



**FIDH - International Federation for Human Rights**  
*and its member organization for Laos*  
**Lao Movement for Human Rights (LMHR)**

**Update for the 8th European Union (EU)-Laos human rights dialogue**  
**15 March 2018, Brussels, Belgium**

**Key human rights issues of concern**

- 1....Government critics arbitrarily detained
- 2....No compensation for land confiscation amid fresh arrests
- 4....Enforced disappearances remain unaddressed
- 5....Prison conditions below international standards
- 6....Death penalty: No progress toward abolition
- 6....New Decree on Associations severely constrains civil society
- 7....Religious persecution continues

**Government critics arbitrarily detained**

In 2017, authorities continued to arbitrarily arrest and imprison individuals for their peaceful criticism of the government's policies and actions.

On 22 March 2017, Somphone Phimmasone, Soukan Chaithad, and Lodkham Thammavong were sentenced to 20, 16, and 12 years in prison respectively under Articles 56 ('Treason to the nation'), 65 ('Propaganda against the Lao People's Democratic Republic'), and 72 ('Gatherings aimed at causing social disorder') of the Criminal Code. Somphone, Soukan, and Lodkham were also each fined 210,000,000 kip (US\$25,200), 106,000,000 kip (US\$12,720), and 11,000,000 kip (US\$1,320) respectively. In a decision adopted on 25 August 2017, the United Nations Working Group on Arbitrary Detention (UNWGAD) declared their detention arbitrary.<sup>1</sup> Somphone and Lodkham are currently detained in Vientiane's Phonethong prison. On 9 January 2018, Soukan was transferred from Phonethong prison to Savannakhet

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<sup>1</sup> FIDH, *UN body says detention of government critics is "arbitrary" and urges their release*, 7 September 2017; Human Rights Council, Working Group on Arbitrary Detention, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017, Opinion No. 61/2017 concerning Lodkham Thammavong, Somphone Phimmasone and Soukan Chaithad (Lao People's Democratic Republic)*, 15 September 2017, UN Doc. A/HRC/WGAD/2017/61

provincial prison in Savannakhet, Soukan's hometown. His family obtained a 70,000 baht (US\$2,227) loan using their land as collateral and paid 40,000 baht to obtain the prison transfer and 30,000 baht to bribe the police.

Somphone, Soukan, and Lodkham were arrested in early 2016 as a result of their repeated criticism of the Lao government while they were working in Thailand. They had posted numerous messages on Facebook that criticized the government in relation to alleged corruption, deforestation, and human rights violations.<sup>2</sup> On 2 December 2015, the three were among a group of about 30 people who protested against their government in front of the Lao embassy in Bangkok.

In addition, pro-democracy activist Bounthanh Thammavong, a Laos-born Polish citizen, remains incarcerated since his arrest in June 2015. He was arrested on charges of "disseminating propaganda against the government with the intention of undermining the state" under Article 65 of the Criminal Code ('Propaganda against the Lao People's Democratic Republic') in connection with a Facebook post that allegedly "criticized the guidelines and policies of the party and government." On 18 September 2015, a court in Vientiane sentenced him to four years and nine months in prison.<sup>3</sup>

#### Recommendations

- End the arbitrary arrest of all individuals who peacefully criticize the government and immediately and unconditionally release dissidents who remain detained.
- Repeal vague clauses of the Criminal Code that threaten the rights to freedom of opinion and expression and freedom of peaceful assembly.

#### **No compensation for land confiscation amid fresh arrests**

While the government has repeatedly stated its commitment to addressing land-related issues, individuals and communities across the country continued to be subjected to confiscation of their land without adequate compensation.<sup>4</sup> In some cases, villagers who resisted or protested against land confiscation without adequate compensation suffered arrest and harassment.

On 25 July 2017, police detained 14 residents of Ban Yeup Village, Thateng District, Sekong Province, for cutting down rubber trees on land that had been confiscated by the government and leased to the Vietnamese-owned Lao-Vietnam Friendship

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<sup>2</sup> RFA, *Lao Police Publicly Confirm Arrest of Trio of Workers For Criticizing State*, 27 May 2016

<sup>3</sup> RFA, *Lao Court Jails Polish Activist Following Online Criticism of Government*, 1 October 2015; RFA, *Wife of Jailed Lao Activist Asks Poland's Justice Ministry For Help With Extradition*, 8 October 2015

<sup>4</sup> Vientiane Times, *Govt pledges fairer compensation*, 18 October 2017; Vientiane Times, *PM vows to address land issues*, 26 October 2017; Vientiane Times, *Land should benefit everyone: PM*, 25 December 2017; Vientiane Times, *Govt mulls fairer compensation policy for people affected by development projects*, 3 January 2018

Rubber Company in 2006.<sup>5</sup> Among the detained villagers were a boy and a girl, both aged 15.<sup>6</sup>

On 29 January 2018, one of the detained villagers, Somsavanh, died in a jail in Lamam District, Sekong Province.<sup>7</sup> Prison authorities claimed Somsavanh committed suicide, a version of events disputed by an eyewitness, who accused authorities of torturing Somsavanh to death and reported having seen bruises on his chest.<sup>8</sup> As of 1 March 2018, at least 12 villagers remained detained in two separate prisons in Sekong Province. According to information received by LMHR, the health of some of the detained villagers has deteriorated, but authorities have not provided adequate medical treatment to them.

Some of the villagers who have been detained since July 2017 were also among a group of eight Ban Yeup residents who had been arrested in June 2012 and detained for several weeks for submitting a letter of complaint over the ongoing land dispute to the authorities a month earlier.<sup>9</sup>

Concern has also grown over the lack of compensation in cases of land confiscation and forced relocation that have occurred to make way for the construction of the 417km high-speed railway connecting the Laos-China border town of Boten to Vientiane. Construction of the railway, undertaken by the Chinese company China Railway Group, began in December 2016 and is expected to be completed by December 2021.<sup>10</sup> In November 2017, authorities announced that 4,411 families were being forced to relocate to make way for the railway.<sup>11</sup> Villagers who had already been forced to leave their homes reported that they still had not received any compensation.<sup>12</sup>

In early February 2018, a Lao official reported that despite the fact that 84% of the 3,832 hectares of land needed for the railway had already been acquired and that the railway was 20% complete, compensation had not yet been paid to those affected by the project.<sup>13</sup>

Land rights remain one of the most pressing issues of concern for individuals and communities in Laos. In February 2018, it was reported that land rights complaints were the most common type of complaint made by the general public through the

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<sup>5</sup> RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

<sup>6</sup> RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

<sup>7</sup> RFA, *Lao Detainee Dies in Custody, Relatives Doubt Official 'Suicide' Claim*, 21 February 2018

<sup>8</sup> RFA, *Lao Detainee Dies in Custody, Relatives Doubt Official 'Suicide' Claim*, 21 February 2018

<sup>9</sup> RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

<sup>10</sup> Xinhua, *Lao PM visits construction site of China-Laos railway*, 6 November 2017

<sup>11</sup> RFA, *High-speed Rail Project Will Force Thousands of Lao Families to Relocate*, 22 November 2017

<sup>12</sup> RFA, *High-speed Rail Project Will Force Thousands of Lao Families to Relocate*, 22 November 2017

<sup>13</sup> Vientiane Times, *Laos-China railway '20.3 per cent complete', compensation still unpaid*, 7 February 2018

Prime Minister's Office hotline number. Land-related complaints accounted for 735 – or 27% – of the 2,702 calls made through the hotline since its establishment in November 2016.<sup>14</sup>

### Recommendations

- Immediately and unconditionally release all Ban Yeup villagers and conduct a swift, thorough, and impartial investigation into the death in custody of Somsavanh.
- Stop the harassment of individuals, communities, and organizations that speak out about shortcomings related to the approval and management of land leases and concessions.
- Thoroughly review all existing land concessions and cancel or sanction those found to be illegal.
- Reform the current system for the approval and management of all land leases and concessions with a view to increasing transparency and accountability.
- Ratify ILO Convention No. 169 (Indigenous and Tribal Peoples Convention).
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR).

### **Enforced disappearances remain unaddressed**

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On 15 December 2017, it was the five-year anniversary of the enforced disappearance of prominent civil society leader Sombath Somphone. Sombath was last seen at a police checkpoint on a busy street of Vientiane on the evening of 15 December 2012. Despite the Lao government's claim of an ongoing investigation, the authorities have failed to provide any update on the probe since 7 June 2013.

In addition, the fate and whereabouts of at least 10 other individuals remain unknown. In November 2009, security forces detained nine people (two women, Kingkeo and Somchit, and seven men, Soubinh, Souane, Sinpasong, Khamson, Nou, Somkhit, and Sourigna) in various locations across the country for planning peaceful pro-democracy demonstrations. On 23 January 2007, Somphone Khantisouk, the owner of an eco-tourism business in Luang Namtha Province, disappeared after men wearing police uniforms pulled over his motorcycle and forced him into an SUV.

### Recommendations

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).
- Establish a new commission tasked with carrying out a prompt, thorough, independent, and impartial investigation aimed at determining the fate or whereabouts of Sombath Somphone.
- Thoroughly investigate all cases of enforced disappearance in the country, provide regular updates on the status and progress of the investigations, and hold the perpetrators accountable.

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<sup>14</sup> Vientiane Times, *Hotline helps government administration*, 23 February 2018

## **Prison conditions below international standards**

The Lao government does not release up-to-date information and statistics concerning its prison population. In addition, independent organizations are not allowed to monitor conditions of detention. Despite these documentation challenges, information received by LMHR points to a situation in which prison conditions are well below international standards.

According to a testimony by a former prisoner in Vientiane's Phonethong prison, located on the outskirts of Vientiane, some inmates placed in solitary confinement were never allowed to leave their cells. In some cases, this type of solitary confinement occurred for more than 10 years. Many prisoners were kept in 4m<sup>2</sup> cells without windows or lights. Some inmates who had completed their sentences were unable to leave the prison because they were unable to pay the 'exit tax' – amounting to the equivalent of a few US dollars. According to testimonies collected by LMHR from foreign former inmates, the punishment practices inside the prison amounted to torture and ill-treatment. Many former prisoners described the practice of prison guards punishing inmates by locking their legs in wooden stocks for most of the day as "common." This type of punishment could last up to several months. Other former inmates reported witnessing prison officers kicking and severely beating prisoners using their hands and batons, and burning their genitals and other body parts with cigarettes.

Lao authorities continue to detain children, in breach of the country's obligations under Article 37 of the Convention on the Rights of the Child (CRC).<sup>15</sup> In addition to the ongoing detention of two 15-year-old villagers from Ban Yeup Village, Thateng District, Sekong Province [See above, *No compensation for land confiscation amid fresh arrests*], in May 2017, an official from the National Assembly's Justice Committee acknowledged that some of the thousands of children who suffered from drug addiction were kept in jail.<sup>16</sup>

In October 2017, National Assembly members raised concern over the growing prison population and the deteriorating conditions in prisons across the country.<sup>17</sup> In her report to the National Assembly, the Chair of the body's Justice Committee said prisons were overcrowded, and in some cases, suspects who had been remanded in custody were not kept separate from convicted prisoners.<sup>18</sup>

### **Recommendations**

- Take measures aimed at improving prison conditions in line with the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela

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<sup>15</sup> Article 37(b) of the CRC stipulates that no child should be deprived of his or her liberty unlawfully or arbitrarily and that the arrest, detention, or imprisonment of a child should be used only as a measure of last resort and for the shortest appropriate period of time.

<sup>16</sup> Vientiane Times, *NA members remain in favour of death penalty*, 18 May 2017

<sup>17</sup> Vientiane Times, *NA raises concerns over growing jail population*, 1 November 2017; Vientiane Times, *Raise legal, ethical standards, NA tells judicial bodies*, 27 October 2017

<sup>18</sup> Vientiane Times, *Raise legal, ethical standards, NA tells judicial bodies*, 27 October 2017

Rules) and the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules).

- Immediately end the practice of child detention.
- Conduct thorough, independent, and impartial investigations into all allegations of torture, ill-treatment, and deaths in custody, hold those responsible accountable, and provide adequate compensation to the victims and their families.
- Allow external independent monitoring of prison conditions.
- Provide up-to-date information and statistics on: 1) the total prison population (disaggregated by sex, age, sentence length, and type of offense); 2) the number of prison facilities and the official capacity of the penitentiary system; and 3) the number of prison officers and medical staff.

### **Death penalty: No progress toward abolition**

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Despite the Lao government's repeated announcements that it was in the process of amending the Criminal Code in order to limit capital punishment to the 'most serious crimes' in accordance with Article 6 of the International Covenant on Civil and Political Rights (ICCPR), the government has made no tangible progress to this end. The Criminal Code still prescribes the death penalty for a range of offenses that do not meet the threshold of the 'most serious crimes,' such as drug trafficking and drug possession.<sup>19</sup> In May 2017, during the ongoing debate in the National Assembly on the amendments to the Criminal Code, National Assembly members said they were in favor of retaining the death penalty for serious crimes, a category in which they included possession of "large quantities of drugs."<sup>20</sup>

Up-to-date information on the death penalty, including statistics, is difficult to obtain in Laos.

#### Recommendations

- Provide sex-disaggregated statistics on: 1) the number of persons sentenced to death each year; 2) the number of persons currently under death sentence; and 3) the number of persons who had their death sentences commuted as a result of amnesties.
- Abolish the death penalty for drug-related offenses with a view to making progress towards its complete abolition.
- Vote in favor of the upcoming UN General Assembly resolution on the establishment of a moratorium on executions.
- Declare an official moratorium on executions.

### **New Decree on Associations severely constrains civil society**

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A new Decree on Associations contains broad provisions that are inconsistent with international standards on freedom of expression and association. On 15 November

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<sup>19</sup> Article 146 of the Criminal Code

<sup>20</sup> Vientiane Times, *NA members remain in favour of death penalty*, 18 May 2017

2017, the Decree on Associations (Decree 238) came into effect, replacing the previous Decree on Associations (Decree 115) enacted in 2009. Decree 238 imposes further restrictions and controls on the activities of all domestic associations, commonly known as Non-Profit Associations (NPAs). Decree 238 was drafted and adopted into law without any genuine input from civil society.<sup>21</sup>

Under the new decree, only NPAs whose registration has been approved by the Ministry of Home Affairs are legally allowed to exist. Decree 238 gives the government power to approve the formation of associations; criminalizes unregistered associations; imposes strict operational requirements on associations, including a review of their assets; and bars associations from carrying out any human rights-related activities. In addition, NPAs who want to receive “funds and assets from foreign individuals, legal entities, or organizations” have to seek approval from the Ministry of Foreign Affairs.<sup>22</sup>

Reports have already emerged of associations expressing their concern over the restrictive regulations and cumbersome registration procedures imposed on NPAs under the new decree.<sup>23</sup> Civil society representatives have said the new decree would force many associations to shut down.<sup>24</sup>

#### Recommendation

- Drastically amend the Decree on Associations (Decree 238) to bring it into line with international standards.
- Respect and protect the rights of all human rights defenders, activists, and members of civil society.

#### **Religious persecution continues**

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Christians continue to be persecuted in Laos for practicing their religion. In December 2017, authorities detained several Christians for Christmas-related celebrations.

In the second half of December, authorities in Savannakhet Province detained five Christians, including a pastor, after a group of villagers in Non Soung Village, Phin District, attempted to organize Christmas celebrations.<sup>25</sup> It is believed the five were released after paying a fine. Nineteen others were also fined for their involvement in the celebrations.<sup>26</sup>

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<sup>21</sup> FIDH, *Interview with foreign aid worker in Laos*, December 2017

<sup>22</sup> FIDH, *New Decree on Associations is the last nail in the coffin for civil society*, 21 November 2017

<sup>23</sup> RFA, *Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law*, 24 January 2018

<sup>24</sup> RFA, *Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law*, 24 January 2018

<sup>25</sup> RFA, *Lao Christians Detained For ‘Breaking Rules’ on Christmas Celebration*, 22 December 2017

<sup>26</sup> Release International, *Thank God for the release of Lao Christians!*, 16 February 2018

In late December, authorities in Vientiane Province arrested six Christians, most of whom were Hmong, for failing to seek official permission to hold a Christmas party. They were released on 31 January 2018, after each paid a fine.<sup>27</sup>

#### Recommendations

- End the persecution of individuals exercising their religious beliefs.
- Repeal Decree 315 on the Management and Protection of Religious Activities and ensure the right to freedom of religion or belief is respected.

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<sup>27</sup> Release International, *Thank God for the release of Lao Christians!*, 16 February 2018