
GENDER AND SOCIAL INCLUSION ANALYSIS (GSIA) USAID LAOS LEGAL AID SUPPORT PROGRAM



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ACRONYMS

ADB	Asian Development Bank
GDI	Gender Development Index
GDP	Gross Domestic Product
GIDAP	Gender and Inclusive Action Development Plan
GII	Gender Inequality Index
GPI	Gender Parity Index
GSIA	Gender and Social Inclusion Analysis
IP	Indigenous Peoples
LBA	Lao Bar Association
LFNC	Lao Front for National Construction
LWU	Lao Women’s Union
LYU	Lao Youth Union
MEL	Monitoring, Evaluation and Learning
MoE	Ministry of Education
MoJ	Ministry of Justice
NIJ	National Institute of Justice
NPA	Non-Profit Association
PDR	People’s Democratic Republic
PNG	Papua New Guinea
UNDP	United Nations Development Program
UNESCO	United Nations Education, Scientific and Cultural Organization
UXO	Unexploded Ordinance
VMU	Village Mediation Unit
WB	World Bank
WEF	World Economic Forum

1. INTRODUCTION

1.1 BACKGROUND

Over the past two decades, Laos has made noteworthy progress in developing a legal system based on rule of law principles. In 2009 the Lao government committed via the Legal Sector Master Plan to become a full “rule of law” state by 2020.

Between 2005 and 2015, Laos adopted or amended more than 100 laws, and the Ministry of Justice (MoJ) now maintains an online portal of all laws and regulations and educates communities annually on new or important laws. This focus on rule of law has not just been “top down” but has also involved a deliberate push for improved grassroots access to justice. For MoJ, this has meant bolstering semi-formal dispute resolution at the village level (village mediation), while at the same time instituting a legal aid system to ensure indigent and vulnerable citizens can access legal advice and representation (in court and/or administrative processes) when necessary. MoJ’s grassroots access to justice system also includes law dissemination to educate the Lao populace about their rights and responsibilities under the growing (in number and complexity) body of Lao law.

1.2 THE LAOS LEGAL AID SUPPORT PROGRAM

With the support of the United States Agency for International Development (USAID) and the McConnell Foundation, The Asia Foundation (TAF) has begun implementation of a new Access to Justice and Legal Aid Support program, which will run from August 2018 to July 2023. The financial commitment over the four years is \$3.9 million dollars from USAID and \$750,000 from the McConnell Foundation. The program aims to promote the rule of law in Laos through fairer, more consistent, and more transparent delivery of justice according to the law—inclusive of women, the poor, and traditionally underserved populations.

This will be achieved through a set of mutually reinforcing activities under three core objectives:

- increasing the capacity of the MoJ and its legal aid services;
- increasing the capacity of the Lao Bar Association (LBA) and Non-profit Association (NPA) legal aid services; and
- increasing sensitivity to women’s rights and empowerment in law-related professions.

TAF has worked for several years in five provinces (Vientiane Capital, Oudomxay, Xayabouly, and Champasak), and it is anticipated that in 2019 this will be expanded to 11 provinces, subject to an MoU with the MoJ, contingent on approval by provincial governors.

The Legal Aid Support Program will mainstream gender and social inclusion approaches throughout all activities, although it is useful to note the expected outputs for Objective 3 during Year 1 of implementation:

- One assessment of representation of marginalized groups in law schools and legal sector occupations completed;
- Six aspiring legal professionals selected and provided with scholarships for the subsequent academic year;
- Three aspiring lawyers selected and provided with stipends to cover their expenses while they undertake internships or supervised practice; and
- Three-day training course on gender and social inclusion developed.

1.2 THIS REPORT

This Gender and Social Inclusion Analysis (GSIA) report is a requirement of the Cooperative Agreement between TAF and USAID. It was prepared by TAF to inform the Legal Aid Support Program, in particular to inform the Gender and Inclusive Development Action Plan (GIDAP), and thus all aspects of Legal Aid Support Program including design, implementation, staffing, Monitoring, Evaluation and Learning (MEL), and partnerships. As well as being of utility across the Legal Aid Support Program it is intended that the GSIA will contribute to the design and implementation of Objective 3: Increased sensitivity to the rights and empowerment of marginalized groups, including women, in law-related professions.

1.3 METHODOLOGY AND COVERAGE

This GSIA utilized a document review focused at the national level, as well as the sub-national level. This was supplemented by fieldwork on the current status of ethnic minorities, gender and disadvantaged persons in the three provinces of Saravanh, Oudomxay, and Xieng Khoang, with respect to mechanisms in place for dispute resolution, both official and customary, and the preferences of women and minorities in this regard.

The field research report was jointly undertaken by TAF and two departments of the MoJ: The Department of External Relations, and the Justice Promotion Department. Through the fieldwork, the study has sought to be as inclusive and as representative of the country as a whole as possible. This is not an easy task when taking into consideration the highly diverse bio-physical and socio-cultural environment that typifies Laos. Every province has its own complexities and unique features, different ethnic groups with their own histories and languages, and their own sets of relationships with their neighbors, both internal and international. These relationships are not static, and in the face of adversity the many and varied peoples have managed to endure and to solve their own problems using their innate intellect, imaginations, and strategies for survival. The overlapping multi-cultural, multi-lingual and multinational worlds in which they reside have gifted them with unseen advantages not readily accessible to those on the outside.

The fieldwork research is qualitative, using as its main tool semi-structured interviewing, whether of select groups in discussion formats or individuals selected as key informants. Using a guideline instrument, researchers elicited information about as many aspects of villager lives as was possible given the time and circumstances, focusing ultimately upon resolution and mediation of issues that confront villagers in the modernizing and developing nation-state. Since matters of internal civil dispute as well as of social justice constantly occur in all societies, the study has sought to discover what the issues are and how they are resolved on the ground at the village level. Parameters in selection of interviewees and villages included:

- Gender;
- Age;
- Ethnicity;
- Upland-lowland;
- Urban-rural (distance from district seat; road access, etc.);
- Education;
- Region; and
- Province.

The Guideline Instrument used as the basis of the research is attached in Annex 1.

With respect to coverage, both geography and ethnicity were used to select provinces that were widely spaced and included villages of all of the ethnolinguistic families found in the country. Three provinces each were selected from the North (Oudomxay), East (Xieng Khoang), and South (Saravanh).¹ A tertiary consideration was imposed by the MoJ to include villages in which individuals had received the 45-day legal training offered by the Ministry in order to understand how this training has impacted decision making.

1.4 LIMITATIONS

As with any study of this nature there were a number of limitations:

- limited availability of relevant statistics in relation to the experiences of disabled people, and lesbian, gay, bisexual, transgender and intersex (LGBTI) people;
- limited time for assessment and analysis;
- possible selection bias due to a purposive sampling process;
- possible response biases – inherent in all self-reporting methodologies including Key Informant Interviews and Focus Group Discussions; and
- possible measurement error due to respondents not understanding what is being asked, failing to remember relevant information or not communicating an accurate response.

2. CONTEXTUAL ANALYSIS

2.1 GENDER EQUALITY

Laos is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). A number of Laws comply or partially comply with CEDAW although in some cases there are significant gaps in the laws. These laws include the Constitution, the Penal Code, Law on Development & Protection of Women, Law on Preventing and Combatting Violence Against Women and Children, Family Law (amended 2008), Law on Anti-Trafficking in Persons (2015), Law on Lao Nationality (amended 2017), Law on Hygiene, Disease Prevention and Health Promotion (amended 2011), Law on Civil Procedure, and the Law on Criminal Procedure (Yam, 2019).

The Constitution notes that:

Art 35: Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group.

Art 37: Citizens of both genders enjoy equal rights in political, economic, cultural and social fields and in family affairs.

A number of different aggregate measures are used to assess gender equality. These provide a comparative global assessment but are of more limited use in making programming decisions and can obscure as much as they illuminate. This section summarizes UNDP's Gender Development Index (GDI)

¹ Following the example of ADB in their poverty studies (2001, 2007) the country is divided into four regions based on social and historical criteria: North (Luang Prabang, Phongsaly, Oudomxay, Luang Namtha, Bokeo, and Xaignaboury; East (Houa Phan, Xieng Khoang, Borikhamxay, Khammouane); Central (Vientiane Capital, Vientiane Province, Xaysomboun); South (Savannakhet, Saravanh, Xekong, Attapeu, Champasak).

(UNDP, 2018a), UNDP’s Gender Inequality Index (GII) (UNDP, 2018) and the World Economic Forum’s (WEF) Gender Gap Rankings (WEF, 2018) for Laos.

UNDP’s GDI is based on the sex-disaggregated Human Development Index (HDI), is calculated for 164 countries, and is defined as the ratio of the female to male HDI. The GDI measures gender inequalities in achievement in three basic dimensions of human development: health (measured by female and male life expectancy at birth), education (measured by female and male expected years of schooling for children and mean years for adults aged 25 years and over); and command over economic resources (measured by female and male estimated GNI per capita). The GDI value for Laos is 0.934 (UNDP, 2018a).

UNDP’s GII reflects gender-based inequalities in three dimensions – reproductive health (measured by maternal mortality² and adolescent birth rates³), empowerment (measured by the share of parliamentary seats held by women, and attainment in secondary and higher education by women and men), and economic activity (measured by labor market participation by women and men). The GII value for Laos is .461, with a GII rank of 109 out of 160 countries in the 2017 index. This compares with Vietnam ranked at 67, Thailand ranked at 83, Myanmar ranked at 106 and Cambodia ranked at 116 (UNDP, 2018a, 2018b).

In WEF’s (2018) Gender Gap Report, Laos scores 0.748 and is ranked number 26 out of 149 countries assessed.^{4 5} As shown in Table 1 below, this compares favorably overall with the neighboring countries of Thailand, Vietnam, Myanmar, and Cambodia. However, there is no correlation between the various sub-indices, with women’s educational attainment in Laos (ranked 105th) being equal or lower than neighboring countries; yet women’s economic opportunity in Laos is ranked first in the world.

TABLE 1. THE GENDER GAP COMPARED: LAOS IN RELATION TO ITS NEIGHBORING COUNTRIES (SOURCE: WEF 2018)

	Laos	Thailand	Vietnam	Myanmar	Cambodia
Population (millions)	6.75	68.863	94.569	52.885	15.762
Per capita GDP	6.39	16.287	6.172	5.592	3.645
Global Gender Gap (Rank out of 149)	26	73	77	88	93
Economic Participation	1	13	33	35	29
Educational attainment	105	72	101	98	105
Health and Survival	98	1	143	61	1
Political empowerment	89	89	99	133	94

These indices are further disaggregated in Table 2.

² Number of deaths per 100,000 live births

³ Number of births per 1,000 women aged 15-19

⁴ The Global Gender Gap Report benchmarks 149 countries on their progress towards gender parity across four thematic dimensions: Economic Participation and Opportunity, Educational Attainment, Health and Survival, and Political Empowerment. The score lies between 0.00 for imparity and 1.00 for parity.

⁵ Other sets of statistics exist and conflict with those of WEF. Compare for example the rank of 26 out of 149 countries in the Gender Gap Report, with the UNDP Gender Inequality Index, 106 out of 159 countries. The WEF numbers are used here as they agree more closely with several decades of anthropological literature (see References) and other qualitative studies such as ADB (2001, 2006) and World Bank (2005).

TABLE 2. BREAKDOWN OF SUB-INDEXES BY SEX FOR THE LAO PDR (SOURCE: WEF 2018)

	rank	score	avg	female	male
Economic participation and opportunity	1	0.915	0.586		
Labour force participation	5	0.984	0.669	80.8	82.1
Wage equality for similar work (survey)	24	0.736	0.645		
Estimated earned income (PPP, US\$)	1	1.000	0.510	7,165	6,880
Legislators, senior officials and managers	1	1.000	0.329	59.0	41.0
Professional and technical workers	1	1.000	0.753	50.4	49.6
Educational attainment	105	0.968	0.949		
Literacy rate	106	0.883	0.882	79.4	90.0
Enrolment in primary education	102	0.989	0.978	92.8	93.8
Enrolment in secondary education	118	0.980	0.967	59.8	61.1
Enrolment in tertiary education	1	1.000	0.939	16.1	15.4
Health and survival	98	0.971	0.955		
Sex ratio at birth	1	0.944	0.921		
Healthy life expectancy	106	1.033	1.034	58.8	56.9
Political empowerment	89	0.137	0.223		
Women in parliament	49	0.380	0.284	27.5	72.5
Women in ministerial positions	123	0.080	0.208	7.4	92.6
Years with female head of state (last 50)	71	0.000	0.189	0.0	50.0

While these statistics provide national aggregated figures, they do not illuminate the disparities between urban and rural areas, with disparities tending to be more pronounced in the north and in rural, remote, off-road communities and areas inhabited by ethnic minority groups. In particular, King and van de Walle (2010) note “pronounced disparities in living standards across...ethno-linguistic groups, with some groups faring much worse than others.”

The law provides for equal rights for women, and equal pay for equal work (US State Department, 2018). The national labor force participation rate is similar for women (76.9%) and men (79.7%) and is one of the highest in the region (UNDP 2018). However, in some regions traditional gender attitudes impact on women’s ability to access education, employment, and business opportunities.

Similarly, although the law prohibits discrimination in marriage and inheritance, a variety of cultural-based discrimination is practiced by some ethnic minority groups in remote areas (US State Department, 2018).

The US State Department (2018) Lao Human Rights Report records the work of the Lao Women’s Union throughout the country in promoting the position of women in society, although considers its programs more effective in urban areas. The report goes on to note that poverty continues to affect women disproportionately, especially in rural and ethnic minority areas.

2.2 ACCESS TO JUSTICE

TAF recognizes the inextricable linkages between gender and social inclusion and promoting the rule of law and access to justice in Laos. This can best be achieved by utilizing a legal empowerment approach,

while advancing equality, rights, and legal protections for women and marginalized groups. Despite significant developments in the Laos legal system according to rule of law principles, there are a number of identified gaps in access to justice. Due to increasing rates of urbanization and economic development, threats to the rights of citizens and related disputes in the areas of land and labor have become more widespread.

Meanwhile 243 lawyers, of which 59 are female, serve a population of seven million people. By far the greatest number of lawyers (206) are located in Vientiane Capital and other provinces have between one and seven lawyers per province. All but one of the female lawyers are located in Vientiane Capital, with one female lawyer in Oudomxay. There are nine foreign lawyers registered, two of whom are female. Clearly there is a need to increase the number of lawyers, and in particular the number of female lawyers (TAF, 2019b).

The majority of legal professionals and service providers are based in urban areas (Vientiane Capital and five provincial capitals), leaving citizens residing in rural communities with little or no access to legal services. This is compounded by a restricted enabling environment for the limited number of international and local CSOs who tend to focus on provision of legal education rather than satisfactory legal action or remedies. The overall lack of availability of legal services disproportionately affects women and marginalized populations (USAID and TAF, 2018.)

The 2015 Public Justice Survey was carried out in the provinces of Oudomxay, Xieng Khoang and Champasak. The Survey made a number of findings critical to this GSIA including:

- knowledge of procedure related to submission of grievances to the relevant justice institutions were lower among the indigent, persons with lower levels of education, and women;
- the poor, people with less education, and those living in remote areas also scored lower on legal knowledge and, and even lower in confidence or ability to protect their rights, or seek remedies when they are violated;
- although overall knowledge on the functions of formal and semi-formal justice institutions is generally low, men scored consistently higher (10-30%) than women;
- men had consistently better knowledge of the location of justice institutions than women in urban, peri-urban, and rural areas;
- socio-economic status is a significant factor in determining whether a respondent was aware of the correct location of justice institutions – ranging from a “better off” urban cohort at 77% to a “poorest” remote cohort at 25%; and
- preferred mechanisms for information dissemination included higher authorities, local authorities, TV and radio; with more women than men preferring dissemination by TV and drama and more men than women preferring official channels to source their information (Piechotta, 2015).

The US State Department (2018) notes in relation to trial procedures that the government of Laos allows interpreters to provide explanations of laws and defendant’s rights to ethnic minority citizens and foreigners who cannot communicate in the Lao language. Interpreters receive payment based on the court fee system which the court passes on to the defendant.

While lawyers and other legal professionals in Laos face a combination of challenges as law students and later as working professionals, women face particular hurdles in overcoming discriminatory gender norms and practices that question their fitness for an occupation that is dominated by men and hinder

their professional advancement. A number of young Lao female legal professionals interviewed by TAF indicated that they do not feel confident or adequately supported in their work. Approximately 30-40% of law students are women, and between 20 and 35% of judges, prosecutors and lawyers (USAID and TAF, 2018; TAF, 2018).

To empower women and representatives of other marginalized groups to assume leadership roles within justice system institutions in Laos, there is a need to increase the number of individuals completing the required professional education. For many students and their families who have already invested a considerable amount to complete their law degrees, the supplementary cost of the National Institute of Justice (NIJ) (1.8m LAK for one year) and of postponing earnings for another year (two, if the graduate wishes to become a lawyer and undertakes the required year of supervised practice) is prohibitive (TAF, 2019a). Greater representation of women across the range of legal professions would promote the legitimacy of justice institutions and their responsiveness to stakeholders.

2.3 LITERACY

While the Lao Population and Housing Census 2015 reports overall literacy rates of 85% for the population aged 15 and over, there is a large gender gap with 90% of the male population and 80% of the female population literate. The literacy rates for both men and women have improved since 2005, although they have improved more for women (16 percentage points) than they have for men (8 percentage points).

Literacy is higher for men than women in all categories of urban, rural with road, and rural without road; with the biggest disparity being between men (81%) and women (62%) in rural areas without a road. There is also a distinct difference in literacy rates amongst major ethnic groups overall, as well as a disparity by gender within each ethnic group. While 92% of Lao-Tai women are literate, only 47% of Chinese-Tibetan women are literate. The disparity is least in the Lao-Tai group (M 95%, F 92%) while the Mon-Khmer, Hmong-lemwien and Chinese-Tibetan groups all have a disparity of around 10 percentage points (Lao Statistics Bureau, 2015). When women do not speak Lao this seriously limits their ability to engage with legal education campaigns.

2.4 EDUCATION

The gender equality gap has narrowed in all three levels of education enrollment in Laos, but challenges persist in education completion. Compulsory education in Laos encompasses primary and secondary school, between the ages of six and 16. In this age cohort there has been improvement in the enrollment rates for girls, with the 2015 census indicating 79% for girls and 81% for boys.

UNDP (2019) argues that “Girls are more likely to be kept at home due to safety concerns and household responsibilities, especially if the secondary school is far from home. Parents do not put the same value on education for girls as they do for boys, especially if this view is part of their tradition, or if the parents are poor, or have little or no education.”

The Gender Parity Index (GPI) measures the relative access to education for men and women at different levels of education.⁶ UNDP (2019) notes that “When the Gender Disparity [sic] Index is

⁶ Ratio of girls to boys (gender parity index) in primary, secondary, and tertiary education is the ratio of the number of female students enrolled at primary, secondary, and tertiary levels of education to the number of male students in each level. To

calculated for primary and secondary school attendance in different socio-economic groups and locations, the widest gap in gender equality is found among children from rural areas without road access, children from the non Lao-Tai groups, children of uneducated mothers, and children of families in the poorest quintiles. This gap is much larger in secondary education: for example, in the appropriate age group of the poorest quintiles, 66 girls attend secondary school for every 100 boys.”

2.5 HEALTH

The 2017 maternal mortality ratio is 197, compared with 161 for Cambodia and 215 for Papua New Guinea. The adolescent birth rate is 62.6 compared with 50.2 for Cambodia and 52.7 for Papua New Guinea (UNDP 2018).

The Lao maternal mortality rate is among the highest in the world, although it declined from 405 in 2005 to 206 per 100,000 live births in 2015 (Lao Women’s Union, 2018). Lack of a skilled birth attendant at delivery, access to basic emergency obstetric care and hospitals, poor nutritional status of women, and food taboos during pregnancy are key factors contributing to the high maternal mortality rate and poor outcomes for newborns. Early marriage and pregnancy place young women at risk, and access to family planning and reproductive health services remains limited (TAF, 2019c).

2.6 VIOLENCE AGAINST WOMEN AND CHILDREN

Women and girls in Laos are vulnerable to various forms of physical and economic violence, including domestic violence, trafficking, and other violent crime. The Lao National Survey on Women’s Health and Life Experiences 2014 was the country’s first ever national survey on violence against women.⁷ The Survey found that 15% of women reported either physical and/or sexual violence from their partners at least once in their lifetime. According to the report, 43% of women who experienced violence from their spouses never told anyone, 29% of women sought help from local authorities, 19% from local authorities, and 12% from a Village Mediation Unit. Only a handful of women reported the occurrence to police (National Commission for the Advancement of Women, 2015). The CEDAW Committee (UN, 2018) notes that there are persistent barriers to women and girls registering complaints regarding gender-based discrimination and violence, including domestic violence, marital rape, and sexual harassment. These barriers include stigma, fear of retribution, deep-rooted discriminatory stereotypes, and limited legal literacy.

The report goes on to make many recommendations for programs and policies aimed at creating an enabling environment to eliminate violence against women, promoting primary prevention, and putting appropriate protection and responses in place. Of particular interest to a Legal Aid program are the following selected recommendations:

- Establish multi-sectoral case management for survivors, co-locating health, welfare, counselling, and legal services at central and provincial levels;
- Ensure police and prosecutors respond and investigate cases of violence and abuse more effectively;

standardise the effects of the population structure of the appropriate age groups, the Gender Parity Index (GPI) of the Gross Enrolment Ratio (GER) for each level of education is used.

The GER is the number of pupils enrolled in a given level of education, regardless of age, expressed as a percentage of the population in the theoretical age group for the same level of education.

⁷ The Survey is based on the methodology of the WHO Multi-country Study on Women’s Health and Domestic Violence against Women.

- Provide women with access to information to become aware of their legal rights under national and international laws through formal and informal channels;
- Provide training to duty barriers [sic] and officers who work at district and village levels. Such capacity building should focus on gender sensitization in the legal system to ensure gender-sensitive services for survivors and appropriate measures to approach and handle perpetrators;
- Facilitate survivors' easy access to the legal system (procedures, legal officers, lawyers) without concern about financial costs incurred (National Commission for the Advancement of Women, 2015).

Domestic violence is illegal, and penalties may include fines and imprisonment. However, the law grants exemption from penal liabilities in cases of physical violence without serious injury or physical damage. Although the law in Laos criminalizes rape, the offense of rape is based on the use of force, threats or drugs, or coercion, rather than the victim's lack of consent, meaning a high burden of proof on the victim. The law provides for penalties of three to five years imprisonment for rape, with longer sentences and the option of capital punishment if the victim is younger than 18 or is seriously injured or killed. However, "forcing one's wife to have sex" is treated differently from rape (and is a significantly lesser offence) – this decreases the rights of married women. Although domestic violence and rape are not suitable to be mediated, victims are often made to go through Village Mediation Units (VMUs) or other alternative dispute resolution processes before going to court. This is not consistent with CEDAW recommendations (UN, 2018; US State Department, 2018; Yam, 2019).

Results from a study undertaken by the Association for Development of Women and Legal Education (ADWLE, 2017) found that sexual harassment of women is a chronic issue. Sexual harassment is not criminalized but indecent sexual behavior towards another person is illegal. Although this may be punished by six months to three years in prison, victims rarely report such harassment and the prevalence is unknown (US State Department, 2018).

Approximately 35% of girls are married before they reach 18 years, and 9% are married before they are 15 years old. This is reported to be a practice particularly prevalent among certain ethnic groups and impoverished rural families (US State Department, 2018). The most recent Population and Housing Census records that the percentage of teenage marriages (15-19 years) are higher among Mon-Khmer (31%) and Hmong (35%) headed households. The Lao customary practice of accepting 'bride price' contributes to girls under 18 being married off in return for money. The common customary practice of marriage without formal registration means that the woman does not have protections under the Family Law. Laos does not have laws covering *de facto* relationships (Lao Statistics Bureau, 2016; Yam, 2019).

The Lao Social Indicator Survey II 2017 (Lao Statistics Bureau, 2018) assessed the attitudes of women and men aged 15-49 years towards domestic violence by asking respondents whether they think that husbands are justified to hit or beat their wives in a variety of situations (if she goes out without telling him, if she neglects the children, if she argues with him, if she refuses sex with him, if she burns the food). The Survey describes the purpose of these questions as "to capture the social justification of violence (in contexts where women have a lower status in society) as a disciplinary action when a woman does not comply with certain expected gender roles."

Interestingly, the survey reports that more women (29.5%) than men (16.2%) believe that a husband is justified in beating his wife for any of those five reasons, and this is largely borne out across various disaggregated data sets. The Survey found that higher percentages of people believe a husband is

justified in beating his wife in the North region (M 23.1%, F 35.7%) than in the Central (M 14%, F 29.2%) or South (M 10.4%, F 20.3%) regions. There is also a wide disparity between provinces with the percentage of men believing beating is justified ranging from 3.7% in Saravanh to 66.3% in Luang Namtha; and the percentage of women believing beating is justified ranging from 9.3%, again in Saravanh, to 49.6% in Phongsaly. When disaggregated by ethno-linguistic group of household head there is also a wide disparity between Lao-Tai (M 13.1%, F 25.3%) and (M 47.5%, F 44.8%) who believe that a husband is justified in beating his wife (Lao Statistics Bureau, 2018). All of this suggests that approaches to preventing and addressing violence against women need to be tailored to the specific circumstances of location, and possibly ethnic grouping.

In 2014, the Lao Statistics Bureau and the National Commission for Mothers and Children (now the National Commission for the Advancement of Women, Mothers and Children) led the implementation of the country's first national Violence against Children Survey. The survey provides reliable estimates of the prevalence of physical, emotional, and sexual violence against children and information about the circumstances in which childhood violence occurs. The survey found that one in seven girls and one in six boys are physically abused before they turn 18, approximately one in four girls and one in six boys experience emotional violence at home; and one in 14 girls and one in eight boys are sexually abused as a child. The survey also found very limited knowledge and utilization of services for experiences of violence, with boys having more knowledge on where to access support (National Commission for Mothers and Children et al, 2016).

A number of recommendations on responding to violence against children are made in the Violence against Children Survey, which are pertinent to a GSIA for a legal aid program. These include recommendations that cover dissemination of relevant laws, development of communication materials, development of implementation guidelines for the Law on Preventing and Combatting Violence against Women and Violence against Children to further clarify roles and responsibilities of different sectors and actors in its implementation, developing and integrating child rights training into professional curriculum for justice sector actors, and developing a comprehensive national policy and plan of action on child protection systems development that clarifies institutional roles and responsibilities as well as coordination structures and mechanisms across sectors (National Commission for Mothers and Children et al, 2016).

Recommendations were also made regarding establishing a national legal aid system for children in contact with the law, including child victims, witnesses, and perpetrators of violence, including referral and intake mechanisms, standardization forms, and a centralized system of data collection on legal aid provision (National Commission for Mothers and Children et al, 2016).

2.7 DISABILITY

Laos is a signatory to the United Nations Convention on the Rights of People with Disabilities (UNCRDP), with the implementing decree approved on 18 April, 2014. The US State Department (2018) reports that regulations promulgated by the Ministry of Labor and Social Welfare and the Lao National Commission for the Disabled that are aimed at protecting people with a disability against discrimination are rarely enforced.

Globally, evidence shows that people with disabilities are at increased risk of violence and discrimination, although robust studies are absent for most regions of the world, particularly low-income and middle-income countries, and this also appears to be the case for Laos. Adults with disabilities are at a higher risk of violence than are non-disabled adults, and those with mental illnesses

could be particularly vulnerable. About 15% of adults worldwide have a disability. These individuals are frequently reported to be at increased risk of violence, yet quantitative syntheses of studies of this issue are scarce (Hughes et al, 2012). It is likely that the statistics in the 2015 National Housing and Population Census, which identified 176,857 persons with disabilities (1.4% of the population) represents under-reporting.

In Laos, a significant cause of disability is Unexploded Ordinance (UXO). More men and boys are affected compared to women and girls, as the men and boys are more likely to travel beyond village limits and into forested areas. A significant proportion of UXO casualties are children.

2.8 SEXUAL ORIENTATION AND GENDER IDENTITY

While LGBTI people are not explicitly protected by domestic law, Laos is obligated as a party to international covenants to uphold their rights and freedoms, particularly their rights to effective and fair treatment by the legal system (USAID and TAF, 2018).

Globally, evidence shows that people who identify as LGBTI are at increased risk of violence and discrimination. There is no data currently on rates of victimization of LGBTI people in Laos (USAID and TAF, 2018). While the US State Department (2018) states that in the previous year there were no reports of discrimination, they note that observers believed social stigma and fear of repercussions may lead to people being unwilling to report abuse. They go on to note that reports indicated lesbians faced greater discrimination than gay men, and the highest levels of discrimination were directed at the transgender population.

The US State Department (2018) describes a lack of government efforts to address discrimination in employment and housing, while having taken steps to include gay men and transgender persons in its National Strategy and Action Plan for HIV/AIDS.

2.10 ETHNICITY AND ETHNIC GROUPS IN LAOS

Laos is a Southeast Asian nation with a high degree of bio-physical and ethnolinguistic diversity. This means that a very high value needs to be placed on ethnographic detail, as gender matters cannot be addressed without regard to ethnicity and social organization. The two most important social parameters in this regard are (1) the psychological as well as physical distinctions between upland and lowland, and; (2) bilateralism (cognatic kinship systems and gender complementarity).

Lowland cultures in Laos have more in common with each other than either does with upland cultures that may be geographically closer. With respect to gender, there is more variation among upland groups, ranging from patrilineal (e.g. Hmong) to matrilineal (e.g. Pray). But even here, with in-depth analysis, bilateral influences are strong.

Compared with the neighboring regions of China and India that are traditionally typified by male dominance and stark opposition between the sexes, Southeast Asia has been characterized as an area of complementarity as opposed to stratification, an area where history reveals a dazzling array of powerful female figures including queens and sultanas (Van Estrik 1995; Whitmore 2000). In Vietnam, the Trung Sisters are considered the first rulers; the fifteenth century queen of Burma, Shinsawbu, played an important Buddhist religious role as well as a role in the establishment of trade centers throughout the country; and female rulers were common throughout the history of the various island states of Indonesia, such as Aceh, where a final succession of four sultanas in the seventeenth century marked

their demise, although female leaders continued to play a strong role in the war against the Dutch (Reid, 1988). Social and ecological conditions that account for the relative equality of Southeast Asian women have been suggested, among them (Van Estrik, 1982):

- availability of new frontier land and women as pioneers in land development;
- low population density on the mainland that lend importance to women's work in agriculture and in the household;
- rice production and farm management systems dominated by women;
- the late development of centralized states distancing patriarchal states from local cultures;
- the predominance of bilateral kinship, and an emphasis on matrilocality;
- the inheritance of land by daughters;
- women's control over money and management of family finances.

Typically, in Southeast Asia, for girls, sexual experience is sought independent of family censorship, but without losing one's perceived natural gender attributes. For women these include femininity, being sexually accommodating, motherhood, home-maker, food processor, economic manager, and keeper of communal ritual relations. For men, the comparable attributes would include masculinity, aggressiveness, hunter, economic provider, guardian of political and religious institutions. However, what sets Southeast Asia apart is the flexibility and fluidity of the boundaries between masculine and feminine, and the considerable degree to which either sex may easily and gracefully penetrate into the territory of the other. Thus in Southeast Asia male dancers are typically 'feminine' and female politicians or businesswomen may appear 'masculine,' without upsetting the social equilibrium (Karim, 1995; Ockey, 1999; Ong, 1995).

Gender complementarity may be vulnerable or threatened and even transformed into gender stratification when new meanings of gender are acquired from outside influences, including development projects. When major upheavals are undergone, such as in cases of relocation of villages, or when access to natural resources is denied, women lose control of agricultural land and may cease to participate in rituals for ancestors. Their power to preserve culture may be lost as a result. This dialectic between bilateralism and ecological change (for whatever reason) leads to gender asymmetry that is detrimental to women (Karim 1995).

Gender complementarity, bilateralism, and hierarchies defined by age rather than sex therefore lie at the heart of any gender research undertaken in the region. Time and space do not permit a comprehensive analysis that would capture the details of gender inclusion for each of the 50 ethnic groups in the country. Therefore, some representative examples will be provided in the section that follows.

As in Russia, China, and Vietnam, the Lao system of ethnic naming follows the Marxist-Stalinist practice of establishing an ethnicity (tribe, nationality, etc) as a discrete unit consisting of one name, one language, one people. In Laos, they appear currently as a list of 49 *xon phau* ('tribe, ethnic group') which are further classed into four linguistic stocks or *takun*. Although additional names of some 160 language groups are sometimes provided, called *xeng* ('bunch, cluster'), these are not arranged into branches or subgroups. Thus, international academic practice in determining detailed ethnolinguistic phylogeny (stocks, families, branches, and subgroups) is not recognized in official documentation. All of the four ethnolinguistic stocks found in Laos are represented in the Project area: Be-Tai (Lao-Tai), Austroasiatic

(Mon-Khmer), Miao-Yao (Hmong-Mien), and Tibeto-Burman (Sino-Tibetan). Recently, the number of ethnic groups was increased to 50 by the addition of Brou to the list.⁸

The four *takun* are not typologically equivalent. Lao-Thai in international practice is Be-Tai, a branch of the Kam-Tai family belonging to the Kra-Dai stock. Hmong-lu Mien (Hmong-Mien or Miao-Yao) is itself a stock (lu Mien is the name of a specific language and is an error as lu simply is the Mien pronunciation of Yao. To make matters worse, typographical errors in various reports have spelled the term Lu, and then, even equating it with Lue- a comedy of errors so to speak.). Mon-Khmer has been used as a sub-stock of Austroasiatic as distinguished from Munda. There are seven main branches in Laos: Kmunic, Palaungic, Pramic, Vietic, Katuic, Bahnaric, and Khmeric. The common practice nowadays is to simply use Austroasiatic for the name of the Stock. Finally, Chine-Tibet should be Sino-Tibetan, a stock, although only one Sinitic language, Ho, is indigenous to Laos, the rest belong to the Lolo-Burmese branch of the Tibeto-Burman family.

Figure 1 illustrates the ethnic context of Laos and its neighbors on the mainland of Southeast Asia. The confluence of ethnolinguistic families is centered on Laos, the light green showing the Southwestern Tai group of which Lao is a member along with Thai in Thailand, Shan in Myanmar, and Zhuang in southern China. The grey are Mon-Khmer languages, as are also the light blue (Khmer) and dark blue (Vietnamese and Muong). The Dark red are Mien (Yao) and the pink are Hmong groups. The flesh color represents Lolo-Burmese found in the northern parts of Luang Namtha, Oudomxay, and Phongsaly. Other branches of Tibeto-Burman are found in the western portions of the map in various other colors. The map shows well the dazzling array of ethnic groups found in and around the country of Laos.

⁸ From an ethnolinguistic point of view this is an error since Makong and Tri, both considered Brou subgroups, are already on the list. Brou is an overall category, not a specific group.

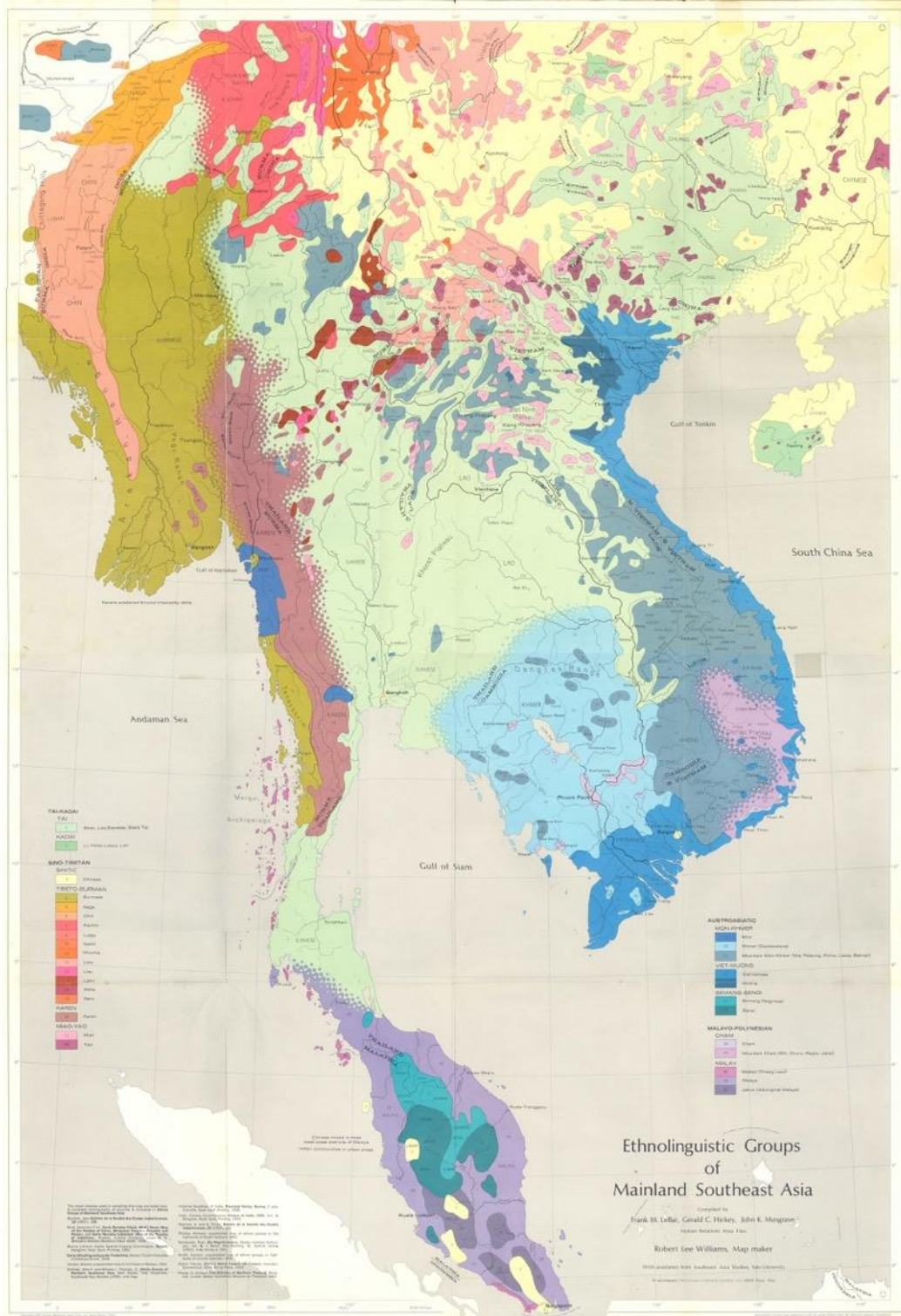


FIGURE 1 LAOS IN THE CONTEXT OF SOUTHEAST ASIAN ETHNIC GROUPS (SOURCE: LEBAR ET AL 1964)

2.11 ETHNICITY IN THE ASSESSED AREAS

The villages visited in the GSIA research epitomize the diversity of ethnicities found in Laos. All of the ethnolinguistic stocks are represented. Many studies gloss over differences in the ethnic environment in which the peoples of Laos are so intimately embedded. To overlook these differences is a major flaw in development projects through failing to recognize a vital part of the social fabric of the country that is of enormous importance to people on the ground. This section is therefore included in the name of social inclusion even though it lacks sufficient detail needed to do justice to the complexity of the ethnolinguistic realities in which the villages in this study are involved.

2.11.1 AUSTROASIATIC OR MON-KHMER

As can be seen from the map in Figure 2, Austroasiatic is a very widespread stock of languages, its time depth perhaps rivaling that of Indo-European. The general movement of the peoples of this family is thought to be from west to east, though the details of this have not been worked out definitively and there are competing theories. The Khmou (or Khmu, Kammu) in Laos are spread throughout the north, overlapping into Thailand, Yunnan, and Vietnam.

The primary marriage pattern among Mon-Khmer peoples in these areas is referred to as MBD by anthropologists (mother's brother's daughter), a form of matrilineal cross-marriage that is preferred but not coerced.

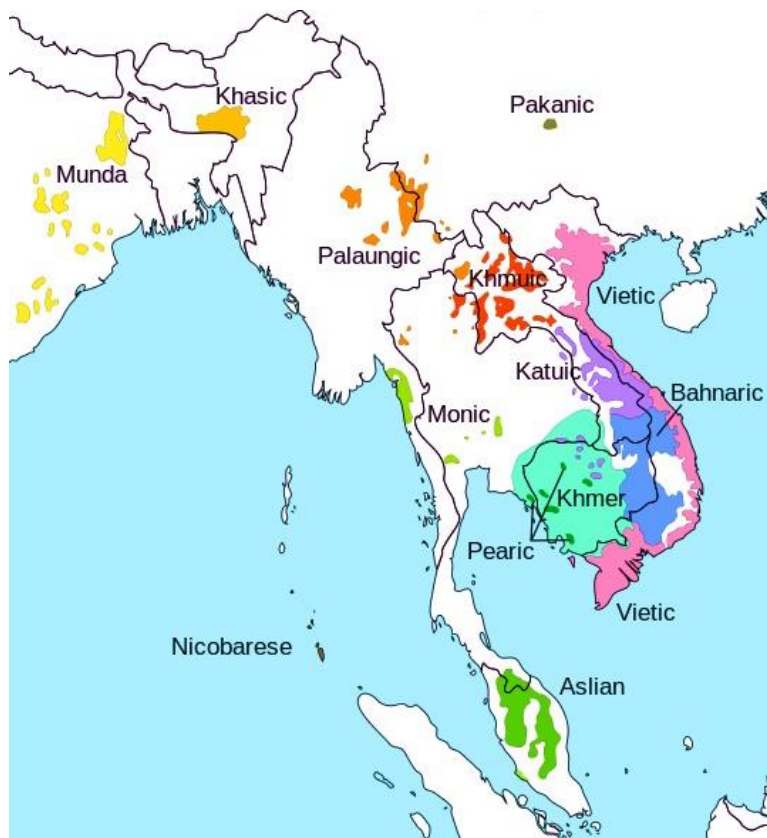


FIGURE 2 MAJOR BRANCHES OF THE AUSTROASIATIC ETHNOLINGUISTIC FAMILY (SOURCE: WIKIPEDIA COMMONS)

2.11.2 KATUIC

Souay and Katang belong to the Western Katuic subgroup and are most closely related to Brou in Savannakhet and Khammouane as well as Kouy (Kui) in Thailand, Cambodia, and southern Laos. Katuic represent an important branch of Mon-Khmer. Their languages are spoken by more than a million people who reside in Thailand, Cambodia, Laos, and Vietnam. While the greatest numbers of Katuic peoples live in eastern Thailand and Cambodia, the area of greatest diversity lies in Saravanh and Xékong provinces in Laos and the adjacent border areas of Vietnam, part of a complicated bricolage of small communities, each with their own distinctive language and culture.

The classification of Katuic groups remains controversial. Sidwell (2005) arranges them as in Figure 3. Here can be seen the relationships of **Souay**, **Katang**, and **Ta’Oy** found in the present study.

Katuic	
West Katuic	Kouy, Souay , Brou (Tri, Charouy, Makong, Mangkong, Khua)
Ta’Oi	Ta’Oy , Katang , Talan/Ong/Inh/Ir, Ngkriang/ Nge’, Chatong
Katu	Katu, Kantu, Phuong, Triw, Dakkang
Pacoh	Pacoh

FIGURE 3 THE KATUIC ETHNOLINGUISTIC BRANCH (AFTER SIDWELL 2005)

2.11.3 BAHNARIC

Bahnaric peoples inhabit the tri-border area of Cambodia, Vietnam, and Laos. It is one of the most internally diverse branches of Mon-Khmer. There are estimated to be approximately 700,000 speakers of Bahnaric languages. The West Bahnaric groups inhabit primarily the provinces of Attapeu, Champasak, and Xékong with some spillover into Saravanh. Jru’ belongs to the West Bahnaric group as can be seen in Figure 4 below. The **Jru’** are called Laven or Loven by Lao people because they live mostly on or near the Bolaven Plateau in Champasak.

West Bahnaric	Central Bahnaric	North Bahnaric	East Bahnaric
Jru’ (Laven), Juk, Su’	Taliang (Kasseng)	Halang, Kayong	Cua (Kor)
Nyaheun	Alak	Jeh	
Oi, The, Sok, Sapuan, Cheng	Central South	Kotau	
Brao, Laveh, Krung, Kravet	Tampuon	Tadrah, Modrah	
	Bahmar	Sedang	
	South Bahnaric	Hrê	
	Chrau	Monom (Bonâm)	
	Sre	Rengao	
	Stieng	Kaco’, Ramam	
	Mnong		

FIGURE 4 THE PLACE OF JRU’ IN THE BAHNARIC ETHNOLINGUISTIC BRANCH (SIDWELL ET AL 2003)

2.11.4 KHMUIC

There are two main branches of Khmou in Laos that can be broadly referred to as Eastern and Western. The Eastern dialects are spoken mainly in Phongsaly, Luang Prabang, Houa Phan, and Xieng Khoang where they are known as *Khmou Am*, *Khmou Ou*, and *Khmou Cheuang*. They are the most numerous.

The Western dialects are somewhat more diverse, and include the *tamɔɔys* (sub-groups) called *Kh mou Rok*, *Kh mou Kwène*, *Kh mou Lue*, and *Kh mou Nyouan*. The Kh mou have somewhat endogamous patrilineal clans that are named after animals and plants.

The Kh mou in our study are Kh mou Lue, part of the Western branch.

2.11.5 THE HMONG-MIEN FAMILY

The Hmong-Mien family includes the Hmong and Lantène (Mun). Hmong belongs to the Hmong-Mien stock of languages, often referred to as Miao-Yao. The stock may be broken into two main families, Hmongic and Mienic. Probably the ancestors of Hmong-Mien were mountain-dwelling swiddeners. The particular form of Taoist religion found among the Mien (Yao) and Mun (Lantène) indicates a presence in the lower Yangtze basin in the 11th or 12th century CE. The Mun, although residing along streams in lowland valleys, still practice swidden agriculture rather than paddy (or did so until recently), and were often referred to as lowland Yao, whereas Mien and Hmong traditionally resided near the tops of high mountains.

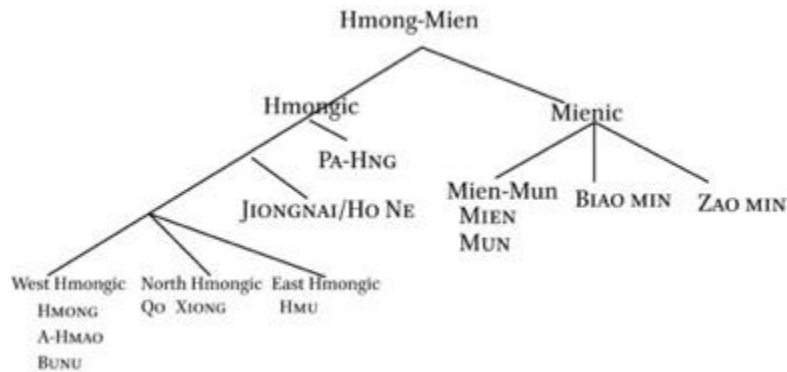


FIGURE 5 THE HMONG-MIEN FAMILY TREE

The first Hmong people arrived in Laos in 1810 in the area of Nong Het, in Xueng Khoang Province. Fleeing imperial Qing Dynasty attacks against them in Hunan, the first wave of Hmong moved due south across Guangxi entering Vietnam in 1800. A second wave arrived in 1860. Once in Laos many moved further west, across northern Laos and eventually found their way to northern Thailand.

The Hmong have strong patrilineal clans that are strictly exogamous. A wife, after marriage joins the clan of her husband and cannot return to the clan of her parents. All children belong to the clan of the father.



FIGURE 6 HONG-MIEN LANGUAGE FAMILY DISTRIBUTION (SOURCE: WIKIPEDIA COMMONS)

Villagers in the GSIA Study:

- Hmongic: **Hmong Daw** (White Hmong)
- Mienic: **Lantène** (Kim Mun, Man)

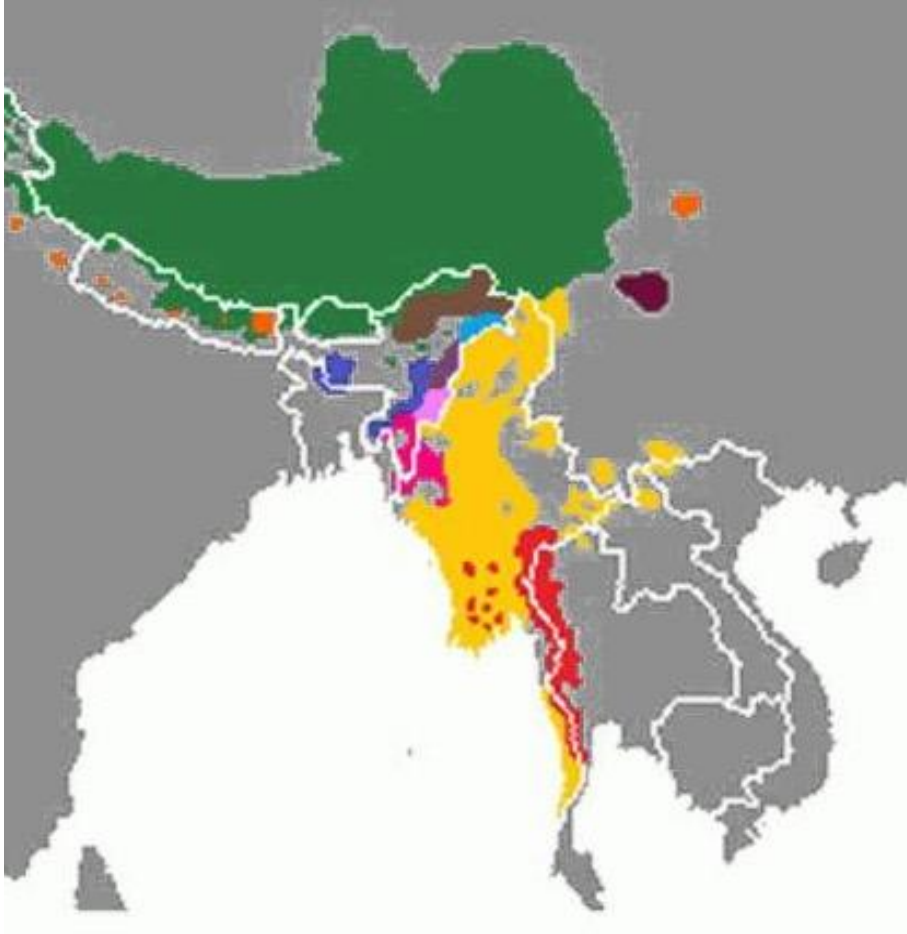


FIGURE 7 THE TIBETO-BURMAN AREA (SOURCE: WIKIPEDIA COMMONS)

2.11.6 SINO-TIBETAN: LOLOISH

Akha belongs to the Southern Lolo group of Loloish, part of the greater Burmish branch of Tibeto-Burmese, a member of the Sino-Tibetan stock. This is the area colored in yellow on the map in Figure 7. Loloish languages in Laos are classified as belong to two groups, Southern Lolo and Central Lolo, as follows:

Southern Lolo	Akhoid	Akha (Pouly, Chi Pia, Chi Cho, Mu Teun etc), Hani, Woni, Akheu
	Bi-Ka	Sila/Sida, Panna, Paza, Muji, Khoe
	Bisoid	Phounoi, Phounoi Phongsaly, Phounoi Boun Neua, Pisu (Lao Phai), Lao Pan, Lao Seng, Seng Sali, Pong Ku, Phong Set, Phou Yot, Tapat, Ban Tang, Cha Ho
Central Lolo		Lahu, Lolo Po

FIGURE 8 LOLOISH LANGUAGES OF LAOS

These languages are restricted in distribution primarily to the four northern provinces of Bokeo, Luang Namtha, Oudomxay, and Phongsaly. While the overall portion in the total national population is small, their relative importance in these four provinces is high, especially in Phongsaly and Luang Namtha.

Loloish speakers arrived in Laos from the northwest, either from Burma or from Yunnan. There is no information on precisely when they arrived, though it must have been relatively gradual rather than the result of a major upheaval. The Akha, of which **Mu Teun** is a member, are by far the most numerous group with 113,000 total population as of the 2015 census, compared to Phounoy 40,000, the next largest Sino-Tibetan group in Laos.

Villagers in the GSIA Study:

Lolo-Burmese: Loloish; Southern Lolo

Akhoid: **Mu Teun**

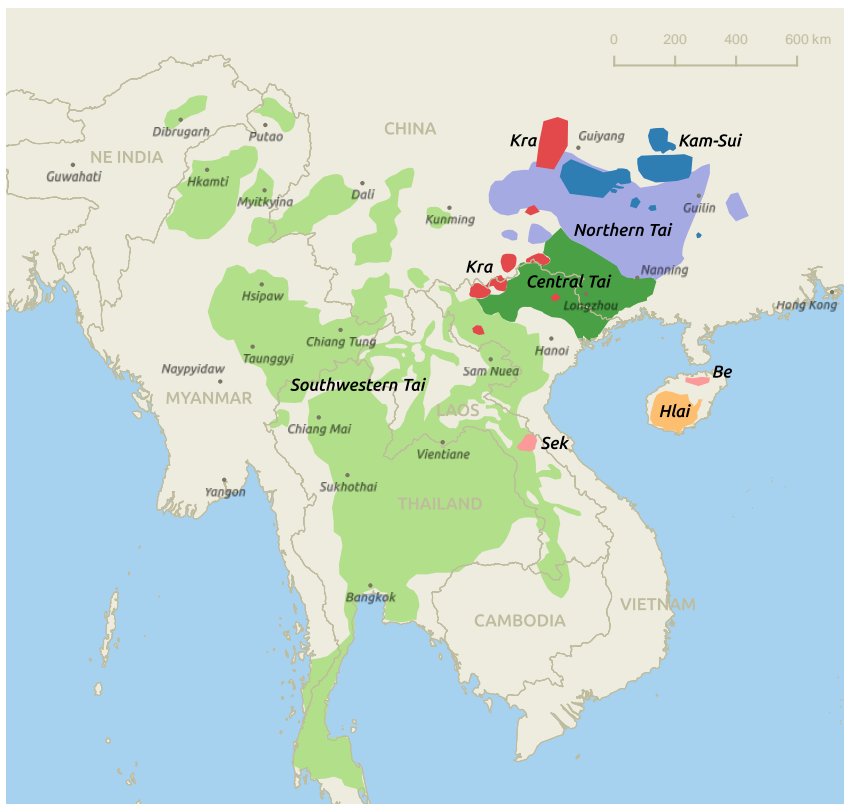


FIGURE 9 THE KRA-DAI STOCK (SOURCE: WHARTON, 2017)

2.11.7 KRA-DAI OR TAI KADAI (LAO-TAI)

Lao, together with **Phouan** and **Phou Thay** in our study, is a member of the central-southwestern branch of the Tai (or Be-Tai) ethnolinguistic sub-family of languages. In Laos, following the classification system of the Lao Front for National Construction (LFNC) this is officially referred to as the Lao-Tai family. Together with Kam-Sui, Be-Tai falls under the Kam-Tai family which belong to the Kra-Dai stock, formerly known as Tai-Kadai. Other members of this stock are Kra (languages spoken primarily in Guizhou province in China, eastern Yunnan, and parts of northern Vietnam) and Hlai (languages spoken on Hainan Island). The overall classification looks like this:

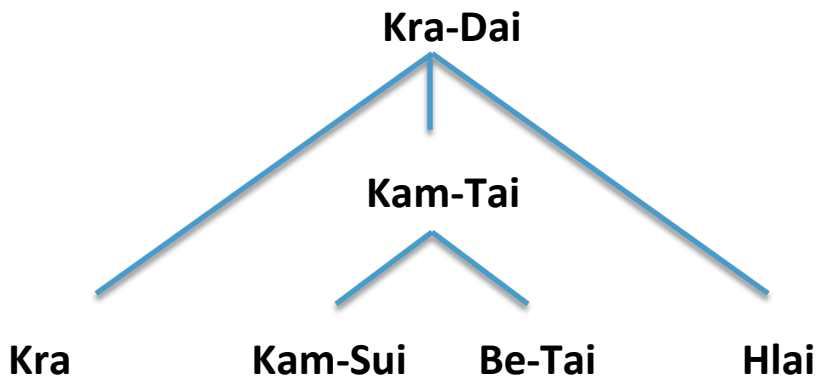


FIGURE 10 THE KRA-DAI STOCK

The Tai sub-family proper, is divided into two groups. The Central-Southwestern group extends from southern Guangxi and northern Vietnam across Laos, Thailand, Yunnan, Burma, all the way to northeastern India (Assam). Lao belongs to this group. The other languages comprise the Northern part of the range—northern Guangxi, southeastern Guizhou, with small pockets in northern Vietnam and northern Laos. Two outlier languages include Be from northern Hainan, and Sek spoken in Khammouane Province in Laos. The **Nhang** (Yay) language in our study belong to the Northern Branch of Tai (N) and originates from southern Guizhou in China. These can be seen on the tree shown here:

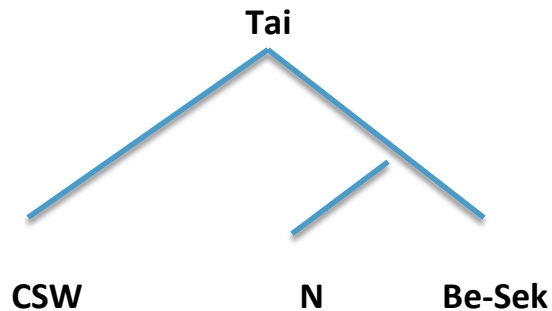


FIGURE 11 THE TAI SUB-FAMILY

It is significant that the southwestern portion of the CSW category contains a bipartition based upon linguistic and social distinctions and this seems to provide a historical basis for the directions taken by Tais in their westward migrations. Thus, the languages are classified as follows:

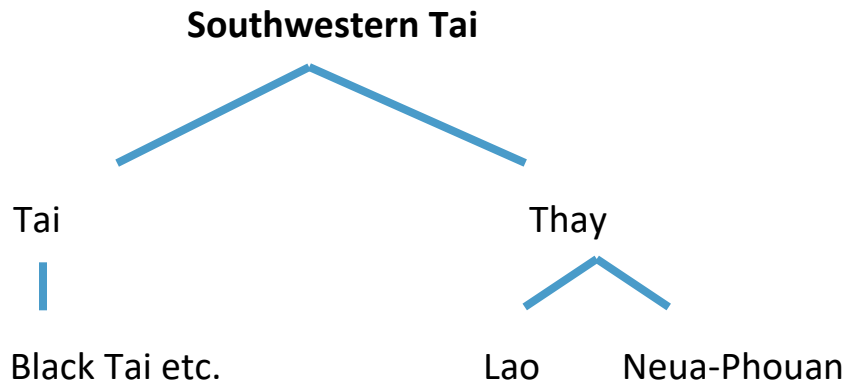


FIGURE 12 SOUTHWESTERN TAI

The Tai group includes Black Tai, Red Tai, White Tai, and Tai Moey, whose social organization is based upon patrilineages, whereas the Thay groups, such as **Phouan** and **Phou Thay**, lack these. The social distinction also mirrors linguistic differences. The Tai group covers a contiguous area from northwestern Vietnam across northern Laos and northern Thailand, northern Burma to Assam. The Thay group includes Lao, spoken along the Nam Ou and the Mekong as well as in northeastern Thailand, and Neua-Phouan spoken in the eastern region of Laos, and adjacent parts of Thanh Hoa and Nghe An in Vietnam, south through the Phou Thay speaking areas of Khammouane and Savannakhet. The Thai of Thailand are part of this group as well.

Villagers in the GSIA Study:

Northern Branch Tai: **Nhang** (Yay)

Southwestern Tai: Lao, Phouan, Phou Thay

2.12 THE ROOTS OF EXCLUSION: WOMEN AND ETHNICITY

Gender roles in Laos, even in urban areas, are largely traditional or were so until recently. In this environment, Gender and Social Inclusion concerns cannot be examined without an ethnographic approach. The cultural premises that define each group determine the impacts upon gender relations. More in-depth research becomes mandatory, but if put into practice should lead to increased benefits for women and ethnic minorities, in the form of successful programs. The literature of development is replete with negative examples of what happens when developers fail to take language and culture into consideration, or fail to understand the on-the-ground realities of how lives are lived. A few examples are offered here as exemplary, divided by ethnolinguistic stocks.

2.12.1 AUSTROASIATIC (MON-KHMER)

In mainland Southeast Asia, Austroasiatic ethnic groups are found widely distributed in Vietnam, Laos, Thailand, Cambodia, and Burma. Most (but not all) prefer to live at higher altitudes and carry out swidden cultivation on mountain slopes. One Mon-Khmer group, the Khmu, is the second largest ethnic minority group in the country. Relocation has removed people from their original homes and livelihoods

with often traumatic affects upon individuals, households, and communities. In one study (ADB 2006) focused on the Nam Ngeum watershed in Vientiane Province, it was found:

In their world views or ways of thinking and learning the Mon-Khmer groups studied are all rotational swidden cultivators. In these systems the work of the swidden is carried out essentially by women who are the providers of sustenance through their care for the rice, vegetables and wild forest edibles such as various arthropods, amphibians, piths, stalks, shoots, mushrooms, and so on. The provision of food is then a source of women's status and power. Pounding of rice and food preparation is another source. In addition, women are the primary suppliers of water and firewood. Metaphorically, water represents rain and fertility, and fire is the hearth, center of warmth and the family. Fire is also the means by which raw food becomes cooked and hence the emblem of civilization. Likewise, preparation of food for spirits of the rice, the fields, the water and the forest and the tutelary spirits of the land, is done by women regardless of whether or not they actually perform the ceremonial functions (as these roles differ among the various ethnic groups). The swidden is the source of biodiversity (which gives life to the forest) and the heart of the ecosystem, the woman is the heart of the swidden and hence, on one hand she is the progenitor of the ecosystem, and on the other the source of human life (childbearing) and sustenance for the family by virtue of the swidden. ... When swidden systems are eliminated or damaged so too these inseparable corporeal and spiritual sources of female power may pass into oblivion together with biodiversity and the ecosystem.

Also, in this area, some Khmu and Phong people were allowed to remain in upland locations but with reduced land areas to cultivate. Rotational swiddens which originally required a 10-year fallow period for the soil and forest to regenerate, were reduced to a three-year cycle. The impact on women was severe.

In one example, an ethnic Phong village in Phoun District, one hectare of swidden used to produce two tons of rice, whereas following the shortening of fallow cycles one hectare then produced only 700-800 kilograms. The ecological imbalances caused an increase of grasses that need to be weeded by women. In the past the weeding of one hectare would take approximately five days, but after shortening the fallow cycles it takes two weeks. Furthermore, weeding originally needed to be carried out only twice during a growing season, but after this had to be done four times prior to harvest. That means women must spend two months or 60 days out of every year weeding one hectare of swidden compared to only ten days in the past, a 600% increase in labor. Yet it is a price Khmou and Phong women were willing to pay in order to maintain their symbolic, spiritual, and very real roles as providers and sustainers in the family and in society.

2.12.2 HMONG

Hmong cultural conditions are somewhat different. The Hmong arrived in Laos relatively late in 1810 from Guizhou and Hunan in China via northern Vietnam. Hmong ethnic minorities are found in Thailand and Vietnam as well as in southern China. They belong to the Hmong-Mien ethnolinguistic family that originates in China, and are often cited in gender studies as the archetypal male dominated ethnic group. Hmong society is stratified by both age and gender, their social structure focuses on strict patrilineal clans characterized by exogamy where a wife must move into the patri-clan of the husband and the children become part of the male line.

By comparison to Mon-Khmer women, whose source of power lies in the ecosystem, Hmong women are recognized as essential to the continuity of life and the survival of the lineage, while men ostensibly rule

the patriarchy. However, patrilineal social organization does not always imply female disadvantage. Dr. Patricia Symonds (2004), an expert on Hmong gender, who lived and worked with Hmong people for more than 25 years, notes the following:

The anthropological debate on gender inequality and the universality of gender-based oppression is no longer at the forefront of gender studies. To understand what, to a Westerner, appears to be an unequal relationship between Hmong men and women, we have to conceptualize our analysis within the Hmong social structure. The discourses on gender hierarchy introduce Western arguments and then place certain cultures, such as the Hmong at the low end of the development hierarchy due to what is perceived as the low status of women. But even if we abandon the concept of and arguments around gender asymmetry, we are still left with the question of how to comprehend a stratified society. What measurements do we use to comprehend the meaning of gender in such a society? Does gender stratification lead to inequality? Or can we interpret the asymmetrical relation between men and women as complementarity instead?

In the same study mentioned above (ADB 2006), it was found that in Hmong villages men and women share labor in the various activities more than in the Mon-Khmer villages, including cooking at ceremonial rituals. The main division of labor is that men carry out the heavy labor tasks such as the felling of large trees and hunting, while women care for children. In the swiddens, although men actually decide on locations to be cultivated, the tasks of clearing, burning, planting, weeding, harvesting, and transporting are all shared equally by both men and women.

2.12.3 AKHA

The Akha belong to the Loloish branch of Tibeto-Burman. They are found in Burma, Yunnan, Laos, and Thailand. A useful term is “patterned shifting asymmetries” (Kammerer 1988) referring to the calendrical interplay of rituals for spirits associated with rice and rice production where women have prominence, and ancestor rituals where men have the dominant responsibility. These are interwoven in an annual cycle that together maintains cosmic continuity, which is dependent upon the unity of husband and wife. That is to say, the relative importance of men or women waxes and wanes according to the cycles of calendars and of life.

Kammerer (1988) noted that when the traditional ritual system is attenuated and loses its force due to social upheaval or impoverishment, especially as the state continues to regard traditional religions as backward, women begin to lose their innate advantage, and even though women’s rights are legally protected, empowerment is often an illusion and, in the end, women suffer more. All that remains is hard work without the cosmological compensation.

With reference to the Lisu, another Tibeto-Burman group related to the Akha, Kleine-Huteesing (1995) notes that for what she refers to as marginal or rim societies of Southeast Asia, with reference to customary rights and property, fair treatment of the sexes is inferred. But with changes brought on that affect niches and the environmental settings, these rights are in danger of being lost to more patriarchal forces in the name of economic development. It is necessary, she suggests, to identify and distinguish what are the forms and degrees of penetration by these forces into the ecology. She concludes:

The breaking point of sexual equality is when female and male prestige systems undergo a mutation of meaning. It is when males have access to consumer goods, markets, and class associated symbols, that male honour becomes a more pervasive symbol of power than female

honour. The power of possession may make men more powerful than females who become seemingly more illiterate as they fail to acquire the language and symbols of industrialized modernity.

Conditions such as this arise when villages are relocated and when women's roles in agriculture are diminished in the name of development and men become the primary source of income based on hiring out labor outside of the village, acquire mainstream languages, and provide cash for the household, and women must remain at home to care for children. The balance of power within the family is lost.

2.12.4 LOWLAND SOCIETIES

Within ethnic groups located in lowland areas, thinking is bound by assumptions that surround lowland wet rice agriculture. Even peri-urban and urban areas are peopled by societies whose thinking is agrarian, despite the presence of modern material goods such as TVs and tractors. The majority of lowland people outside of cities are rice farmers, and the majority of lowlanders throughout the country are Theravada Buddhists and belong to the Tai ethnolinguistic family. Some exceptions are Tai speaking minorities in northern Laos who remain animists. Other lowland groups in Southeast Asia include Cambodian and Vietnamese (Mon-Khmer), Burmese (Tibeto-Burman), and Cham (Malayo-Polynesian). Religion is an important factor where women are concerned. Andaya (2002) suggests that:

... one reason for the success of Theravada Buddhism in early Southeast Asia was its appeal to women. The maternal metaphor, a prominent theme in Buddhist texts, was both familiar and relevant to the lives of all females, regardless of their social standing. Translated into a local environment, the interaction between motherhood and merit-making provided new opportunities for lay women to display their piety and strengthened their links with the monkhood.

It was observed in the GSIA study that religion plays an important role in local justice systems, whether the shaman of the Hmong, the Taoists priests of the Lantène, or the spirit masters and mediums of the Mon-Khmer groups.

3. FINDINGS FROM THE FIELD

3.1 SARAVANH

3.1.1 BAN TAKIIT



Present at the Discussions:

- Village committee: LFNC, LWU, LYU
- VMU

Villagers: 54 persons (27 female)

Ban Takiip Nyay is an ethnic Jru' village located seven kilometers south of the Saravanh provincial capital of Lao Ngam. The Jru' are known as Laven or Loven by the Lao. They traditionally inhabited the Boloven Plateau in Champasak, and large areas of Saravanh. They were estimated to comprise some 50% of the population of Lao Ngam at one time (Lebar et al. 1964) and are found as well in as well in other districts and smaller parts of Attapeu. They have been growing coffee for a long time, having learned the methods from the French during the colonial period. The Jru' hired other ethnic groups to work on their plantations, especially Ta'Oy and Alak, and sold their coffee to Chinese merchants in Pakse. Marriage is consensual, with no bride price. Both parties must agree to divorce, and children may choose which parent with whom to reside if this occurs. Residence after marriage is patrilocal.

Ban Takiit has a population of 1,630 (790 female), 265 households, and 277 families. The village was established about 80 years ago, having split off from Old Ban Takiit that is located five kilometers away. The reason for moving was said to be because of better water supply and more flat land. The main cash crops today are coffee and cassava, with dry rice from swidden cultivation providing the staple food crop. Villagers estimate that 20% of the households are well-off, 50% are about average, and 30% are poor. The definitions are based on the degree of rice self-sufficiency. Traditionally in Jru' culture, the typical division of labor is for men to carry out tasks involving heavy labor such as lifting and transporting, and for women to handle the family economics, such as collecting money from sales of cassava and coffee.

Religion is a mixture of Buddhism and animism. Customs and beliefs are strong and a system of fines is in place for those who break traditional rules, such as cutting trees near the house of the village spirit or becoming pregnant before marriage. In these instances, the fine consists of sacrificing one pig for a ceremony to appease offended village spirits.

In cases of disagreement between villagers, resolution is sought first and foremost by seeking the advice of a village elder, especially the *Neo Hom*, that is, the local representative of the LFNC. He or she counsels and advises the disputants by trying to get at the truth that underlies claims. The majority of disputes are resolved in this manner.

If a resolution cannot be found, the case is brought to the VMU. Officially this is referred to as *nouay kae khay kho khat nyeng*, though villagers prefer and continue to use the term *nouay kay kia* meaning ‘chicken scratcher unit’ as they find the official term is too formal or difficult to understand (this was found to be the case in most villages in the study). The VMU is an official body in every village throughout the country. Its members include the Assistant Village Chief, representatives of the mass organizations (LFNC, LWU, LYU) and the head of security. Claimants must pay a fee for this service which in the case of Ban Takiip is 100,000 kip per claimant. Written records are kept for all cases. The role of the VMU is to listen and provide advice, not to pass judgment. The majority of cases involve family problems and land.

Family problems are mainly between husbands and wives. In separate sessions, women noted the main issues were as follows: husbands are unfaithful, husbands drink too much, husband uses drugs (meth), husband doesn’t turn over his earnings to help the family. In one case, witnessed by the research team, a woman became angry and began beating her husband with her shoe (a rubber flip-flop).

The common advice of the *Neo Hom*, followed by most families, is to invoke the guidance of relatives from both sides through discussion to resolve the issues. When taken to the VMU, it was found, such cases are handed over to the LWU representative, who in turn passes it back to the *Neo Hom*. Religious leaders may also play a role.

When VMUs cannot resolve cases, usually involving land, within two weeks maximum, they must resort to the law. This process begins by sending the case to the Sub-District (*Koum*), whose personnel are essentially policemen as there are no representatives of line ministries at the sub-district. There are likewise no courts at this administrative level, so unresolved cases must be sent on to the district. Since land laws are complex and the land law itself is not clear on many issues, these cases are then handed over by the court to the district land office for a decision.

One example that was brought to the attention of the research team involved the rape of a 14-year-old girl by a 14-year-old boy. Since the boy was not of legal age to be tried in court, the *Koum* officials issued a “postponed punishment” (*faak thoot*) order that theoretically means he could be sentenced after coming of age. However, back in the village, relatives of both sides assembled, and discussions were held, resulting in the payment of a sum of money to the family of the girl to the satisfaction of both sides. The case was considered resolved.

In the village of Takiit Nyay, one young man (*no women were found to have received legal training in any village*), was sent for legal education for 45 days under the MoJ program. He was in fact ordered to go; it was not voluntary. When he returned, he did not share his knowledge, and he plays no role in the VMU or other decision making. He is considered too young by the community to be trusted on matters of dispute resolution. The MoJ members of the research team advised him to use the village PA system.

3.1.2 BAN ON NOY



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 72 persons (41 female)

Ban On is located eight kilometers southwest of Lao Ngam and covers some 400 hectares of land in total. The population is 704 persons (362 female), 144 households, 166 families. They belong to the Phou Thay ethnic group.

In the year 1710, the village moved from Ban Sop Pa in the Phou-Thay region of Meuang Vang-Ang Kham, in the northeast of Savannakhet Province, in what is now Viraboury District, formerly a part of Xépon. They were led by a woman ancestor called Mother Kaykeo.

The word *On* in Lao means ‘bamboo rat’ (*Rhizomys*), but the village name was originally Ban Khi On, or ‘bamboo rat feces’. There are two explanations for the name:

1. There used to be many trees called *ton khii on* in Lao, and the village was then named after the tree.
2. An old story relates that long ago here were many bamboo rats in this area. The local villagers once made a dish of baked bamboo rat and took it to the district chief as a gift. He said, “This baked bamboo rat is very delicious, isn’t it?” One villager responded mischievously, “If you include the feces it is even more tasty.” After this the village came to be known as “bamboo rat feces village.”

Later they changed to name to simply Bamboo Rat Village, as the old name was felt to not sound good.

The village is quite prosperous, primarily from growing coffee (70%) and cassava (30%). There are seven government officials living in the village, three shops selling miscellanies, and 28 Hyundai trucks. The highest level of education achieved in the village is lower secondary. One graduate of this level was sent to study the 45-day law training by the MoJ. The religion is Buddhism, though the cemetery is considered the most sacred ground.

A fine is imposed on villagers cutting trees near this location, formerly calculated at one pig and one bottle of alcohol. Nowadays this has been changed to 400,000 kip. The fine for unwed motherhood is one pig plus 100,000 kip for a ceremony to appease the ancestors.

In this village, most disputes are settled by the VMU. Villagers did express interest in having training and especially in receiving documents that would better assist them in understanding the laws.

This village has surprisingly few marital problems, a fact attributed to there being no widows (widows are considered a cause of infidelity of husbands).

3.1.3 BAN NA MY



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 41 persons (4 women)

Ban Na My Noy is located 26 kilometers north of the capital of Lao Ngam. The population is 1,043 persons (527 females) and 163 households (215 families). The high ratio of families to households is probably due to the fact that, until recently, Katang people occupied longhouses, where families of the same kin group lived under the one roof. The main religion is animism for the Katang and Buddhism for the Lao.

The village was established in 1920 by villagers from Ban Keng Sim, Ban Chong, Ban Bou', and Ban Lau, all in the province of Saravanh. The reason given by villagers for moving was to find agricultural land that was better than in the old villages.

The village was named because a hunter one day found a mother bear who had just given birth to a cub. This area turned out to be extremely fertile with good black moist soil. So, it was called originally Ban Na My Noy "Bear Cub Paddy Village," a name that was later changed to simply Ban Na My or "Bear Paddy Village."

The village encompasses an area of 400 hectares, including 154 hectares of wet rice paddies, 130 hectares of cash crops, 80 for cassava, and 50 for cardamom. The village economy is based 60% on rice, 30% on cassava, and 10% on cardamom. There are 25+ Hyundai trucks and three regular pick-ups owned by villagers. Livestock is also important with 385 cows, 185 buffaloes, and 1,300 pigs. 58 households are considered to be well-off, 150 average, and seven are poor.

Villagers in general know nothing about the legal system either at the district or in the village itself. It is considered to be the concern of the village committee and the VMU, something usually not relevant to their daily lives.

Inheritance is the main source of conflict in the village. In one case currently discussed, a man with one son from a previous marriage married a woman, also with one child, a daughter. The children grew up

and got married (to other people), and their parents passed away. Before dying they agreed to divide their lands between the son and the daughter, with the son receiving a larger share, with the daughter agreeing that this was satisfactory. However, the son has since died and his children want to take away the land originally given to the first daughter. Since it cannot be resolved through traditional mediation, the Katang spirit master (*Caw Cam*) will probably decide to split up the land equally between all of the nieces and nephews from both parents, although this has not happened yet. This method of resolution is common among Katuic peoples, as the spirit master is the most respected elder of the village. Other family matters are taken up by the *Neo Hom* elder who brings in the relatives of both parties to discuss until a resolution is achieved.

3.1.4 BAN BAN NON TAKAY



Present at the Discussions:

Village committee: LFNC, LWU, LYU
VMU

Villagers: 37 persons (5 female)

The Souay (Souei) are one of the original ethnic groups of Lao Ngam, at one time comprising an estimated 40% of the population of the town. Currently the population of the village is 726 (351 female), with 119 households and 145 families.

The village of Takay is located only three kilometers northwest of the capital. Until 1920 they lived in the area that is now the city, then they relocated to Nong Sapang, but an epidemic resulting in many deaths caused the villagers to move away in many directions. Later five families moved into the present location where a pond was located surrounded by *Takay* trees, and hence the name of the tree was adopted as the name of the village.

The Ta'Oy people moved here later to join the family of a relative who had married into the Souay village. These Ta'Oy are Christians but get along with the Katang whose religion is a syncretic blend of Buddhism and animism, because they are willing to contribute to all of the village's (non-Christian) ceremonies and rituals. At first the Ta-Oy lived separately in a village called Po Hia, but were joined administratively to Takay in 1980, though residence is still in separate quarters of the village.

The main cash crops are coffee and cassava, but whereas coffee used to comprise 60% of the earnings, today cassava earns the most, approximately 70% of village cash income. Villagers estimate that 50% of the households are well-off, 40% are average, and 10% are poor.

Villagers have little knowledge of legal matters, legal aid, or justice offices despite being a part of the provincial capital. Most disputes involve family matters and are dealt with locally through traditional means or by the VMU. The most recent problem that has not been resolved is the expropriation of part of their land by local authorities to award as a concession to a Vietnamese company.

3.2 OUDOMXAY

3.2.1 BAN PANG THONG



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 23 persons (15 female)

The village is located 11 kilometers north of the district seat of Na Mo. The population is 1417 (681 female), with 201 households and 269 families. All of the villagers belong to the Hmong Daw (or White Hmong) ethnic group.

The village of Pang Thong was settled by Hmong from the villages of Lao Vu and Phou Thong after being involuntarily relocated in 1990. There were at first two villages, Pang Thong and Kok Faak. Later, in 2006, these were merged together to form a single village. This area had many *Pang* trees from which the village received its name.

The economy of the village is based mostly on rubber plantations, which comprises 70% of the village income. Another 30% derives from wet rice agriculture. The highest education level in the village is lower secondary.

The Hmong are animists with a long tradition of revering ancestors living in another world that may be visited periodically by a shaman who travels to visit them while in a trance that may last 12 hours. Sacred areas in the village are the cemetery and the altar of the village spirit. A ceremony honoring the village spirit is held every year, with chicken sacrifices every two years and a pig sacrifice every third year.

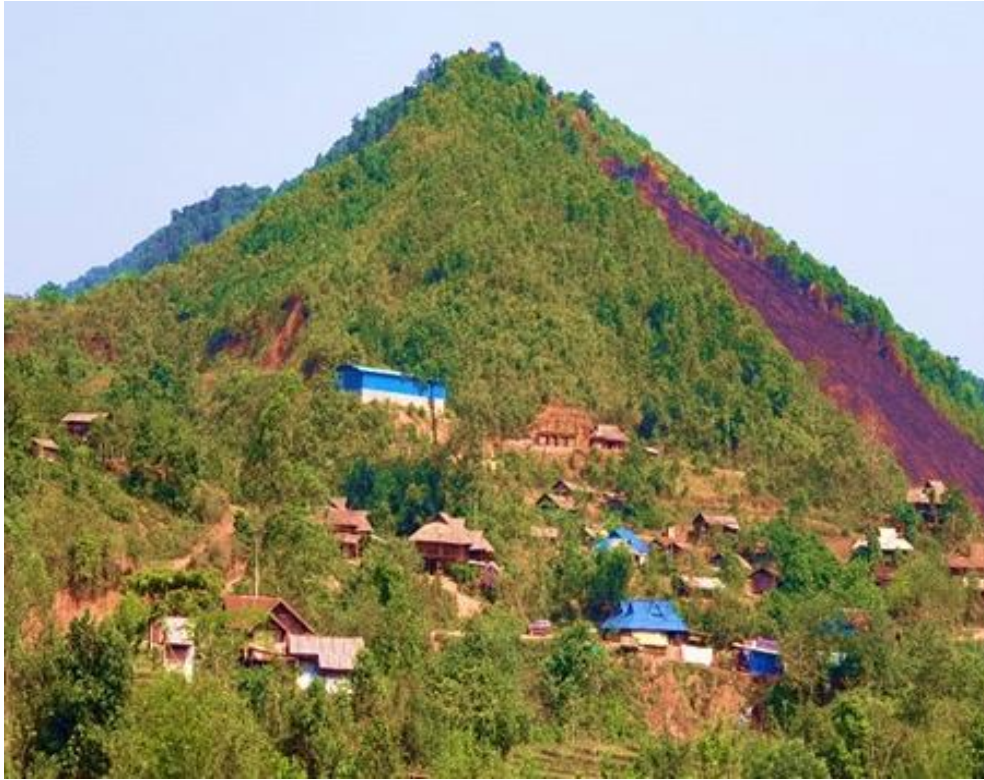
Villagers have little or no knowledge of the formal legal system and laws of the country. The villager who was sent for legal training by the MoJ has not imparted any of his knowledge to the village and does not participate in conflict resolution. Disputes are usually resolved by clan leaders, and sometimes by the VMU. However, the VMU cannot function if members of one of the disputants sits on the VMU. That is considered an irreconcilable bias.

Apart from desiring to have printed information on the laws and legal system and to have representatives of MoJ come and explain the various processes, the Hmong request that representatives who come from MoJ speak Hmong as otherwise villagers will not understand.

Most disputes center on family matters, inheritance, bride price, and land. The worst cases involve drugs. Recently a man tried to kill his wife and himself, but the wife survived. This was resolved internally.

The price paid to the VMU for dispute resolution is the most expensive encountered during the study, amounting to 250,000 kip per person. There are also fines for the breaking of cultural rules separate from the formal system.

3.2.2 BAN MOU TEUN



Present at the Discussions:
Village committee: LFNC, LWU, LYU
VMU
Villagers: 16 persons (3 female)

The village is located 54 kilometers northeast of the district seat, on the Chinese border. The population of the village is 827 (423 female), with 150 households and 160 families. All of the villagers are ethnically Mou Teun, one of the many Akha groups. This village is remote geographically, but also in terms of language and culture. They feel more at home in China than they do in Laos, and everyday villagers travel to China by motorcycle, an easy trip as the border is only four kilometers away. Other villages of the same ethnicity are found just across the border in China and villagers spend much of their time in China carrying out various forms of

trade. The villagers speak Chinese as a second language, but *only one person in the village was found who could speak Lao*, a woman, who acted as interpreter. There is a school through grade five in the village, but this has not enabled students to learn the Lao language.

The Mou Teun practice swidden agriculture and have some paddy land as well. In addition to rice they grow sugarcane, corn, and bananas. About 60% of their income comes from sugarcane, and the other

40% from rice, corn, and other minor crops. They consider that half of the village is self-sufficient in rice, but the other half is not, and would therefore be defined as poor.

One man's educational experiences as a Mou Teun ethnic minority in the Lao educational system were described in detail by Faming (2008). He was sent to study at the ethnic minority boarding school in Oudomxay city. He then continued on to study at the National University of Laos (NUOL). It was determined by Faming that the main purpose of the school, which was inspired and paid for by the Vietnamese government, is for all ethnic minorities to become Lao, culturally and linguistically, and to look down upon their own ethnic group as backward and uncivilized. In the case of this Mou Teun man, she concluded, they were successful.

Dispute resolution must always involve the ethnic leader who is a woman. She is also the assistant village chief, and the LWU representative of the village, and so sits with the VMU as needed. Most disputes involve families and land, but in this village, the biggest problem is drug (methamphetamine) addiction and resultant theft of other people's property in order to pay for the drugs.

3.2.3 BAN PAK NAM TONG



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 72 persons (41 female)

Although originally belonging wholly to the Lantène ethnic group (also known as Kim Mun or Man), today many Hmong and Nyang peoples have moved into the village as well, outnumbering the original inhabitants.

The population is 626 (299 female), 98 households, 112 families, comprising Hmong (334), Lantène (199), Nyang (81), and Khmou (12)

The Lantène say they came here originally from Ban Houay One in 1975, possibly as war refugees. The Hmong are from Ban Houay Lien in Phongsaly. They were consolidated into one village in 2005 as part of a government policy to make small villages into large ones.

Villagers grow wet rice and also plant rubber and cardamom for sale. They estimate that around 20 families are well-off, and another 30 are poor. The rest are average. Two persons in the village have completed secondary school, the rest have only a primary education.

The Lantène are Taoists, the Nyang are Buddhists, and the Hmong are principally animists, although a few are Christians.

Villagers are unaware of all aspects of the legal system outside the village. The person who was sent for the 45-day legal training has not shared his knowledge with other villagers. Villages resolve most of their problems internally according to custom. One land case was not resolved at the village level and is now awaiting a hearing at the provincial people's court in Oudomxay capital. Drugs are a major problem as well.

When MoJ comes to promote laws and legal aid, villagers requested that presenters speak local languages otherwise people will not comprehend what is being promoted.

3.2.4 NAM VEUN NEUA



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 24 persons (6 female)

This ethnic Khmu Lue village is located 11 kilometers south of Na Mo on the main road.

The population of the village is 786 (367 female), with 157 households and 210 families. Not much is known concerning the history of the village other than that it was established in 1971, having moved from Ban Vang Mon.

Villagers plant both swiddens and paddies, and cultivate corn, bananas, and sugarcane. Sixty percent of income comes from sugarcane, while corn and rice account for about 40%. Some 70% of the villagers are said to be rice sufficient, while 30% are rated as poor. This is attributed to scarcity of land and the need to constantly divide existing land with each new generation. Only three persons in the village, all teachers, have completed secondary school. All of the Khmou here are animists.

One key observation was that Khmou women who in past visits to the area by researchers have been rather depressed and withdrawn due to situations as described in Section 5.1, are now much more willing to speak up and offer opinions in public meetings. It was suggested by the researchers that one reason is that they are now gaining back their original prestige in the family through operating small roadside businesses and providing more inputs into family well-being. This allows them to acquire Lao language which in the past they were not able to speak.

As in all of the villages visited in the study, villagers here are unaware of MoJ promotion of legal knowledge or legal aid. The person sent for the 45-day training has never shared his knowledge with the rest of the village or become involved in the VMU. Most disputes in the village involve land and family matters. The first step is to seek the advice of the *Neo Hom* representative, and then the VMU. The price for the services of the VMU is 200,000 kip per person. There appeared to be no standard fee for the services as each village is different. The villagers interviewed said they would like the VMU to receive more training, and to receive more justice awareness training for the whole village, especially the village administration.

3.3 XIENG KHOANG

3.3.1 BAN NA MONE - PHOUAN



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 85 persons (43 female)

Ban Na Mone is an ethnic Phouan village located 14 kilometers north of the district seat of Meuang Mok, in Xieng Khoang Province. The population is 291 persons (150 female), with 50 households and 53 families.

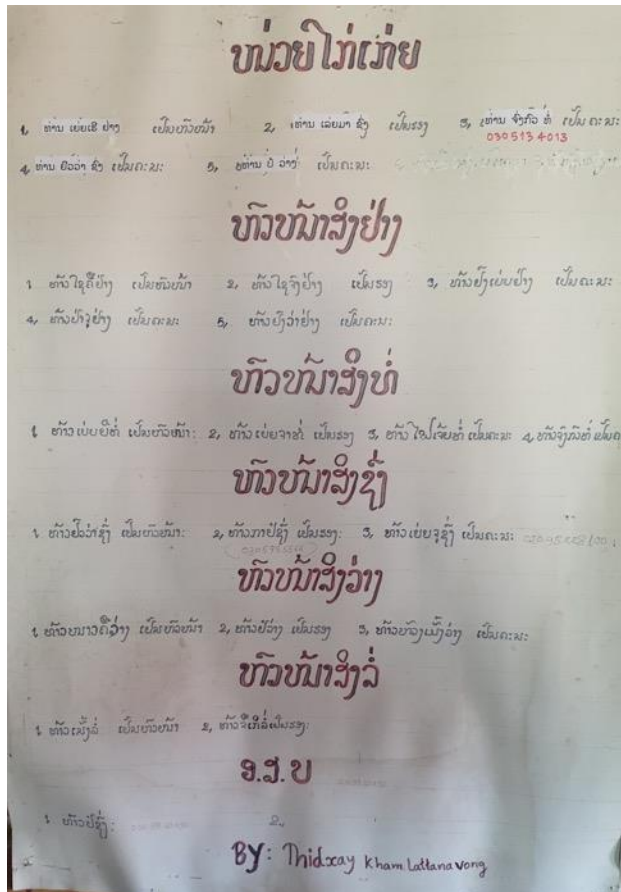
The village relocated here in 1953 because of flooding in the old village. The area has many groves of mulberry trees (*kok mone*) and is named after the tree. The main occupation is paddy rice farming, but additional income is also received from weaving and sales of vegetables, peanuts, and corn. All households are considered well-off except for one which is newly arrived. All of the villagers are Buddhists.

Villagers are unfamiliar with the national legal system. However, the Village of Na Mone differs from all other villages in the study as there are no disputes here. Customary practices and cultural norms are strictly enforced in what can only be labeled as an authoritarian administration of the village. The VMU exists in principle but is not used. Only a very few family disputes have occurred and these are resolved by village elders and relatives of the couples.

Fines of 30,000 kip are imposed for working on holy days, cutting trees near the cemetery, or for not attending village ceremonies and activities. The village recommends to the MoJ that in promoting laws, focus should be on laws that are relevant to villagers' daily lives, and that knowledgeable persons be designated to carry out promotional activities. Villagers especially resent the use of people considered

too young and therefore not credible. Villagers also feel the roles and responsibilities of the VMU have not been clearly defined.

3.3.2 BAN NAM SONG



Present at the Discussions:

Village committee: LFNC, LWU, LYU

VMU

Villagers: 35 persons (24 female)

This ethnic Hmong Daw village is located two kilometers east of the district seat of Meuang Mok. The population is 434 persons (208 women), 63 households, and 69 families. The village is old, having been established in 1945. Between 1965 and 1975 this area was in a war zone and the villagers all moved to the military base at Long Cheng. After the war they returned to their old village, assisted by Mr. Xong Xeng Vang, the former president of the LFNC, and the village chief, Mr. Nplia Xa Vang.

The villagers were former swidden cultivators but now do mostly wet rice farming. The main source of income, however, is livestock raising. There are some 1,000 head of cattle in the village. Ten households are considered well-off, 40 are average, and two are poor. The Hmong here are all animists, focused on ancestral spirits and shamanism.

Most of the disputes concern land and family problems and are resolved within the clan or between the clans. The VMU is also clan based (see photo), and there are essentially separate VMUs for each clan. Villagers are not satisfied with the educational level of the VMU members and suggest that a minimum requirement for VMU membership should be ability to read and write (ostensibly Lao). In fact, many Hmong, perhaps 50%, between ages of 12 and 45 are able to read and write Hmong using the RPA (Roman Popular Alphabet) that was devised in the 1940s by Catholic missionaries, also known as the Barney-Smalley Alphabet. It is likewise requested, as in most of the ethnic minority villages, that promotional activities be carried out in their own language.

3.3.3 BAN NAM NYEN



Present at the Discussions:

Village committee: LFNV, LWU, LYU

VMU

Villagers: 25 persons (7 female)

The village is located 26 kilometers southeast of Meuang Mok. The population is 1,522 persons (742 female), with 221 households and 231 families. All of the villagers are White Hmong (Hmong Daw) except for two households who are Phouan.

The Hmong were ordered to move here by Phoumy Vongvichit in 1990 from their former home at the top of a mountain. The village used to belong to Lao and Thai Isan people who lived here during the war and they moved away.

The villagers are primarily rice farmers and raise livestock. Currently they have over 1,000 head of cattle, 200 buffaloes, and 80 goats. Most of the households are well-off, except for four who are considered poor. Most villagers have a lower secondary education, but there are 30 government officials living in the village who have bachelor's degrees. The Hmong here are all animists.

Villagers say that inheritance is shared equally by male and female children, though curiously, this is at variance with Hmong traditions elsewhere. Six young men in the village have been sent for the 45-day legal training offered by the MoJ (in two sessions). None of them, however, have made any attempt to share their knowledge with other villagers after returning home. So, the villagers still consider themselves ignorant of the law.

The clan leaders play the most important role in resolving conflicts in the village. Conflicts include land problems, especially involving inheritance and dividing of gardens and paddy land as there are no land deeds, and inheritance of livestock. Family problems include especially divorces. Most problems are solved this way or by the VMU. Unresolved cases are sent to the sub-district.

Villagers are especially interested in receiving assistance in legal matters. If written documents were available in Hmong language that would be the very best solution. The land law is the most important issue for them.

3.3.4 BAN NA MEUANG



Present at the Discussions:

Village committee: LFNV, LWU, LYU, Security
VMU

Villagers: 24 persons (3 female)

Ban Na Meuang is located 30 kilometers southeast of Meuang Mok. The area has received a lot of infrastructure development, much more so than the district seat of Muang Mok itself. The population is 950 (455 female), 157 households, and 167 families. Of the household, 104 are ethnically Hmong Daw, and 63 are Phouan.

The original village was named Ban Meuang. They moved to Pakxan in 1969 during the war and returned in 1975. It was renamed Na Meuang but was inhabited only by ethnic Phouan people, but they moved away in 1989 because of unrest in the nearby Tha Thom district. The Hmong came in to replace them, and then in 1993, the Phouan returned.

The village practices both swidden and paddy agriculture and raises livestock for their main source of income. There are 2,400 head of cattle, 120 buffaloes, 150 pigs, and 80 goats. Most households (165) are well-off, except for two who are poor, due to drug addiction. Most people have at least a primary education, but there are 70 government officials living here who all have bachelor's degrees. The Hmong are a patrilineal society and inheritance goes primarily to the oldest sons. But for the bilateral Phouan, women are included as well.

This village has the most disputes of any village encountered in the study. Most seriously, these entail disputes between the Yang clan and the Vang clan, that is between two groups, not just individuals. These cases involving land are apparently not resolvable. Fourteen cases have been sent on to the district justice office and three cases to the provincial court for resolution.

Cases that were resolved involved illegal cutting of wood at the source of streams (thus denying water to those below). They were resolved at the sub-district level. The VMU of the village doesn't function

properly because the head person is ethnic Phouan and cannot work effectively with the Hmong. The Hmong faction of the village were so angry with him that they burned down his rice barn.

The Hmong villagers say that to be effective the justice promotion efforts should be carried out in the Hmong language, both written and spoken. Disputes should be resolved justly without using personal influence or taking of sides by the mediators. Lawbreakers should be punished by sending them for justice training. So far, the village administrators are afraid to report crimes that have been committed.

4. GAPS AND BARRIERS

4.1 LANGUAGE

For ethnic minorities, the biggest obstacle is language. Large numbers of minority peoples, especially those who are most likely to be affected by large infrastructure projects, have little contact with their own governments. When they do, the content of the interaction is usually negative. Minorities are accused of burning forests in their swidden cultivation regimes, of not wanting to participate in national affairs, of separatist aspirations, and of living in autocratic patriarchal chiefdoms. The accusations are false, but because of the lack of a common language their voices are not heard and go unappreciated. Even those who speak the national language do so with a lack of competence, and their understanding of government language is limited by the use of obscure political jargon. For many minority peoples themselves, the language barrier is not necessarily a negative circumstance. As noted by James C. Scott (2010):

The great cultural barrier imposed by a separate language is perhaps the most effective guarantee that a social world easily accessible to insiders, will remain opaque to outsiders...a unique language represents a formidable obstacle to state knowledge, let alone colonization, control, manipulation, instruction, or propaganda.

As seen from the field visits, many people in the country do not know the national language or have an imperfect knowledge of it. This is sufficient to prevent such necessarily nuanced information as contained in laws and legal documents from being accessed. Some 70% of the population of Laos do not speak Lao as their mother tongue. And approximately 50% of the children starting school each year do not speak Lao at all. The ASLO II survey carried out by the Ministry of Education and Sports (MoES, 2010) showed that after five years of primary school, only 37% of the children completing the grade 5 could read and write. And yet there are still no materials being produced that would assist minority students in learning the national language, and mother tongue instruction is not allowed by the MoES. In other words, at this point in time, the language barrier remains the primary obstacle to disseminating information by the MoJ.

4.2 LEGAL EDUCATION FOR VILLAGERS

Another important lesson from the GSIA study is the total lack of involvement of individuals who were sent for legal training for 45 days. In all of the 12 villages of the study, these individuals were shown to play no role in the village, neither in the VMU nor in the dissemination of legal knowledge to the village.

The first issue, discussed openly by the villagers, is that the trainees were considered too young to be credible. The second is that their participation was not voluntary, and they were in fact reluctant trainees from the start, with no particular interest in the law. The third issue is that all of the trainees were male; there were no female participants in any of the villages assessed. No doubt these three factors present an obstacle, but also a lesson for the design of future activities.

4.3 THE LAWS THEMSELVES

Another barrier, and this is not one that can be overcome by the MoJ on its own, is the laws themselves are often insufficient in addressing the various types of legal situations that arise. For example, the most important law from a rural perspective is the Land Law. This is by far the most relevant piece of legislation as it addresses, or should address, potential areas of dispute within and between villages, expropriation by the government, compensation, swidden cultivation, customary land use practices, communal ownership of land, and disputes with foreign businesses who have obtained concessions illegitimately allowing them to encroach on villager land. This law is currently under revision but the final version is so far not available. Whether or not it will be able to clarify matters under contention remains to be seen.

The point is that no matter how efficient the system of mediation, if the laws themselves do not allow satisfactory outcomes from a villager perspective, or appear to them to be unjust, there will be little incentive to engage further with the MoJ in its efforts to promote rule of law. Currently the goal of representative democracy remains an ideal that has yet to be realized. If laws are vague and not relevant, there is no local authority upon whom villagers can rely to correct the system.

Fortunately, the customs and traditions of the various ethnic groups are so far quite adequate for the resolution of most small-scale disputes, without a need to consult state laws and regulations. As we have seen though, this is changing, and with land issues especially, solutions are often elusive. In some cases, implementation of laws that would be seen as unfair is beyond the capacity of the system of local administration, and in these cases, state inefficiency works in favor of local needs.

5. CONCLUSIONS

Gender issues in Laos are complex and do not fit well into a Western or universalist frame of reference. It cannot be assumed that experiences in India, China, or other countries are relevant to Laos. To be able to relate each group to the ecological setting, to the sociocultural changes that have occurred, to the ideational systems of the various societies and to that which defines gender relations, to the gap between the ideal and the actual, and to the impact of all of these on women and then to the ecosystem, is a challenge indeed.

In principle, based upon socio-cultural characteristics of the country, there is no reason that exclusion should occur based on gender or ethnicity. Problems arise when outside values are applied to indigenous knowledge systems and when these latter are not investigated and understood in sufficient detail to allow for equal inclusion of women and men in participatory processes – *in their own milieu*. Consultation frameworks that take into consideration differences in language and culture are especially

important as is the continual application of gender and ethnic minority issues throughout the life of the project rather than only at the beginning.

Women play a small role in the justice system, although they may be particularly vocal in meetings that discuss family issues. In the VMU only one position, that of the village representative of the LWU is reserved for women. And in this role, she usually participates mainly in family issues as opposed to, say, land issues. She may offer advice or serve as mediator between husband and wife. Only in one instance in the study did a woman play a significant role, where the assistant village chief of Mou Teun, a woman, served also as LWU representative, and as member of the VMU.

It seems clear from this study that programs and policies of the MoJ are more oriented towards an urban setting, and a desire to impose an urban order upon rural chaos. There is no Department of Anthropology in the MoJ, or a language department dedicated to ensuring that laws and policies are translated into ethnic minority languages. It is unlikely that that there will be. And yet, judging from the consistently repeated recommendations of the ethnic minority villagers, this is what would be required. Is there a happy medium?

Outreach programs and extension education generally require that communication of ideas must take place in a medium where local people feel most comfortable. Their customs and traditions are important to them and one size does not fit all. Cultural differences are paramount and must be understood if communication is to occur. Some things however are shared:

- Only training young people rather than more respected elders appears ineffective;
- Language is of primary importance, both the ethnic language, and the variety of Lao used by officials. Government jargon is difficult to decipher, even for native speakers of Lao. The desire on the part of all villages visited to use the local term "*kay kia*" for mediation rather than the government term is a good example of this;
- Lack of meaningful documentation; and
- All of the ethnic minorities visited feel a degree of alienation.

Other ministries such Health and Education have experimented with offering special opportunities to teachers and health workers from ethnic minority backgrounds in order to communicate better with the various ethnic groups in the country. Their success has not, so far as we are aware, been measured, but the approach is justified. Often ethnic minority candidates do not have the educational qualifications to apply for the various positions, but in the cases of these two ministries exceptions were made, waivers were approved, and quotas were set.

One particularly successful project was carried out by a research team under the World Health Organization, preparing and delivering messages on bird flu in ethnic minority languages, including Lahu Abele, Lantène, and Lamet in Luang Namtha, and Lavi and Katu in Xékong. The project was an immediate success because all information was provided in their own languages, by members of their own communities. CDs were made so that sessions could be replayed as needed. Focus in these instances was on how to explain the various medical concepts in languages where no technical terms exist. It is recommended that such an approach would be equally feasible in the justice context.

6. RECOMMENDATIONS

In devising the GIDAP it is necessary to pay particular attention to the following recommendations.

1. The Legal Aid Support Program needs to place a high priority on tailoring its work to the different circumstances found throughout the country.
2. The Legal Aid Support Program needs to place a high priority on producing and delivering materials in appropriate languages beyond just Lao.
3. The Legal Aid Support Program needs to tailor MEL tools and lesson plans to be appropriate at the village level where trainees have varying educational backgrounds and experience with formal training.
4. The Legal Aid Support Program should use its influence to ensure that people sent for training are in a position to subsequently use that training.
5. The Legal Aid Support Program should continue to strategize how to resolve delays in cases involving violence against women and children.
6. The Legal Aid Support Program should provide support to activities that enhance the enabling environment for implementing and enforcing laws and policies that protect women and children from violence.
7. The Legal Aid Support Program should, where possible, support multi-sectoral case management for survivors, co-locating health, welfare, counselling, and legal services at central and provincial levels;
8. The Legal Aid Support Program should continue to provide women and marginalized populations with access to information to become aware of their legal rights under national and international laws through formal and informal channels;
9. The Legal Aid Support Program should continue to focus on gender sensitization in the legal system to ensure gender-sensitive services for survivors and appropriate measures to approach and handle perpetrators.

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ANNEX 1 – GUIDELINE INSTRUMENT

Guideline Modules

Ethnographic field methods are not readily reduced to linear sets of questions or interviews because the approach is based upon observation as well as discussion. Nevertheless, since our time, in anthropological terms, is limited, some focus is needed and this is presented here in the form of guideline modules that spell out the kinds of information to be sought. In addition to participant observation, researchers will work with key informants, and small group meetings as convenient to villager schedules.

1. Village composition
 - a. Ethnicity / -ies
 - b. Names and titles of the village committee
 - c. Names and titles of informal leaders
 - d. Official roles and responsibilities

2. Village History and Geography
 - a. When the village was founded and by whom, for what reason
 - b. If relocated, previous location(s), why was the village moved
 - c. If mixed, need to provide histories of each group
 - d. Geographical setting, describe in villager's terms

3. Ritual and religion
 - a. What is the dominant form of religion
 - b. What ceremonies are carried out and at what times (ritual calendar)
 - i. Ancestral
 - ii. Local spirits
 - iii. Agricultural rituals
 - c. Who are the religious leaders?
 - d. Female roles in ritual practices
 - e. Other female spiritualists, e.g. seers, diviners, etc.
 - f. Sexual divisions of ritual participation

4. Kinship system
 - a. Kin terminology
 - b. Inheritance
 - c. Marriage preferences (e.g. matrilineal cross-cousin)
 - d. Residence pattern after marriage

5. Gender issues
 - a. Traditional land tenure and ownership of property
 - b. Inheritance of land
 - c. Status of women
 - d. Division of labor
 - e. Access to forests and water resources
 - f. Ideal gender relationships (from women's and men's POV)

6. Quality of life, subjective indicators of well-being (in local terms)
 - a. Symbols of wealth and status
 - b. Work and leisure
 - c. Definition of poor households – why? Rice sufficiency
 - d. Ideal life preferences

7. Socioeconomic overview
 - a. Agricultural system – yields by unit of labor
 - b. Food production, rice, crops
 - c. Hunting, gathering, fishing
 - d. Livestock
 - e. Sources of income
 - f. Durables (tractors, TVs, motorcycles, etc...)

8. Development programs and government services and impact on women
 - a. Village consolidation? when, why
 - b. Land-Forest allocation or other land related titling completed, describe
 - c. Outside legal aid or mediation services
 - d. Opium eradication?
 - e. Cash crops?
 - f. Health
 - g. Education
 - h. Agriculture Extension

9. Conflict resolution (distinguish between village and individuals)
 - a. Types of conflict
 - i. Land
 - ii. Marriage
 - iii. International
 - iv. Inter-village
 - v. Intra-village / household
 - b. Methods of resolution, e.g. chicken scratching
 - c. Which members of the village guide the process
 - d. Roles of women in resolutions, anecdotes, examples
 - e. Roles of district or provincial offices/courts in resolution