forests have been reported by communities from the northeastern provinces of PreahVihear, Mondulkiri and Ratnakiri. Cattle poisoned by chemicals used in gold mining have been reported from the

provinces (Global Witness n.d; CCC 2010). The World Food Programme's, Food Security Atlas launched in 2008 showed that malnutrition was highest in areas where there was large number of economic land concessions (ELC) and mineral extraction (LHWG 2009).

Contamination of water of the rivers Sesan and Srepok in Stung Treng provinces has been attributed to mine tailings (KI 2009). Forests, even in protected areas are being destroyed even at the exploratory stage and often without permissions from the Forest Administration (FAO 2010). With 282700 ha or 21% of protected land being allocated to mining concessions in Mondulkiri and Ratnakiri the impacts are likely to be severe ecologically (LHWG 2009). It is estimated that nearly six out of the 23 protected areas in Cambodia have mining activities of some form happening within their boundaries (Global Witness 2009). Health impacts of mining mainly from contamination of water are an increasing cause of concern. Traces of mercury in hair of persons and fish caught in streams in Prey Meas in Ratnakiri clearly point to the hazardous contamination (Murphy et al 2006).

As mining increases communities living next to mine sites face threat of eviction without adequate protection or compensation. While no numbers for evictions exist at present NGOs have reported some instances of forced eviction from the gold mining sites in Mondulkiri (CCC 2010). Most vulnerable are the indigenous communities who form a substantial population in the mineral rich northeastern provinces. Reports of forced evictions on indigenous people from their land using police force have been recorded (CCC 2010; UNCOHCHR 2007). Also impacted are the indigenous people who depend on artisanal mining as a main source of livelihood.

There have also been reports of militarisation of mining and collusion of the powerful elite who are involved in considerable numbers in the extractive industry in the country (Global Witness 2009). Issues of transparency and lack of information sharing plague the industry (Cunningham 2011).

There are several gaps in the legal and regulatory framework as well as enforcement that need to be addressed. One example can be found in the Mining Law 2001 that states that mineral resource licenses need to be granted by a 'competent authority', but fails to clarify who this authority—CDC or MIME (Cunningham 2011). Enforcement of the law is also extremely weak (Global Witness n.d). There are also pockets of resistance in different mining areas where communities have signed petitions or holding vigil at sites to prevent mining and alienation of land (Cultural Survival 2011; MAC 2010).

## The State of Forests

The forest cover of Cambodia has reduced from 73% in the year 1965 to 59.9% in 2006 (FAO 2010). Of the existing forest cover the most densely covered regions are found in the northeastern provinces of PreahVihear (94.4%), Monduliri (90.32%), Stung Treng (88.12%) and Ratnakiri (81.93%). Cambodia also has a large network of protected areas extending across 3134471 ha (FA 2013a). Any individual or community that wishes to harvest forest produce for commercial purposes needs to secure a permit issued by the Forestry Administration. The State does recognise traditional user rights of local communities and allows for harvesting of forest products for subsistence without a permit. The Forestry Law 2002 allows for concessions that enable companies to access forest resources for commercial use (USAID 2011). It is estimated that nearly 21% of Cambodian land has been given for forest concessions (Star Kampuchea n.d).

The management of forests is under the jurisdiction of the Ministry of Agriculture, Forestry, and Fisheries (MAFF) and the Forest Department under it. The Ministry of Environment manages forests in protected areas, and the Department of Fisheries manages flooded forests. The Forestry Law 2002 defines the framework for management, harvesting, use, development and conservation of the forests in Cambodia, including sustainable use of forest resources. The Law mentions the need to conduct environmental and social impact assessments where forest concessions are given and also protects the traditional rights of communities. The Sub-decree on Community Forest Management (2003) sets rules for the establishment, management and use of community forests throughout the country (USAID 2011). The other legislations that contribute to forest management and protection include the Law on Environmental Protection and Natural Resources Management (1996), National Forest Sector Policy 2002, Protected Area Law 2008 and a range of decrees and sub-decrees (FA 2013b).

Forests in Cambodia have been managed inefficiently and treated as a political resource. Forest resources have been exploited by the elite with revenues flowing back to their own coffers (So 2010). ELCs granted on indigenous peoples' lands have impacts on livelihoods as these forests are an important source of NTFP and food for indigenous communities (UNCOHCHR 2007).

## Indigenous Communities

### Demographic indicators

For any community to be considered indigenous the Cambodian government stipulates certain ethnic, cultural, and social criteria and customary rules of collective use of land and natural resources (Westerod 2010). They must also be registered as indigenous community. For the purpose of registering as an indigenous community the project titled 'Registration of Indigenous Communities as Legal Entity Project' has been initiated (UNESCO 2010).

The indigenous peoples' or national minorities in Cambodia are referred to by various names—ethnic minorities, highlanders, hill tribes, highland people, indigenous people, Khmer Loeu (literally meaning upper Khmer) and Choncheat. The country has 20 distinct groups that are regrouped under a few main groups. There are no clear estimates of indigenous peoples' population and most often these estimates include the population of ethnic groups like the Vietnamese, Chinese and Muslim Cham. One estimate gives the indigenous populations in 1969 as 90000, in 1971 as variously between 40000 and 100000 (CS 2011). In 1996 the total population was estimated at 142700. The indigenous peoples are predominantly resident in the sparsely populated north and northeastern parts of the country (Ehrentraut 2004).

### Land and forest rights of indigenous peoples

The Land Law of 2001 recognises the rights of indigenous peoples over their land and their traditional means of production. These are further supported by several sub-decrees. The Land Law allows collective ownership of land and, within this, recognises individual rights to land (ADB 2007). These rights extend to land used for agriculture, including shifting cultivation, and NTFP collection, for cemeteries, and sacred forests (FAO 2010). However, for the communities and individuals to be allowed rights to the land, the community first needs to undergo a process whereby they are recognised as an indigenous community. Registration of land in the name of indigenous communities is still in progress under the Policy for Registration and Right to Use of Land of Indigenous Peoples and supported by decrees. Where land is not yet registered there is a provisional protection accorded that forbids any sale,

purchase, investment and clearing of land in the areas of the indigenous community (USAID 2011).

The legal framework for indigenous minorities management and user rights include the Forestry Law (2002) and Sub-decree on Community Forestry Management (2003). The former specifies that concessions for forest lands will not interfere with customary user rights provided the lands are registered as per the Land Law 2001. The sub-decree allows communities to be significant stakeholders in the management of their forest (FAO 2010).

The rights of indigenous people are protected under various legislations that include the Law on Municipal/Provincial/Towns, District/Khan Administration. The government also adopted two policies in 2009 with regard to indigenous peoples—the policy on the development of indigenous people's communities and the policy on the land registration and rights to the use of land of indigenous peoples' communities (UNESCO 2010).

Cambodia has also acceded to a number of international human rights conventions such as the International Covenant on Civil and Political Rights, and International Convention on the Elimination of All Forms of Racial Discrimination and is a signatory to the UNDRIP. The ILO Convention No. 169 is also an important tool but it has not been ratified yet by Cambodia (NGO Forum 2005).

### **Problems faced by indigenous communities with regard to land and forests**

The main problems faced by indigenous communities are with regard to land alienation coupled with poor implementation of the laws for indigenous communities. The thrust towards development projects, including mining, threaten rights to forest and lands, especially in the northeastern regions where there is a considerable population of indigenous people (LHWG 2009). The increasing migration of non-indigenous populations into these areas has further contributed to land alienation (Ehrentraut 2004).

The government has granted several ELCs in indigenous areas to private companies for leases of 99 years. According to a report by the NGO Forum in 2008, nine large-scale leases extending to 10000 ha and several smaller concessions covering an area of 1000 ha have been awarded. In none of these were the indigenous people consulted prior to grant of leases (UNCOHCHR 2007). The protection provided under the Land Law 2001 has not been sufficient to protect communities against the powerful interests of the State and markets. Land titles for indigenous



Proposed bauxite mining area with sample pits in indigenous people's slash and burn farmlands, Mondulkiri, Cambodia

communities are yet to be settled, but indigenous peoples' lands are the most impacted by land grabbing. There has also been resistance from the Forestry Administration in allowing forest lands to be included under communal title. Another concern expressed is the trend towards encouraging individual land titling rather than that of community lands, a move that could make land alienation more rampant as individuals will be more easily able to sell off land either out of free will or under coercion (Oberndorf 2006).

Article 23 of the Land Law refers to a law to determine communities' 'legal status', but such a law is yet to be enacted. The Article also gives the rights to indigenous communities to manage their land, yet economic concessions are granted on the same lands. The legal and policy framework for titling of indigenous peoples' lands is yet to be finalised. Title VI of the Land Law which requires for cadastral mapping to draw boundaries is not yet begun. In the absence of a legal framework no adequate interim protection has been provided to the communities to protect their lands against expropriation (LHWG 2009). Without the requisite Sub-Decree on Procedures of Registration of Land of Indigenous Communities that is in a draft stage, the Land Law of 2001 is not being implemented and alienation of indigenous land is continuing (AITPN 2009).

Indigenous people are also not well informed about the laws, or have lost faith with the social and legal system making it easier for middlemen to convince them to sell their lands. Courts have often frustrated the indigenous peoples' attempts at tackling land grabbing (USAID 2011). Moreover, indigenous people are subjected to threats and coercion by local officials and private business groups in the process of land grabbing (AITPN 2006).



## Land Rights and Natural Resources

### Land reform, relevant legislations and institutions

Political conflicts and wars led to drastic changes in land ownership, distribution and management in the country. After the French rule the Khmer Rouge took over control of land and abolished private property by destroying all land documents. Subsequently, the Vietnamese backed government initiated communal production schemes over agricultural lands since 1979. After the Constitutional monarchy took over in 1989 the reinstatement of private property led to unequal redistribution of land due to high levels of corruption. Further, shifts in economic policies which encouraged industrialisation of agricultural lands through ELC resulted in depreciation in land ownership from 13% landlessness in the 1990s to 20–40% by 2009, one of the main causes for poverty and weak human development (Oxfam survey). Some of the critical reasons for poverty and landlessness are reported to be poor land registration procedures, insecure land tenure, land grabbing, ambiguities in boundaries between State land, private land, forest land, indigenous people's communal lands, and, land concessions (USAID 2011).

Sporadic Land Registration and Systematic Land Registration are the two processes of land registration under the Ministry of Land Management, Urban Planning and Construction which is responsible for land management including policy development, land use planning, geodetic and cadastral surveying, mapping, and property valuation. As of February 2011 land titles adjudicated and surveyed

Indigenous children in the proposed bauxite mining area, Mondulkiri, Cambodia



was 2 million with 1.7 million titles distributed (GTZ 2009b).

The structure of the Ministry at the provincial level is the Department of Land Management, Urban Planning and Construction. The MAFF and the Ministry of Environment are also concerned with land administration. MAFF is responsible for agriculture development and for overseeing ELCs. The Ministry of Environment is responsible for environmental protection and natural resources conservation, and for the assessment and mitigation of potential environmental impacts related to ELCs. The Council for Land Policy promotes and monitors implementation of the 2008 Land Policy Declaration. In order to strengthen implementation of the Land Law and other legislations, the Cadastral Commission, created in 2002, acts as an administrative adjudication body on land disputes. The Land Law of 2001 is considered the most progressive law related to land management (Westerod 2010).

Cambodian law recognises five categories of land: private land; State public land; State private land; common property; and indigenous land. State land (both State public and State private) accounts for approximately 75–80% of Cambodia's total land area. The government recognises the unregistered land held in collective land ownership by indigenous communities under the category of State public land. Cambodia's law recognises three forms of land ownership: private ownership, State ownership and collective ownership by indigenous communities (USAID 2011).

In 2003 the government initiated a Sub-decree on Social Land Concessions under the 2001 Land Law in order to distribute land to landless poor under the World Bank-led Land Allocation for Social and Economic Development Project. However its implementation was weak due not only to non-availability of land to the poor and the increase in costs of land, but also due to diversion of land for ELCs under Sub-decree No. 146(2005) for the grant and management of concessions of land for large-scale, market oriented development. The Sub-decree No. 118 is related to State Land Management (2005) that restricts ELCs to State private land (USAID 2011). The 2008 Land Policy Declaration provides a roadmap for streamlining the registration and settlement of lands and to provide land tenure security.

The Cambodian government also developed the Policy for Registration and Right to Use of Land of Indigenous Peoples, and brought out several decrees like Sub-decree on Procedure for Registration of Land of Indigenous Communities, Sub-decree on the Procedure for Commune Land Use Planning and several other relevant sub-decrees with regard to land. They are required, under the Sub-decree

on Procedures for Registration of Land of Indigenous Communities (2009) to register as legal entities before registering their land rights (USAID 2011). Under the Interim Strategy of Land Policy Framework (2002) of the 2001 Land Law, indigenous people can apply for collective ownership rights over their land. There is no specific section that mentions the stipulated need for indigenous women to be given land ownership rights. However, the regular national laws related to land are assumed to apply with respect to the individual and collective land registration where both men and women are entitled to jointly register. However, in reality, the process of communal land titling has been extremely slow where only four villages, two in Ratnakiri and two in Monduliri, have so far received land titles.

### Land concessions

The Land Law of 2001 which provides for a progressive and comprehensive classification of land and its ownership, distribution and management comprised a very important section called the Sub Decree on Social Land Concessions which was set up in 2003 to provide State lands to the landless poor for residential and farming purposes. This socially relevant law is again hindered by land grabbing and competing interests from private developers and industrial groups for diversion of these State lands for economic land concessions. Sub-decree No. 146 on Economic Land Concessions that was brought about in 2005 established the legal and regulatory framework for the grant and management of concessions of land for large-scale, market-oriented development, investment in agriculture, rural employment and diversification of livelihood opportunities, and the generation of State revenues (USAID 2011). Most commonly, foreign companies who receive ELCs, use the land for sugar, rubber, and cassava plantations where large tracts of forest and farming lands have been taken in the name of livelihood enhancement and economic development. The Forestry Law 2002 and Law on Environmental Protection and Natural Resource Management are hindered by the grant of ELCs (UNCOHCHR 2007).

According to statistics available, a total land area of 895176 ha has been granted to 65 companies as of November 2008. According to the website of the MAFF there have been 85 contracted and validated companies with total land area of 956690 ha (5.3% of Cambodia's total land area) (Westerod 2010) located in 16 provinces. Thirty-six of the 59 concessions until June 2007 have been granted in favour of foreign business interests or prominent political and business figures (USAID 2011).

### Land acquisition, compensation and resettlement

Land acquisition for large areas has become a concern since the granting of ELCs and the government's economic policy of industrial and infrastructural projects taking precedence. So far there is no clear law or policy on issues of compensation and resettlement. Under the Land Law of 2001 while some types of claims can be compensated, it does not provide for compensation for public properties regardless of the persons affected being from poor communities, nor does it provide for loss of livelihoods. The State's power of eminent domain prevails over issues of land acquisition. The Inter-ministerial Resettlement Committee (IRC) under Decision No. 13, issued on 18 March 1997 which was set up for highway projects is now being extended to all infrastructure projects funded by the government and foreign development partner agencies (ADB 2007).

Under Article 44 of the Constitution and the Land Law 2001, fair and just compensation is to be paid for land taken for public interest by the government and include sections related to involuntary resettlement. Article 44 states that, "All persons, individually or collectively, shall have the right to ownership [...] Legal private ownership shall be protected by law. The right to confiscate (land) possession from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation in advance."

While not directly related to involuntary resettlement, Article 73 of the Constitution contains some sections for vulnerable sectors of society who are displaced by development projects especially women and children. Article 5 states that "No person shall be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and only after the payment of fair and just compensation." However, there are no proper procedures, standards or regulatory frameworks for resettlement, and those that exist have never been applied even in multilateral projects where compensation has been dissatisfactory although IRC conducts evaluation of losses in consultation with line ministries and NGOs. A draft National Resettlement Policy developed in 2001 is yet to be finalised (ADB 2007). Thus, Cambodia's haste to expedite ELCs at the cost of implementation of land laws, regularisation of land claims, communal land titling processes and safeguarding of protected and indigenous people's areas along with traditional social prejudices that prevent women's assertion

of their land rights puts them at a much more vulnerable situation today with regard to women's land rights. The following section which details the socio-economic status and development indicators of women in Cambodia reveals the challenges that confront them vis-a-vis protection of their resources and social security in the context of the extractive industry.

Child worker in the small-scale gold mines, Cambodia



## Status of Women and Gender Equality

### Some demographic indicators

Cambodia, with a population of 14.52 million in 2011 (ADB 2012) has a sex ratio of 93.5 (males/100 females)<sup>7</sup>, but has poor gender indicators. Cambodia ranks 83 out of 93 countries in the GEM and 113 out of 157 in GDI. Women's literacy rate is at 83% but it is significantly low for majority of poor and indigenous women. At the primary level girls comprised 47% of the enrolment in 2007, while at the lower secondary school level it declined to 45% and further to 39% at the secondary level. In higher education girls are negligible and 40% of women in the age group 25–44 are illiterate as compared to 22% of men. Maternal mortality is a cause for concern with 472 deaths per 100000 live births as well as the rise in unsafe abortions. Deliveries at health facilities are as low as 22% (MoWA 2008). While 71% of women aged 15 years and above comprise the national workforce, 83% of them are in the informal and unorganised sector or are self-employed workers. Only 17% of the women workers in Cambodia are paid employees (LICADHO 2004).

A number of laws provide for equity between men and women. The Constitution, the Labour Code 1997, the Land Law 2001 and the Law on the Prevention of Domestic Violence and Protection of Victims 2005 all protect women's interests. At the international level Cambodia is a signatory to the CEDAW. The Ministry of Women's Affairs (MoWA) is the national machinery for promoting the role and status of women in Cambodia and is responsible for engendering the plans and programmes of the government. Gender Mainstreaming Action Groups (GMAGs) have been set up in 27 ministries for the integration of gender responsive measures into sector policies and programmes (MoWA 2008).

### Indigenous women

The traditional systems saw the role of women as elders of the community and vested with decision-making roles (Maffii & Hong 2010). At the same time the status of indigenous women in terms of health and literacy is extremely poor. Infant mortality rate is reported to be very high among the indigenous peoples of Ratnakari and Mondulkiri. It is one of the worst in Asia and twice that of the

<sup>7</sup> The extended conflict in the country is a reason for this sex ratio where women outnumber men

general population in Cambodia. Health problems like malaria, tuberculosis and diarrhoea are endemic, and 6.8% of pregnant women have night blindness as a result of Vitamin A deficiency (CKS 2009).

Indigenous women face several challenges as a result of land alienation that creates insecurity over their livelihood as well as their cultural identity. On the one hand they are burdened with increased household responsibilities and on the other, have to struggle with changes in societal structures that expose them to new forms of violence both at home and in the community (CKS 2009)

### Gender inequality in ownership of land and assets

Women and men both have equal rights to land and women in Cambodia often own land as well. Inherited property is registered in the name of women only, while property acquired during marriage is jointly registered with the husband.

The government's policies relating to land aim to protect women's rights in the process of land reform, following the Strategy Framework on Land Policy. It recognises that the land policy should meet the needs of all Cambodians, specifically women (Mehrvar et al 2008). The Civil Code adopted in 2007 is the law related to property matters and family relations. The Sub Decree on Social Land Concessions also states that, "In order to ensure that the land policy responds to all citizens' needs, such policy must respond to women's needs, especially women heads of household" (CEDAW 2010). The legal framework for gender equality in land includes the 1993 Constitution, the Law on Marriage and Family (1989), the Land Law of 2001, and sub-decrees.

Joint property, as per the Law on Marriage and Family, is that which is bought or acquired during the course of the marriage while separate property is owned by one of the spouses prior to the marriage, or inherited by one of the spouses during the marriage. While joint property can be managed separately, its disposal requires the agreement of both spouses. However, prevailing social attitudes inhibit Cambodian women from participating in such decisions and they often cede control of their property over to their husbands (USAID 2011).

In terms of ownership, the Cambodia Demographic and Health Survey 2005 indicates that 60% of women own land alone or jointly, while only 14% own land alone and of this only 65% can sell it without permission. The proportion of



Indigenous woman being interviewed on impacts of mining in her village, Mondulkiri, Cambodia

women who could hold land independently, in fact, fell between the years 2000 and 2005. While the government has initiated a process of land registration including joint titles for married couples, only 17% of agricultural land was titled as of 2006 (MoWA 2008). The situation of women-headed households is more precarious where a survey carried out by Land Management and Administration Project (LMAP) in 2007 of systematic land registration indicates that 34% of female-headed households own less than half a hectare of agricultural land, compared to 18% of male-headed households (Mehrvar et al 2008).

There are several obstacles that prevent women from registering property they bring into marriage. Cultural obstacles include the perception that women do not trust their husbands or were looking for an early divorce. Illiteracy, lack of proper documentation, insufficient women personnel in the land registration team, combining men and women in LMAP meetings which dissuade women from speaking in public, and lack of gender specific information, are other important causes that prevent women from having land registered in their names. Moreover, traditionally while

women could own assets, decisions with regard to sale of valuable assets like land, are normally taken by men preventing women from exercising their rights to their own assets (MoWA 2008; Mehrvar et al 2008; USAID 2011).

The land reforms undertaken in 1989 also contributed to the unequal distribution of land where, women-headed households with less adult labour received smaller parcels of land. War widows owned less land than others with 84% of them owning less than 0.5 ha. Women-headed households often received land of inferior quality, reducing their ability to provide for their families or to generate income from the land (USAID 2011).

### Indigenous women and land laws

The Land Law 2001 defines an indigenous community as “a group of people who are resident in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use” (Article 23). Indigenous people consisting of 36 different ethnic minority groups are only 3.5% of the country’s population. The lands of indigenous communities are protected under different laws relating to land, forests and natural resources. Legally, they include not only lands actually cultivated but also reserved land necessary for shifting cultivation which is the traditional agricultural practice of these communities and which is recognised by the administrative authorities (ADB 2007). There are at least three types of traditional ancestral land use namely, areas used for agriculture and NTFP collection, areas used for cemeteries, and the third, sacred forests (FAO 2010). Indigenous people can claim both individual and collective land titles that include residential land, agricultural land or land kept as reserve under the traditional agricultural rotation system and in some cases areas of forest land within boundary of agricultural land (ADB 2007).

A migrant settlement around the small-scale gold mines, Chong Plas, Mondulakiri province, Cambodia



### Gender equality and protection of women: Legal and institutional mechanisms

The Constitution of the country prohibits discrimination against women in its Articles acknowledging fully the equal rights of men and women in the country. A number of laws have been adopted that protect women’s interests such as:

- \* The 2005 Law on the Prevention of Domestic Violence and Protection of Victims
- \* The 2001 Land Law that states that women have the right to co-sign land titles
- \* The 1997 Labour Code that affords liberal rights to women in employment, prevents discrimination on the basis of sex, forbids indecent behaviour and harassment and provides special protection to women who work during pregnancy.
- \* The Marriage and Family Law allows divorce on the grounds of cruelty in marriage and recognises that men and women who both, bring property into marriage, can hold the same jointly and can take their property out on dissolution of marriage.
- \* The Organic Law

Cambodia is a signatory to the CEDAW, to the Beijing Platform for Action and to the Declaration of Elimination of Violence Against Women in the ASEAN region. The Rectangular Strategy for Growth, Employment, Equity and Efficiency (launched in 2004) fosters gender equity and endorses the strategy plan or NearyRattanak II (Women are Precious Gems) of the MoWA(2004-08). The MDGs were also expanded to include several gender related targets and indicators including budget commitments to gender

mainstreaming that were adopted in the National Strategic Development Plan 2006-10 (adopted in June 2006) which provides the framework for implementing the Rectangular Strategy (MoWA 2008).

### Mechanisms to support gender mainstreaming

The MoWA, the national machinery for promoting the role and status of women in Cambodia focuses on six priority areas: gender mainstreaming, health and nutrition, education, economic empowerment, legal protection and women in decision-making in its Strategy Action Plan. A Department of Gender Equality was created with a Policy Unit tasked with leading gender mainstreaming efforts and serving as the Secretariat to the Technical Working Group on Gender. The MoWA, which houses the Cambodian National Council for Women established in 2001, is responsible for coordinating and with the government on issues relating to women and eliminating discrimination against them. Mechanisms like the Technical Working Group on Gender and GMAGs were initiated. Gender related indicators have been included in the Joint Monitoring Indicators set up by the Cambodia Development Cooperation Forum, a high level external development partner forum chaired by the government, as well as in the Good Governance Action Plan II. With the encouragement of the Working Group, GMAGs are being set up in line ministries (MoWA 2008).

Given the above framework of law and policy with respect to gender equality in Cambodia, the study presents the field dynamics that influence gender relations in the context of the extractive industry.

Toxic chemicals mixed with water used for refining gold, Cambodia



## Understanding Gender Equality and Gender Relations in the Context of the Extractive Industry

### Field study design and methodology

This section covers field studies undertaken as part of this research to understand the field realities experienced by women who are affected by mining projects, both artisanal and large-scale projects. It presents the situation of indigenous women, women living around mine sites and down-stream, and artisanal mine workers in the northern provinces of the country where large-scale mining projects are fast expanding.

DPA, which is a partner of Oxfam America and facilitates the activities of the EISEI Network in the country, was identified by Oxfam as the collaborating partner for the study. Dhaatri Resource Centre worked with the EISEI Network in conceptualising the research design, research sites and preparation of the country report. Through a series of consultative meetings, the questionnaires, participants and research sites were developed and translated into Khmer. These were first collectively field-tested through pilot interviews and group discussions and modified to the specific conditions of the field sites.

The primary data collection was undertaken by the team of DPA and its local partners-and DPA-EISEI Network member organisations such as Non Timber Forest Products Organisation and Highlander Association in Ratnakiri province, Indigenous Community Support Organisation, Mondulkiri NGOs Network, Community Legal Education Center, and CIDDA all in Mondulkiri province.

The study sites were selected on the basis of understanding the mining problems in indigenous people's lands, in studying the impacts of large-scale and private sector mining, emerging threats to the indigenous peoples' right to FPIC, emerging problems faced by artisanal and small-scale mine workers due to the licensing of their sites to large transnational companies. The study also tried to cover a range of minerals like gold, gem stones, copper, iron ore, bauxite and stone quarries so as to build a broad overview of the mining situation in the country, particularly in the context of the impacts on indigenous people and women.

The study also covered interviews with government officials at the national and provincial level such as the

## Section IV

provincial Department of Industry Mine and Energy, Provincial Department of Rural Development, Provincial Department of Environment, Provincial Department of Rural Development, Provincial Department of Women Affairs, Provincial Department of Land Management, Urban Planning Construction and Cadaster, and local authorities at the commune level. The ministries engaged with documenting their perspectives were, MoWA, MIME and Ministry of Environment.

### Mine sites and areas selected for the study

Two provinces, Ratnakiri and Mondulkiri, which have a predominant indigenous population were selected for the study, due to the high presence of mining activities in terms of both proposed and existing large-scale mining as well as artisanal and small-scale mining.

In Mondulkiri province, the communes of Senmonorum, Dak Dam and Chong Plas were selected where gold and bauxite mining are underway and proposed. The villages of Pu Tang, Pu Treng, Pu Tung (Prey Meas or O Kloi areas) and Pu Hung were selected each covering around 20 participants. In Ratnakiri, Karchong, Malik, Lum Chor and Kok communes were selected and interviews and focus



An indigenous woman expresses her fears if mining companies take their lands

group discussions were conducted in Borloy, Malik, Lae and Karchok villages. The minerals covered were gold, gem stone and iron ore, of which gold and gem stone mining also consisted of artisanal mining activities.

In all 221 participants, with majority being women were interviewed apart from focus group discussions with community members, indigenous people, non-indigenous people and mine workers.

Table 3: Mondulkiri province

Study site village name	Commune/district	Questionnaires	Sample size (in Plan)	Focus group discussion	Mineral	Total of respondent (Actual of sample)
MONDULKIRI PROVINCE: From 20th-28th August, 2012						
Pu Tang village	Sangkat Rommonea city Senmonorum	FPIC	20	1, IP	Bauxite	M=11,F=17
Pu Treng village	Dak Dam commune, Orang district	FPIC	20	1, IP	Bauxite	M=12,F=17
Pu Tung (or Prey Meas village)	Chong Plas commune, Keo Seima district	Artisanal Mine	20	1, IP	Gold	M1=10,F=10
		2, FPIC	20	1, IP	Gold	M=6,F=11
Pu Hung village	Chong Plas commune, Keo Seima district	Impact on community	20	IP	Gold	M=4,F=14
<b>Total</b>	Three commune/sangkat and three districts/city					<b>Total=112 (M=43,F=69)</b>

IP=indigenous people

In Pu Tang and Pu Treng villages the companies present were (1) Alumina (Cambodia-Vietnam) Co. Ltd, (2) BHP Billiton World Exploration Inc/Mitsubishi Corporation, (3) Inner Mongolia Erdos Hong Jun Investment Co. Ltd or CIIDG Erdos Hong Jun Aluminium Industry Co. Ltd. BHP Billiton/Mitsubishi Corporation started exploration in Pu Treng since 2009-10 with a license number 1283 issued on 14 December 2004, and having a land concession of 996 sqkm. According to local authorities the company was better than Alumina (Cambodia-Vietnam) Co. Ltd, as it tried to maintain cordial relations with the community through providing small-scale infrastructure like drinking water wells and monetary donations. Alumina (Cambodia-Vietnam) Co. Ltd, a joint venture between Cambodia and Vietnam, which has a license area of 1254 sqkm has been operating since 2009. Inner Mongolia Erdos Hong Jun Investment Co. Ltd, was given a land concession extending to 360 sq km since June 2010 and is located at Senmonrom and Orang districts near Phnom Tukuor areas.

In Pu Tung (or Prey Meas village) and Pu Hung village the companies operating were (1) Rong Cheng Industrial Investment (Cambodia) Co. Ltd, (2) Oz Minerals (Cambodia) Ltd, (3) Oxiana (Cambodia) Ltd and (4) Zhong Xin Industrial Investment (Cambodia) Co Ltd. Additionally in Pu Hung village the companies present were (1) Cambodia Tonle Sap International Investment Co Ltd, (2) D and Z Investment Co Ltd, (3) Anqing Cambodia Investment Co, (4) China Forwin International Investment, and (5) Southern Gold Cambodia.



Indigenous woman from mining affected area

Table 4: Ratnakiri province

Study site village name	Commune/district	Questionnaires	Sample size (in Plan)	Focus group Mineral discussion	Mineral	Total of respondents (Actual of sample)
RATANAKIRI PROVINCE: From 07th - 13th, August, 2012						
Borloy	Karchong commune, Borkeo district	1. Impact on community	20	1, IP 2, non-IP	Gold and gemstone	M=9, F=16
		2. Artisanal miners	20	-	-	M=5, F=19
Malik	Malik commune, Andougn Meas district	FPIC	20	1 IP	Gold	M=9, F=15
Lae	Lum Chor commune, Oyadav district	1. Impact on community	20	1 IP	Iron ore	Non
		2. FPIC	20	1 IP	Iron ore	M=7, F=12
Karchok	Kok commune, Borkeo district	Impact on community	20	IP	Iron ore	M=10, F=17
<b>Total</b>	<b>Four communes and three districts</b>					<b>Total=119 (M=40, F=79)</b>

IP=indigenous people



The companies operating in Lae and Karchok villages (Cambodia) Co Ltd., Transol Mining and Exploration Co were Hoang Anh Ratanakiri Co Ltd., Utra Marine Kiri Private Ltd.

Table 5: Village profiles of study area in Mondulkiri province

No	Name of village	Population		Total of family		No. of households
		IP	Non-IP	IP	Non-IP	
1	Pu Tang village, Sangkat Rommonea, Khan Senmonorum	788 (F 383)	Nil	172	Nil	288
2	Pu Treng village, Dak Dam commune, Orang district	1040 (F 540)	Nil	120	Nil	101
3	Pu Tung village, (or Prey Meas village), Chong Plas commune, Keoseima	2498 (F 827)	1673	41	376	288
4	Pu Hung village, Chong Plas commune Keoseima district	646 (F 314)	Nil	148	Nil	113

IP=indigenous people

Table 6: Village profiles of study area in Ratnakiri province

No	Name of village/ commune	Population		Total of family		No. of households
		IP	Non-IP	IP	Non-IP	
1	Borloy village, Karchong commune, Borkeo district	430 (F 218)	200	68	56	80
2	Malik village, Malik commune, Andounmeas	933 (F 456)	85	176	21	81
3	Lae village, Lum Chor commune, Oyada district	562 (F 248)	20	132	3	95
4	Karchok village, Kok commune Borkeo district	487 (F 176)	Nil	127	Nil	93

IP=indigenous people

The study was undertaken from a gender perspective of understanding the three focus areas with respect to mining operations in Cambodia:

1. The right of indigenous people to FPIC as agreed under the UNDRIP
2. Impacts of mining activities on local communities where mining operations are existing prior to the study
3. Problems of artisanal and small-scale mining vis-à-vis transition into large-scale transnational and private mining operations.

An indigenous community share their anxieties over exploratory activities by mining companies



## Impacts of extractive industry activities: Study findings

The interviews and focus group discussions held in Monduliri and Ratnakiri provinces with affected communities and workers are presented below.

### ***Violation of free, prior and informed consent: Impacts of its violation***

In Cambodia a large number of mining concessions are located in indigenous peoples' lands. Particularly distressing is the opening up of forest and farming lands for transnational mining, FDIs and private land concessions when the country's Constitutional, administrative and governance structures are not yet fully established. The study was conducted to understand the field realities with respect to implementing the commitments of Cambodia under the UNDRIP mandate.

The extractive industry is a new economic sector that is fast growing in its proposed areas of exploration and extraction, and majority of large-scale mining is at a developing stage. Hence, impacts are hard to assess, also because there are no extensive impact studies in the past or concrete research that provides a basis for analysis. The current small-scale study is based on experiences of communities in eight villages and their extended mine workers' settlements. Of the field sites covered, majority are at an exploratory stage where mining is either at a small-scale or at an initial phase of exploration and reconnaissance. However, even these initial impacts have created conflicts and fears among local communities where they anticipate that full scale mining operations would only amplify the current negative impacts they have experienced from mine exploration.

The women from the villages of Pu Treng and Pu Tang in Monduliri province and Malik and Kachoub in Ratnakiri province were interviewed for assessing the FPIC of indigenous communities. Interviews with the community in Pu Tang village revealed that the Alumina (Cambodia-Vietnam) Co Ltd and CIIDG Erdos Hong Jun Aluminum Industry Co Ltd did not consult them at the time of acquiring their lands for exploration of ore. It had indiscriminately cut down the trees in the forest and started drilling operations in forest and farmlands. It abandoned the pits drilled for exploration thereby leading to cattle falling into the holes. There is a fear expressed by the indigenous community that their livelihood would be affected if mining operations were to begin in full scale. There is no information given to them

regarding the extent of area, the mine sites or other resources that would be diverted. The company never came forward to negotiate with the community or offer any development incentives or share in revenue. Whenever the community tried to engage with the company for their grievances, there was no response because of which the women felt that their community would be completely marginalised by the company without leaving them with any access to the forest or their farming. The women did not hear of any employment opportunities either for them or for the men in their community, and they expressed fear of losing their livelihood if they were displaced from their lands.

In Pu Treng village Monduliri province where the companies, Inner Mongolia Erdos Hong Jun Investment Co Ltd or CIIDG Erdos Hong Jun Aluminum Industry Co Ltd were operating, there were similar responses given by community members regarding the process of consultation where exploration started in 2010 for bauxite deposits. They claimed that, despite the communal land titling still in process where the communities just received the legal status from the Ministry of Interior for securing legal titles on behalf of indigenous people. The government has gone ahead and issued land concessions to companies for mining and pine plantations. This is a violation of their indigenous land rights. The alumina mining company has dug 400–1300 holes near the village without consulting the local community and has not bothered to refill the holes. This has caused great anxiety among the indigenous community as their farm lands, forests rich in species like bamboo, rattan, fruit trees and other produce like honey and wildlife meat are in abundance in the exploration sites. They anticipate degradation of this resource base in the coming years due to mining activities. Particularly the women here complained that they have to go longer distances in search of food and fuelwood compared to the pre-mining situation. They also expressed that forest produce was not as abundantly available as before the mining activities because of which their incomes have reduced. The presence of migrant labour and mining company staff is reported to have influenced social behaviour and lifestyles to some extent with a fear for social security of the women and adolescent girls expressed during the focus group discussions.

In Pu Tang village of Rommonea commune in Senmonorom district where there are 162 indigenous families and 20 non-indigenous families, the community is affected by Alumina (Cambodia-Vietnam) Co Ltd which is in an exploratory stage for bauxite ore. Here the community expressed their unanimous opposition to the mining project between men and women, indigenous and non-indigenous

members alike. They experienced irresponsible behaviour from the company in the form of non-consultation, non-response to their appeals and proceeding with drilling operations even in the midst of community protests. They reported that in the dry season the company dug holes of 26–27 m depth and in the rainy season, about 8–9 m. The focus group discussions and interviews with the women revealed that they had reported their discontent to the village chief as they are finding it difficult to access their forests and farm lands due to mining activities, and that they feared accidents and injuries due to holes drilled in their lands. They observe that due to the water pollution in the O Te stream caused by mining activities, using the water for drinking or bathing is leading to illnesses like diarrhoea, malaria, stomach ache, headache and other ailments which have become common in the recent years. News of diseases like HIV/AIDS linked to mining related activities is also being heard of in the community. Women expressed fears over HIV/AIDS and of new forms of social problems like trafficking and commercial sex work due to the presence of migrant workers. The foul smell from the pollution generated by drilling operations is causing nausea and vomiting. The community suspected that illegal mining activities were taking place in the area but said they were unable to investigate or expose this as the company was not allowing them to enter the mine sites which were in the commune lands. The community has yet to apply for a communal land titling as they are not aware of the legal procedures, but when questioned, they responded that they would not give their lands for mining if they are given communal titles.

The indigenous peoples' community of Pu Tang village expected that the mining company would provide roads, school and health centre as promised to them, but none of these were provided by the company. On the other hand the existing facilities provided by the royal government were badly destroyed due to heavy traffic and movement of mining company vehicles. The local provincial authorities in the departments related to land and environment also did not have much information regarding the mining projects and admitted that there were negative impacts visible with regard to land and forests. During the exploration stage, there are no job opportunities for the indigenous women and only some Chinese and Vietnamese people are hired as skilled workers.

Lae village which is one of the five villages in Lum Chor commune in Ratnakiri province and home to the Jaray indigenous community is affected by mining activities. Hoang Anh Rattanakiri Co. Ltd is a Vietnamese company which received an exploratory license in the year 2009 to mine

iron ore over 154 sqkm. The company is located in a large area of Lae village and is operating in Phoum III village, Sangkat Laban Seik, Banlong city, Ratnakiri province. According to the chief of the Lae village, the company is expecting an iron ore exploration license for 12 blocks in the region. If the company were to begin extraction work, it is expected that four villages-Lae, Sumkul, Kreang and Kachark, will be affected. Interviews with these four proposed mining affected villages revealed 20 families will directly lose land, and the rest will be negatively affected by the loss to biodiversity and natural resources. These villages belong to indigenous communities who depend on forest produce like rattan, bamboo, wood oils and vegetables apart from wood for domestic consumption and sale. They grow rice, potato, rubber, corn and beans in their farms. The communities feel threatened that these resources would be negatively affected by mining activities. There were conflicting views between local authorities and the indigenous communities over the nature of information conveyed to the people regarding proposed mining activities. The local community stated that they were ill-informed of the mining project and the benefits of mining like roads, schools, health centres and houses which were promised to them were not implemented.

Some of the local authorities like the Oyadev deputy district governor, district inspector, deputy inspector, administration post office and chief villager met with the community members to inform them of the above benefits. However, they were not interested in these incentives from the mining company as they did not want to part with their lands for which they had just received communal land titles from the Ministry of Interior. This land titling process gave the community a sense of unity and a strong conviction that they would resist the mining operations to retain their lands for their own livelihoods. The women interviewed stated that neither the company nor the officials provided any information regarding the impacts of the mining project on their forest and tree resources.

In the five villages put together, there are 14049 ha of agricultural land including 149.9 ha of land belonging to 28 families who will be directly losing their farm lands. This also includes 1252 ha of evergreen forest, 1826 ha of semi-evergreen forests, and 619 ha of deciduous forest and 1158 ha of non-forest land. Yet, the women reported that there was no information shared with the community on the extent of land that was to be acquired, the impacts that the mining would have on water resources and the extent to which water bodies would be diverted for mining activities. This has led to anxiety over their livelihood and resources.

In Lae and Malik villages the indigenous women were anxious about the Hoang Anh Rattanakiri Co. Ltd mining company which has iron ore exploratory license. Some of the fears expressed by the women are regarding the foreign migrant workers who are brought by the company to work in the mine sites, causing a threat to the social security in the village. The women feel inhibited about going to their farms on their own or working on their plantations alone as their freedom of mobility has been hampered by the floating population of migrant workers. The incidence of alcoholism has increased due to the coming up of a pub and the emergence of new petty businesses, cash and wages that are now being spent on alcohol by the men in the community. Due to high end consumer items like motorbikes, mobile phones and increase in purchase of material goods, mostly by the male members in the community, the women felt that there is a huge shift in the lifestyle that creates a pressure on their incomes.

The women complained of their livelihood being affected as the mining company prevented them from using their farm lands around the mine sites and the movement of cattle for grazing is considerably restricted. Their access to the forest has been reduced due to the mining concessions in the farming and forest lands thereby reducing their access to bamboo, wood oil, rattan, honey, and other forest produce for their consumption and marketing. As it is mainly women who collect forest produce and sell in the local market items related to food, craft and other domestic produce, they expressed serious concern over these changes brought about by mining.

The Hoang Anh Rattanakiri Co Ltd., was granted an exploratory license over 4000 ha around Karchark village. It employs 50 workers in the village of which 20 are from the indigenous community. Most of the workers earn Riel 20000 per day with the more skilled getting Riel 100000 per month apart from food provided by the company. The company

Small-scale gold mining in Putong, Chong Plas commune, Mondulakiri province, Cambodia



dug more than 1000 wells some of which were in the farm lands of the indigenous communities, but it did not fill back a single hole when it left. Only one of the community members interviewed reported to have received a compensation of USD 100, but the community as a whole, expressed their anger and dissatisfaction about the compensation.

In terms of the impacts on the environment, the women complained that there was severe noise whenever the company operations took place and during movement of trucks. These activities also caused contamination to their river as mine tailings are dumped into the water bodies. They anticipate serious problems to the quality of their crops and lands due to chemical pollution and the huge mining pits that leave the land unfit for cultivation when extraction work begins in full swing. Going by the heavy vehicular movement for exploration activities, they also anticipate road accidents and injuries apart from the social problems for women and children due to migrant populations moving into their lands. All these problems have not been addressed by the company which has ignored the community's attempts at negotiation and requests for access to project information. The women strongly felt that in the absence of any consultation or respect for the concerns raised by the people, these commercial activities in their lands would bring them future disasters.

Karchak village in Rattanakiri province is home to the Jaray indigenous community who grow rice, potatoes, corn, beans, peanuts, tomatoes, cashew apple, wax melon and soy beans and collect rattan, bamboo, wood oil, mushrooms,

jackfruit, mango, lemongrass and other tubers which they sell in the local markets for their incomes. This village is also affected by the Hoang Anh Rattanakiri Co Ltd. The company has 4000 ha of mining concession around Karchak village since 2009 and it has, so far, dug 1000 wells without refilling them. Interviews with the Jaray women disclosed that some of the families were displaced from their land as wells were dug in their farm lands giving them only small amounts of compensation. One of the families interviewed reported that they received USD 100 and the others who received similar amounts, around USD 100–200, expressed their discontent at not being consulted for acquiring their lands, and at the compensation amount dispensed to them. Impacts have been both direct and indirect as farmers lost their land and others in the community lost their access to forest resources which were cut down to make roads, mine pits and as overburden pits.

Women involved in small-scale mining activities are at risk in terms of health, education and the burden of work at the work site as well as the home, according to the information obtained from the interviewed with the Director of Provincial Department of Women Affair in Ratnakiri Province. She also stated that they (the department) did not have mechanisms to disseminate information of these risks.

Earlier, the company that was given the license to grow rubber plantations used high levels of chemical pesticides and this was opposed by the indigenous community as they always practiced natural farming. Now they fear that their land and water bodies are polluted by these chemicals.

An indigenous community share their anxieties over exploratory activities by mining companies



Similarly, they state that mining activities are leading to pollution and degradation of their forest and farm lands. The indigenous women complained that they are unable to get the government or company to listen to their demands and feared losing their right to decide on their lands.

The women also expressed that they had heard about the communal land titling which will recognise their traditional rights over their commune, but questioned how this would be possible when their lands are not yet registered, yet mining companies were given licences by the authorities at a much faster pace. They felt this was a very unfair practice of the government. There is a conflict brewing between the land owning farmers who are approximately 20 families and the mining company. They fear that the community will be affected as the conflict over registration of communal land titling and mining land concessions is linked to the community as a whole. They do not want individual land titling which the mining company is pushing for in order to take away their lands. They say that they have lived collectively so far and desire to continue as a collective community land ownership.

The O Kob and Ochong Va streams are located in Lae village, Ratnakiri province. They are the main source of water for the community but it now feared that these will be polluted by the mining company and its tailings. They also fear diversion of water for mining operations will reduce the community's access. They are opposing the mining concession in their lands and do not want these operations to disrupt their rights to their lands and forests.

### ***Impacts of existing small-scale, artisanal and transnational mining operations***

Pu Hung village, Monduliri province, is at a distance of 15 km from the mine site where gold mining is taking place. The Punong indigenous community who live here has been experiencing impacts due to artisanal mining activities in the area for some time now. Traditionally, the community had been involved in artisanal gold panning but over a period of time, the lure of gold brought in contractors and miners from the outside, displacing the local community. Therefore, the members of this community no longer pan for gold, though located around the mines, but practice farming and forestry. Small-scale mining which is mostly illegal in nature and spreads as rat-holes wherever they strike gold, has occupied indigenous peoples' farm lands. Farmers have lost land, resin trees and hill-slope farms due to which they have had to change their cropping pattern and shift to selling vegetables to the gold miners in order to survive. Fishing,



Gold mining site, Putong in Chong Plas commune, Monduliri province of Cambodia

which was a major source of food and income, has also reduced forcing women to stay at home most of the time.

Due to the contamination of their water bodies from gold mining activities, the women said that people have skin infections and especially as women wash clothes, utensils and carry water, they are more prone to getting infected. They also stated that the incidence of diarrhoea has increased in their families. The chemicals used for breaking stones and separating gold get mixed in the water and dust causing pollution and health hazards. The heavy traffic to the mine sites has damaged the roads and women complained that it is a risk for pregnant women to go to the health centres especially at the time of delivery. The air and water pollution have impacted the vegetable cultivation and agricultural crops to the extent that they had to abandon some of the farm lands in the village. The women also stated that some of the NTFP has considerably reduced. The O Te stream which is the only water body in the area is heavily polluted by cyanide and other chemicals used for gold panning, although the indigenous women did not have any knowledge of the toxic and harmful nature of these chemicals apart from their own physical experience of ailments and skin infections.

Khnheng village which also belongs to Chong Plas commune has a total of 89 indigenous peoples' families who depend on agriculture and forest resources is close to the research site. Although the community had been involved in artisanal mining activities in the past (1995), they were displaced by contractors from the outside as a result of which they are living away from the mine site practicing farming and collecting forest produce like wood oil, rattan, honey and wild tubers and food. The indigenous community in Khnheng village has a community forestry protection activity

over 1734 ha, and in Putong-Puhung and Namhung around 2413 ha. However, this is now affected by the Zhong Xin Industrial Investment (Cambodia) Co Ltd and its drilling operations which have reduced their access to the forest, destroyed their trees particularly the wood oil trees and rattan, their main source of livelihood. The construction of road and steep increase in traffic due to transportation of ore has seriously impacted the natural resources of the indigenous communities. When the community representatives tried to meet the company management to discuss the impacts on their community forestry programme, they did not receive a positive response. Instead the company went ahead with drilling holes beyond 50 m depth.

The Tom Poun indigenous community in Barluyvillage, Rattanakiri province, has not yet received the communal land title but mining companies and artisanal miners have started land grab in their area. They mostly depend on farming and grow rice during the rainy season and a variety of vegetables like beans, potatoes, chilly, eggplant, bananas, corn, tobacco, gourds, edible plants and pumpkins. In addition they collect forest produce like bamboo, rattan, wood oil and other fruits and wild food. Group discussions with the local communities in Barluy revealed that criminal activities have increased in the surrounding area along with increase in alcohol consumption, gambling, mushrooming of entertainment industry like karaoke bars and pubs, after the erratic rush for gem stones had started. Marital alliances between local indigenous women and non-indigenous men from the outside have led to conflicts, problems of single mothers and this has caused concern among the community elders as they have no control over the commitment of men from the outside. The women complained that mine workers

tend to consume high levels of alcohol and resort to violence and conflicts that has a negative influence on the local community. Therefore while material possessions have increased like using zinc roofing for their houses instead of the traditional grass thatch, consumer items like television, radio, clothes and other consumer goods, the social disturbance caused by mining was discussed as a point of discontent during the focus group discussions with the women.

Interviews with affected indigenous community revealed that earlier a Korean company had taken their lands without their permission for exploration of gem stones. This had angered the community as their access to the forest was disrupted and there were holes drilled into their lands without being informed. Since artisanal mining is indiscriminate and uncontrolled without any precautions to the environment or health of the people, the local communities and the mine workers themselves placed several demands during the focus group discussion. For the workers, these were mainly around the need for government to intervene and give proper technical training for mine extraction, providing proper tools and skills for extraction and processing, proper demarcation of lands for mining activities based on strict licenses and proper facilities for working and residence of the mine workers. The local community emphasised that the process of communal land titling has to be first completed with rights of indigenous communities to their land and forest recognised. They want to decide whether they would like to practice farming or give certain amount of land for mining concessions, but for this, they demand that their due consultation is made mandatory by the government, in order to protect their own land rights.



Holes dug to collect sample ore left unfilled posing a hazard to humans and domestic animals, Pu Tang village, Senmonorom district, Monduliri province, Cambodia

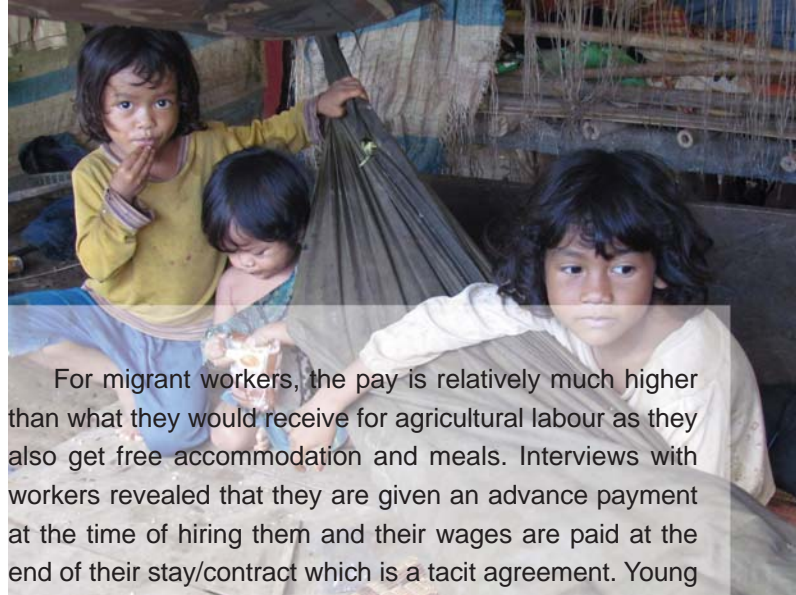
### ***Condition of workers in the small-scale and artisanal mining***

In Keo Seima district of Monduliri province, Chong Plas commune is the centre of artisanal and small-scale gold mining activities. Small contractors have understanding with local authorities and commune leaders to operate these mines, with or without licenses. Mine contractors occupy lands of farmers and bring in migrant workers from different parts of the country to work in these mines which are, to a large part, manually operated. Artisanal gold miners in Chong Plas commune from the non-indigenous community are from provinces like Takeo, Kompong Cham, Kompong Thom, Siem Reap, Pursat, Kratie, Prey Veng and other provinces. The artisanal mining town of Chong Plas provides different sources of livelihood like wage labour in the mines, petty

business and trade opportunities, transportation work, equipment repair works, etc. As most of the land has been taken for mining, the people have shifted from agriculture to these other livelihood occupations. However, artisanal mining is mostly illegal and hence the miners pay bribes to the local police and authorities. Therefore, there is an established practice of crime and illegal activities due to mining.

### *Child labour in the gold mines*

*One of the most negative aspects of the artisanal mining activity was found to be the high prevalence of child labour hired to break stones, sieve the mud and wash the ore to separate gold from the mud. Child miners accompany their parents or other adult members and due to poverty and the lure of better wages, children are taken to the mine sites and made to work in extremely hazardous working conditions. Adolescent boys are made to lift rocks and stones from the mine pits into the machines and those interviewed complained that they experience shooting pain in the limbs, shoulders and sometimes have injuries while loading and unloading. They have to work standing at the machines the whole day powdering the stones and putting them into the washeries. Younger boys and girls wash the ore on mats placed beneath the machines, and later collect the ore into pans for separating the particles of gold. There were more girls than boys patiently panning the gold to identify the small gold particles as it is considered a laborious and strenuous activity. Children were found to be working with no equipment or safety gear and using their bare hands to pan for gold inspite of the use of chemicals like cyanide and sulphuric acid. Although there is a primary school located near the mining settlement in Chong Plas, only some children were found to be attending, while the older ones from the age of ten upwards were found to be working in the mines. Since there is no legal framework within which mining operations are taking place, no laws related to children's rights, environmental protection or health and safety standards were found to be in place.*



For migrant workers, the pay is relatively much higher than what they would receive for agricultural labour as they also get free accommodation and meals. Interviews with workers revealed that they are given an advance payment at the time of hiring them and their wages are paid at the end of their stay/contract which is a tacit agreement. Young boys working in these mines reported that they were promised wages of USD 100 per month but payments are not made on a monthly basis. They receive small amounts as stipend for their basic needs apart from receiving three meals each day. Because of this, the workers could not give an accurate figure of their wages or of what they had actually received. There is no formal process of maintaining wage registers. The contractors pay for some of their medical needs like minor injuries or ailments like diarrhoea or fevers. However, larger accidents or injuries are not taken care of. The workers live in very basic shelters provided by the contractors at the mine sites. During field visit it was observed that there was no running water, electricity or toilets provided for the workers. For the female migrant mine workers a serious problem is the lack of privacy, toilets and bathing areas leading to problems of sanitation and hygiene. Observations by the researchers pointed to the malnourished and anaemic appearance of the women workers. When questioned, the women responded that the work was strenuous and gives them severe fatigue and body pains, but the remuneration promised was attractive. They had not thought about demanding for better work equipment or living conditions and were ignorant of long term health impacts.

Interviews with women research participants in Barloy village, revealed that one in 25 families interviewed experienced increase in domestic violence. The women reported that their husbands go out to find gemstones and earned Riel 20000 to 60000 per day, a large portion of which they spend on karaoke and gambling in the village. "When the women ask for the money they are abused by the husbands"; this was the common comment heard from interviewees. In the group discussions at Pu Tang and Pu Treng the women expressed their anxiety over future security for women if mining operations increased and along with it, migration from the outside.



### Case observed in Barluy village, Ratnakiri province

One of the study areas identified was the artisanal mining for gem stones in Barluy village located in Karchong commune of Ratnakiri province. Here miners operate without licenses posing a challenge to local authorities. There are conflicts over land as gem stone miners either grab lands of local farmers or try to encroach on common land. They bring migrant workers from different parts of Cambodia like Battambang, Kampong Cham, Kampong Chhnang, Prey Veng and Takeo provinces where there is high unemployment and landlessness. As artisanal mining work does not provide continuous employment, both local and migrant workers shift between mining and other occupations like construction work, petty trades and agriculture. Whole families temporarily shift to the mining areas where migrant workers along with their children walk 2–5 km to the gem stone sites and while the adults dig up holes for extraction, children stand in the river bed and wash the mud to separate the gems. Mine workers interviewed complained that their wages and incomes are very inconsistent and they work for long hours without any work safety equipment. They complained of headaches, injuries to the limbs, eyes, stomach ache and diarrhoea, and they often succumb to malaria. Children are also susceptible to many diseases as they are working and living in unhygienic conditions. Children of migrant workers are absent from school and hence there is a high rate of illiteracy due to mine workers' families moving from place to place in search of potential mine sites. This also poses a problem to the local indigenous communities who are constantly under the threat of losing their land and access to forests to the gem stone contractors. The local stream has been considerably polluted due to the washing of gem stones, the mining equipment and implements and due to the increase in human activity in the area.

There were cases of crime reported by the indigenous community which have added to their anxiety. For example, in Pu Treng village of Dak Dam commune, a case of theft of farm implements by the migrant labour of CIIDG Erdos Hong Jun Aluminium Industry Co Ltd was given as an example of increasing insecurity. They reported that when the community tried to take the case to the local authority there was no response, raising suspicions over the nexus between company labour and the authorities. Similarly, in Kachok village in Malik commune, it was gathered from the focus group discussions that people were worried about losing their cows, pigs, hens and other livestock and belongings as they experienced incidents of theft after migrant workers started residing in their villages.

The workers were found to be working in groups with a mix of men, women and children who usually belong to the same family or villages. While the adults break and carry the stones, children wash the mud for gold. The women workers showed blisters on their hands due to the breaking of stones. They were found to be working in water logged and damp mine pits and exposed to the cold weather of the hills all through the day, with no form of protective clothing. They work with the most primitive tools that they have to purchase on their own from the local stores. Although it was evident that they were using chemicals for panning of gold, they had no knowledge of the chemicals being used or what their harmful effects were, except for the physical symptoms of fatigue, headache, stomach ache, skin rashes and other intestinal problems they experienced from time to time. They reported that they usually work for a year to three years and then go back to their farms or shift between mine labour and farm labour.

In Pu Tung village of Chong Plas commune it was also observed that individual families work by themselves in groups and collect the ore which they sell in the local market. But they face exploitation by agents who purchase the ore from them. Male workers are usually paid USD 150 while female workers are paid USD 100 per month but most of the earnings are exhausted on food and accommodation at the mine sites. They are mainly involved in breaking the stones from those sites which are left out by the contractors due to the poor quality of the ore available. In many ways, it is a traditional occupation where men and women work together with very basic implements and with no technical skills.

Mostly, traders from outside have set up businesses to provide cheap food and domestic needs for the mine workers. The mine site in Chong Plas is located very high on the mountains where physical travel to the town is hazardous and involves passing by forests and streams without any transport or road facilities. Yet, there is a continuous flow of trucks and motorbikes to ferry people and mining equipment across the forest. This has also increased the burden of work for local communities, especially for accessing their NTFFP. In Chong Plas commune the women complained that they have to walk longer distances to reach the forest as their traditional routes are now occupied by mining companies like Zhong Xin Industrial Investment (Cambodia) Co. Ltd, Rong Cheng Industrial Investment (Cambodia) Co. Ltd.

*Individual interview*

*As a farmer living in Kampong Thom province, Mrs. Champey (name changed), 56 years old, moved from Kompong Thom to start a new living in Oklor village, Chong Plas commune in 1987. She lives with her disabled husband Hoem Khoun, 59 years old, their children, nephews, nieces and grandchildren. Besides growing some fruit trees and crops like banana, corn, papaya and chilli that they sell to the villagers for their daily earnings, Mrs. Champey and her family work as labour in the small-scale artisanal mines in the village. This is important for their livelihood as it brings additional income to the family to sustain them. Yet, mining activities have had a negative impact on the social and health conditions of the family.*

*Mrs. Champey's son, son-in-law and nephew died in 2004 while they were working in the mines. As a result, due to lack of sufficient income, currently Mrs. Champey's grandchild has dropped out of school and works in the mines in order to find money for the family. The child goes to the mines daily to break the ore and sell this in the local market. She is unable to attend school anymore as the work is strenuous leaving her with no time or proper health to study. There are many such families who are forced to send their children to the small-scale mines.*

As a result of the transnational mining companies taking over artisanal miners' lands, the small-scale and artisanal miners are now forced to go into deeper levels underground, thereby risking the lives of the mine workers. The workers were unable to provide any information related to the trade routes, revenues and markets of the ore deposits they dig from these sites. The workers interviewed here, including women mine workers could not give much information about the multinational companies and their licenses proposed in

this area. They heard about the Chinese company because of the exploration activities in Chong Plas and there was some apprehension that they would lose their work and their mine sites. The deposits of gold have attracted multinational companies like Oxiana Gold of Australia, Zhong Xin Industrial Investment (Cambodia) Co Ltd., and others who have started aerial surveys and sampling of ore deposits. This has increased the movement of trucks and heavy vehicles into the forest area disturbing the wildlife and indigenous communities living along the forest, and to the small-scale miners.

The small-scale miners are now affected by the royal government giving licenses to multinational gold mining companies in the same area. Currently the royal government of Cambodia has issued 26 gold mining licenses in Monduliri province, of which nine are in Keo Seima district alone. The Chinese multinational Zhong Xin Industrial Investment (Cambodia) Co Ltd which is one of the study sites, has a mining license in Memong and Prey Meas for an areas of 11.35sq km. Oz Minerals from whom Zhong Xin Industrial Investment (Cambodia) Co Ltd took over the license had acquired land from indigenous families in O Kavarea. These families lost 50–60 of their resin trees to the mining company but they had no information regarding the same. They are now in the process of approaching the national government for protecting their resin trees which were taken without their consultation.

The contamination of the O Te stream due to gold mining activities have negatively impacted the Chong Plas commune, both workers who live immediately on the mine sites, and indigenous communities who live downstream. The communities complain of skin infections, diarrhoea, and stomach ache after consumption of water from the O Te stream in Chong Plas commune, Monduliri province. The representative of the Department of Environmental Impact Assessment of Ministry of Environment, mentioned that there are no precautions taken by the companies due to lack of control from the government, particularly the EIA office of the Provincial Department of Environment. Of particular concern is the use of chemicals for extraction of gold and there is no cleaning up of the contaminated water bodies. During field visits it was noticed that some of the workers' quarters which were wooden shacks strewn around the mine sites were closed down as workers had to leave and some of the mining operations were halted by the Chinese company. It was evident that mining is erratic, unscientific and unsustainable for the workers as well as for the local community.

## Analysis of National Policies and Field Study Findings

Focus group discussions with artisanal miners revealed that the mining licenses to transnational companies like Oxiana Gold and Zhong Xin Industrial Investment (Cambodia) Co Ltd led to land being confiscated from them. As a result of their mining operations land was diverted from farmers and from artisanal miners and impact has been felt severely in the form of loss of groundwater, degradation of forests further causing loss of NTFP which is an important source of income for the indigenous communities. Water bodies are reported to be polluted with no clean up facilities. Neither the artisanal gold miners nor were the local community consulted by the government when licenses were given to the multinationals. Hence both the traditional occupations have been directly affected. Moreover, as the operations shifted to large-scale extraction from small-scale manual extraction, the impact on environment, especially the O Te stream and the forest around Chong Plas has visibly degraded according to the local community. It has created a situation of intimidation and insecurity for the artisanal miners as the power of the transnational lobby is much stronger and backed by State machinery. Yet, there is minimal formal consultation with either the local indigenous communities or with the artisanal miners that has taken place, leaving them speculating about their fate.

Both small-scale mining and the proposed large-scale private mining pose serious threats to the people and the environment. Artisanal mining has been a traditional activity that has provided livelihood to local and migrant workers. But the lack of formal procedures for licensing, regulations and standards for technical operations, labour and environment safety, land grabbing and lack of monitoring over revenues, profits and trade led to indiscriminate mining activities. Concerns such as exploitation of workers, their exposure to health hazards, economic security, and conflicts with local communities with regard to utilisation of resources were brought out during group discussions with them.

In the name of overcoming these unscientific mining practices, the government has gone ahead giving licenses to large transnational companies with assumptions that these would create opportunities for better employment and revenue generation. Whether these expectations are supported by policy measures that will ensure social security, economic distribution and environmental protection needs to be analysed from the dimension of existing laws, political processes of governance and sensitivity to gender equality with respect to the mining sector.

The perspectives and problems expressed by the research participants indicate that there are some very strong common experiences, particularly with respect to that of indigenous communities and artisanal miners. These experiences, in the backdrop of national laws and policy strategies, clearly indicate certain urgent and critical areas need to be taken into account at this juncture of the mining economy in Cambodia.

Large-scale mining projects and FDI in the extractives sector in Cambodia have not yet gone beyond the exploratory stage unlike in Vietnam and Lao PDR. The impacts presented are mainly based on experiences of communities with exploration and anticipated threats perceived by them. Even within the short period of this sector being operational in the study areas, there is considerable evidence of human rights violations and non-compliance with Constitutional safeguards that have resulted in conflicts between communities and mining companies and other stakeholders.

- ▶ The Cambodian government is going through a political economy of contradictions that is most visible with regard to the extractive industry. It has initiated a major national project for land registration and titling, especially in indigenous people's lands under the Communal Land Titling project. This is to ensure formal recognition of the lands and territories that belong to them for which they have no legal proof of ownership. Yet, it is simultaneously pursuing a policy of economic liberalisation where large tracts of land and forests are being diverted for land concessions to industries with the purpose of fast track economic development. Predictably, the process of granting land concessions is at a much faster pace than the settlement of communal land titles, thereby pre-empting the process of land distribution and settlement of people's rights. Along with land concessions, mining licenses have taken a priority and together form a major threat to land tenure security of farmers and land owners. These have far reaching implications on gender equality and women's rights in Cambodia.
- ▶ Large-scale mining projects are mostly present in the highlands and indigenous people's areas where social issues as well as natural resource issues are critical to the future of gender equality in Cambodia, given the low levels of literacy, access to basic development

facilities and ability to negotiate with governmental and external institutions for indigenous women.

- D One of the critical areas of concern is the violation of the rights of indigenous people under the UNDRIP. The right of FPIC has not been complied with as testimonies in all the mines sites report of non-consultation, and non-disclosure of project information to affected communities. In most sites, communities only came to know of the mining project at the time of drilling and surveying where no permissions from the land owners were taken even where there were standing crops. Their knowledge of the minerals being explored, resources to be diverted, extent of land and other project information was almost non-existent. There was no consent taken in any village and objections raised were not respected. Both Constitutional safeguards and the UNDRIP have clearly been kept aside, in some places, through use of threats and intimidation.
- D Where local authorities informed them about project benefits after they approached the officials, communities discovered that none of these benefits were implemented. Neither did they have a say in the compensation or in the extent of resources to be diverted. There was no rehabilitation of any families in the study areas where losses were experienced either to farm lands or access to resources. Indigenous women were not in the least consulted although they directly felt the negative impacts. When they tried to approach local authorities or company officials, there was no access or response to negotiation which further presents a discouraging future in terms of consultation and participation of communities.
- D Impacts have been reported by communities, in the short span of exploration activities, especially on water resources, forests, wildlife, farm lands and cultural changes. Women who participated in the research expressed their anxiety over not being able to access their farm lands, collect forest resources and the impacts these have had in reducing their food security and incomes. As they play a critical role in collection of forest produce, deforestation due to construction of roads, drilling of holes and other mining activities, has affected their food, income and domestic needs. As they expressed, if mining were to begin in full scale, the magnitude of these impacts would be difficult to handle given the lack of response to existing appeals for grievance redressal. Particularly the indigenous women felt that they had no space for articulation of their problems and demands, and that land concessions were

being given without considering the impacts on women's lives and livelihoods. They felt that there were no support structures within the governance machinery that protects their safety and food security.

- D Many ELCs specifically with respect to mining projects, has been granted over forested areas, which constitute State public land, or over former forest concessions, contrary to the Sub-Decree on the Management of Forest Concessions. These include areas where indigenous peoples have a long tradition of using forest resources, and NTFP thereby bringing them in conflict with the project holders (UNCOHCHR 2007). Further, where common resources like forests are destroyed by mining activities, women are most severely affected as they enjoy an important role, ownership and decision-making rights over these resources within the traditional social structures.
- D The movement of company agents, migrant workers and staff with their equipment and trucks has disturbed the internal security of the communes where women in all the study sites expressed their anxiety and fear of personal safety when going to their farms or into the forests.

A young boy as migrant labourer in the gold mines, Putong, Chong Plas commune, Mondulakiri province, Cambodia



- ▶ Women do not have the skills, education or training to undertake mining activities. Women traditionally engaged in artisanal mining express their need for assistance from the government for improving their traditional skills while indigenous women not engaged with mining appeal to government for protecting their traditional occupations. Employment and income from mining is not a benefit that women from the local indigenous communities have expressed as their critical need.
- ▶ Their helplessness at being unable to control environmental destruction, mine tailings pollution and health hazards from mining activities, and forced changes induced to their cropping patterns, farming cycles, chemical pollution to their lands, forced shift from agriculture to non-agriculture activities were some of the common statements of anger expressed in the focus group discussions.
- ▶ The remoteness of the indigenous communes, the lack of basic development facilities like health centres and schools are another cause for concern where people expressed that they have difficulties in accessing any of these facilities even in emergencies. With roads being destroyed by mining activities, poor transport facilities and personnel, the women are finding it difficult, especially in situations of pregnancy and childbirth, to travel to the health centres. On the other hand, with mining providing quick money for wages and labour, even children are now working in the mines instead of going to schools which are inaccessible and poor in quality.
- ▶ The degeneration of social security due to increase in alcoholism, entertainment facilities, domestic violence, crime and theft due to the influence of mining was expressly pointed out by the women as a threat to gender relations and women's security.
- ▶ Artisanal and small-scale mining activities have displaced indigenous communities from their lands although in small areas. Yet the impacts have been serious downstream due to the water and land pollution that are caused by indiscriminate and unscientific mining practices. These have affected the health of communities in both Ratanakiri and Mondulakiri provinces who complained of headaches, stomach infections, diarrhoea, skin infections and other contamination related illnesses. Similarly, workers have complained of such illnesses apart from constant risk of injuries and accidents.
- ▶ The living and working conditions of migrant mine workers in the small-scale mines are highly exploitative, inhuman and hazardous in nature. Yet, the poverty and unemployment in the country have brought workers to these mine sites who work without proper skills, equipment or knowledge of the material they handle. Being migrant in nature their negotiation capacities seem to be limited and their vulnerability to exploitation and conflicts are high. Their demands are for improvement of skills, technical support to enhance their performance and safety, development support to improve their living conditions and a more planned manner of artisanal mining where there is consistent employment and security. However, they do not support the shift to transnational mining operations which do not provide them any opportunities.
- ▶ Women workers are not aware of any labour regulations or labour security that provides them better incomes, work security and social security. Those interviewed had no knowledge that any laws exist for their benefit and merely consider mining as an option in the absence of any other form of employment available to them.
- ▶ Both male and female workers were not aware of the chemicals being used and the impacts of these chemicals on their health and safety, beyond the physical

Non-indigenous settlers take over an indigenous area for gold mining activities, Mondulakiri province, Cambodia



manifestations they experience from time to time. This is clearly a violation of the rights of workers.

- ▶ Lack of transparency in sanction of mining licenses has been a major criticism from civil society groups in Cambodia. High corruption scandals and bribery are allegedly rampant with respect to FDI and licensing in Cambodia. The most recent report of OECD exposing the low enforcement of anti-bribery laws in Australia, particularly with reference to Oz Minerals and the need to open up corruption enquiries on this company with regard to its mining operations in Cambodia is a clear example (Winchester 2013). With the Cambodian government accused of weak governance on such issues, the mining sector scrutiny and performance standards would be hard to demand either by civil society or by affected communities. Even less to be heard would be the voices of indigenous women who live around these mines.
- ▶ Where indigenous women are concerned, the legal safeguards in terms of land rights seem to make no difference when the policy framework and political decision-making are geared towards industry without making even minimal efforts to ensure that their rights to FPIC are respected. Although the government proposes that the economic backwardness and poverty are the main causes for ushering in private sector participation with intended employment generation and livelihood diversification goals, this argument needs serious review.
- ▶ While the laws, particularly land and forest laws exist as a Constitutional benchmark of providing equal rights to men and women, and where indigenous people are protected under special laws that enable their collective and individual claims to ownership, much remains to be covered in terms of real rights and empowerment where women are concerned as seen from the case studies. Prioritisation of implementing land titles and registration processes with women as title holders has to be taken up as an urgent intervention in the country without which having mere laws remains worthless to women.
- ▶ To strengthen the legal framework for protection of women, the government has enacted the Law on the Prevention

of Domestic Violence and Protection of Victims, preparation of the National Action Plan to Combat Violence Against Women and the Law on the Suppression of Trafficking in Humans and Sexual Abuse. Although government programmes on awareness and education coupled with media interventions have helped to some extent, these abuses still continue to be high and rampant in the country. Monitoring and implementation of these laws to prevent violence against women in the mining regions, needs to be institutionalised. However, the government should also be conscious that mining activities exacerbate violence against women which has been evidenced in most countries. Hence, a review of whether the government has these institutional mechanisms to protect women from anticipated violence is urgently required, while the other dimension is to critically weigh its priorities of development economics from a gender equality perspective.

- ▶ The Cambodian government needs to urgently do a stock taking of exploration projects to assess the extent to which governance and policy mechanisms have delivered the Constitutional safeguards to be guaranteed in the zeal of economic liberalisation in the mining sector. Transparency and public disclosure, democratic spaces for affected people to express their perspectives and engage with the government should also apply to the extractive industry.

Migrant workers

living quarters at the polluted mine sites, Mondulkiri province, Cambodia





Indigenous woman sharing her concerns on proposed mining

# **Section V**

## **Conclusions**



# Conclusions

## A Regional Analysis of the Extractive Industry Impacts on Gender Equality

The ASEAN Intergovernmental Commission on Human Rights, in its Declaration on the Elimination of Violence Against Women in the ASEAN Region in June 2004, Jakarta, committed to promoting an integrated and holistic approach to eliminate violence against women through bilateral cooperation, research, gender mainstreaming, enacting where necessary, and, amending domestic legislation to prevent violence against women. Further, it agreed to,

*“To intensify efforts to develop and/or improve existing legislative, educational, social measures and support services aimed at the prevention of violence against women, including adoption and monitoring the implementation of laws, the dissemination of information, active involvement with community-based players, and the training of legal, judicial, enforcement officers, social workers and health personnel;*

*To strengthen collaboration between and among countries, through bilateral, regional and international cooperation for resource mobilisation and technical exchange programmes, including sharing of best practices and experience in raising awareness, developing advocacy programmes on preventing and tackling violence against women.”*

While these statements sound profound, the present status of the ASEAN Human Rights Declaration (AHRD) hangs ambiguous due to lack of openness and transparency in the final draft adopted by the ASEAN countries. Particularly alarming as the indicators of women's development are, the Asia Women's Caucus submitted a petition to ASEAN asking for public disclosure of the AHRD to which NGOs had participated in 2011 in the drafting and dialoguing on inclusion of women's rights as ASEAN's human rights (SACW n.d). The Women's Caucus is concerned that the rights are subject to national laws that might not always be in line with international human rights requirements.

Given this regional scenario of women's human rights on the one hand, and ASEAN's economic collaborative ambitions for the extractive industry on the other, one is faced with complex politico-economic pressures in the region. The MRC recommends a cautious and balanced approach to drawing a strategy plan for the river basin in the background of the economic development frenzy that endangers the ecosystem and the communities depending on its diverse resources. There exists a civil society that has barely been given the space to represent marginalised voices and is stifled by political intolerance. In this backdrop are indigenous communities with limited legal recognition of their rights that stand vastly exposed to the hazards of a global industry which has little credit to its business behaviour.

This micro level study in the three countries on the gendered impacts of the mining industry thus provides a glimpse into the field realities where Constitutional safeguards stand defied and, official commitments disrespected. Based on these field perspectives and national indicators, some of the conclusions drawn are presented below.

Development indicators for women's empowerment, for all the three countries, are not very encouraging although Vietnam has very impressive figures for women's literacy, lower mortality and better work and political participation rates. Yet one in three women in Vietnam has faced domestic violence. In Cambodia violence against women, women's health and literacy rates are problems that need serious attention even within the existing economic and development policies. In Lao PDR, while gender parity in education at a national level is not too alarming, yet the literacy levels among indigenous women need much improvement. The country has the highest representation of women in the Parliament in the region.

Yet in the light of the gender-based inequalities and violence against women in the three countries, it would be prudent for all the three countries to proceed with caution on any economic programmes that have large-scale impacts and potential threats to protection of women's rights and their empowerment.

All the three countries have a vast indigenous/ethnic minority population who are directly impacted by the extractive industry. Women from these communities are

more vulnerable than mainstream populations, and have fewer resources to articulate their grievances. This has been abundantly experienced and documented by the Asian indigenous women's groups and represented by them at the international forums. The three countries have varying degrees of Constitutional safeguards for the rights of indigenous people where only Cambodia recognises the indigenous people as a constitutionally special social category. Both Vietnam and Lao PDR do not have clearly recognised special status for their ethnic minority groups and indigenous peoples, thus posing a problem for their legitimacy. However, even if these rights exist in Cambodia and do not exist in Vietnam and Lao PDR, they are universally found to be violated, as seen in all the three countries where the FPIC under UNDRIP has failed to be respected. The process of consultation has to be genuinely respected, where consent, objections or suggestions should be based on freedom of expression and not on intimidation. The experience of intimidation in all the three countries is not very encouraging. There has to be a more transparent and representative decision-making with due consultation of indigenous/ethnic minority women and their rights to FPIC need to be upheld.

A strong historical social structure in Mekong basin countries is the traditional status enjoyed by women in terms of rights to land, inheritance rights and property ownership. These are getting degraded by modern formal processes of land registration and lack of sensitive State institutions that are responsible for governance over land, properties and resources. The extractive industry exacerbates this situation as land titling processes are being short circuited by mining licenses and land concessions. The Mekong basin serves as a rich source of food, nutrition with diverse aquatic food and income options. Given the low health indicators, these sources of nutrition should be protected as women mainly consume from what is collected from their vast habitat, while their consumption drops when it has to be purchased from the market. The conflicting interests of mining industry portend destruction of these sources of food. The negative impacts of extractive industry operations on lands, forests, water bodies and their direct losses to women's livelihoods, food security and all other forms of support and sustenance from these resources are experienced in all the three countries.

Indigenous women have expressed their lack of faith in the present modes of dialogue with State and corporate institutions. Therefore, institutional structures to support

women's access to information, facilitation to obtain land titles, consultation on mining issues and their demands have to be strengthened within the governance bodies. Particularly as Cambodia does not have even the structural support like the women's unions politically constituted in Vietnam and Lao PDR, this is a greater challenge in reaching out to women in remote areas.

Both water bodies and protected areas are threatened by resource exploiting industries like mining. While forestry programmes like REDD (Reduced Emissions from Deforestation and forest Degradation) are being implemented in both Vietnam and Lao PDR due to recognising the alarming pace of forest degradation, that governments should indiscriminately grant mining licenses in biodiversity rich areas, speaks of a policy disconnect.

Domestic violence and trafficking of women and children is very high in the region, given the easy access to crossing borders across the Mekong Basin. Displacement, forced migration and impoverishment, if mining benefits are not cautiously handled and if social responsibility are not taken seriously, are potent causes for increase in trafficking and violence against women on these issues. Cambodia especially has a staggering challenge in combating violence against women.

The regional Mineral Cooperation Plan should include, as a thrust area, collaborative efforts for strengthening ASM activities as artisanal mining along the Mekong basin is a major traditional activity. The traditional knowledge, skills and the reality that it provides livelihood and self-sustenance to a vast population has to be turned to the advantage of making it a vibrant local economy. This is especially significant with respect to women's empowerment as a large section of poor and indigenous women depend on artisanal mining. The eviction of these communities of miners for the sake of transnational mining does not serve the cause of poverty eradication or gender equality. While several problems related to protection of labour rights, environmental safety and safeguards, distributive economic benefits, social security and local conflicts prevail in the context of the ASM sector, regulatory mechanisms, positive inputs of skills development and technology, and strong monitoring mechanisms need to be considered seriously in response to these problems which also exist, perhaps at a higher scale in large projects. Regional sharing of information, technology, skills and capacity building of artisanal miners and trade should form a core concern of the Mineral Cooperation Plan, with a strong focus on women's economic development as

a strategy for economic opportunities.

The Mineral Cooperation Plan for 2011-15 and the ASEAN Vision 2020 should take seriously the issues of caution raised by the MRC and adopt policies that strengthen the protection of the Mekong Basin not only as an ecological responsibility but also as a human rights necessity. Industries and economic activities implemented upstream have serious negative consequences in all the downstream countries, and hence a regional collaboration and monitoring is much critical in the context of the mining sector ambitions. The Cooperation Plan should strictly commit to a strong AHRD that puts gender equality and women's rights at the focus of its planning. Periodic review and gender-based assessment and social impact studies along the Mekong Basin with multi-stakeholder involvement, transparent disclosure policies and verifiable remedial actions should be spelt out as an agenda for economic growth via social responsibility. Remedial actions should also focus on legal accountability and enforcement as a corporate responsibility, instead of as mere voluntary measures. The Mineral Trust Fund should have a separate component for gender budgeting, gender-based research, gender and social impact assessment built into the research and information, sharing, dissemination and accountability plans of the Fund.

Regional corporate trends in the extractive industry reveal that they do not have strict compliance mechanisms, social policies, gender policies or respect for human rights as an agenda for business instituted within their business model or corporate responsibility agenda. China which is a major player in the region on extractive industry (and other industries as well), has poor performance standards on human rights, labour and environment. While it is also part of ASEAN, MRC and other regional coalitions, not enough pressure and bilateral monitoring is being successfully achieved by the Lower Mekong countries due to its economic domination.

Gender equality is a human rights core value. It is the underlying principle of development planning, policy and political philosophy of any mature and sensitive government that puts a conscious priority to building social equality. It should lay the foundation for a nation's economic growth as distributive and socially equitable growth is the cornerstone of sustainable development. A government that approaches the issues around violence against women, suppression of their rights or creation of situations that compel women into degrading forms of social and economic life, as mere residual outcomes that can be dealt with by non-legally binding

accountability, where Constitutional safeguards are compromised and replaced by mere welfare incentives, where governance and institutional mechanisms are weakened by lobbies that do not have social equity as their principal agenda. These are not true commitments to empowering women and other marginalised groups.

The onus of proving these abuses most often lies with the women who have no power or access to institutions of redress. While benefits from mining economy are mainly material and limited, illeffects are not only economic but intangible, social, cultural with degeneration in the quality of life that is not always directly visible or quantifiable. Most societies consider physical violence against women as normal and acceptable. Women hesitate to seek justice unless the violence crosses several boundaries of human rights violations and their physical safety. Mining corporations do not own responsibility to any forms of violation of women's rights committed by or induced by their operations whether within the mine site or in the surrounding communities. Increase in the incidence of domestic abuse, environmental pollution leading to reproductive health problems, or wives of mine workers contracting respiratory illnesses or HIV/AIDS, increase in rape or sexual abuses, to give a few examples, become responsibilities neither of governments nor of corporations even though such problems would not have existed in a pre-mining situation. Social degeneration is neither recognised as a valued parameter of assessing national economic development nor does it provide tangible indicators for legal accountability in the current growth model in the region.

Particularly the minerals so far being mined in the region are gold, silver, copper, iron, coal, gem stones, masonry and construction materials which involve the use of chemicals, heavy metal contamination of rivers and crops, dust pollution leading to respiratory illnesses and reproductive health problems. There is no convincing evidence of preventive measures for health and safety for local communities especially of reproductive health issues. So far, there are no defined guidelines of corporate and State accountability on such business induced violations of women's bodies and lives. No complaints regarding such losses incurred by women are reported to have reached settlement of victims' rights, compensation or compliance with health, environmental and social standards. It is also not reported whether formal assessments of any mining projects have been undertaken in any of the three countries although the Phu Kham mine mentions periodical social surveys being conducted by the company. It is not clear

## Conclusions

whether results of these surveys are for public disclosure. While such efforts by mining companies need to be recognised, it is important for independent bodies to undertake such surveys in consultation with affected communities.

Therefore, regional and national commitments provided at a policy level need a review based on the actual outcomes or anticipated threats to gender equality. There should be a periodic review, especially with respect to sectors like mining, with the involvement of local affected communities and independent civil society groups. The call for a halt to new mining projects and the declaration of a moratorium in Lao PDR and Vietnam by the respective governments, citing grounds of social and environmental degradation, comes as a prudent step towards this stocktaking. It is not clear whether serious impact assessment would be undertaken before projects are given the go ahead again. Therefore, a clear, verifiable and transparent review of mining impacts should follow and these reports should be open for public scrutiny and disclosure before opening up the countries for new mining projects.

The need for governmental and civil society/NGOs to put all energies in ensuring that gender equality enshrined in the Constitutions of the three countries are respected in spirit by land registration certificates being issued with the names of both husband and wife jointly or even individually in the names of women, is an urgent necessity, as a first step to protecting the land rights of women. Both governmental investments and civil society focus to proactively provide legal aid, training and guidance to women, particularly among ethnic minorities, as a nationwide campaign on awareness of the land titling procedures and enabling women to access these rights will facilitate the process of gender equal land registration. Only this legal recognition of their rights can help initiate, although it alone would be inadequate, the process of women being included in formal consultations and decision-making whether with regard to mining or any other industries that enter their lands.

Most critical would be the active engagement with indigenous women in each of the countries from proposed, affected and threatened areas and to take serious cognizance of their experiences of impacts, perspectives, demands and to use this evolved knowledge and perspectives in addressing current conflicts as well as in building national policies that are based on their resource utilisation.



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### **Dhaatri Resource Centre for Women and Children**

301, Ratna Rekha Apartments,  
Ashok Nagar, Hyderabad-500020  
Andhra Pradesh, India  
Mobile: 09491953070 / 09848824419  
Telefax: +91-40-27543070  
E-mail: [dhaatri@gmail.com](mailto:dhaatri@gmail.com)  
Website: [www.dhaatri.org](http://www.dhaatri.org)

### **Oxfam America –East Asia office**

#94, Russian Boulevard,  
Sangkat Teuk Laak I Khan Toul Kork,  
Phnom Penh, Cambodia.  
Tel: (855-23) 885 412,  
Fax: (855-23) 885 452  
E-mail: [phnom\\_penh@oxfam.org.uk](mailto:phnom_penh@oxfam.org.uk)  
Website: [www.oxfam.org/Cambodia](http://www.oxfam.org/Cambodia)