



**Lao Movement for Human Rights (LMHR)
FIDH – International Federation for Human Rights**

United Nations Human Rights Committee (CCPR) – 123rd session

Joint shadow report

LAO PDR

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The civil and political rights situation in the Lao PDR remains dire. The present shadow report, jointly submitted by FIDH and LMHR as part of the United Nations (UN) Human Rights Committee (CCPR)'s review of the Lao PDR, documents numerous and serious human rights violations committed by Lao PDR authorities and illustrates the government's failure to comply with its obligations under the provisions of the International Covenant on Civil and Political Rights (ICCPR).

The Lao PDR's initial report under Article 40 of the ICCPR was submitted by the government in 2017, seven years after the original 2010 deadline. The government report is essentially a list of legislative provisions and incomplete statistics, and contains no details on how domestic laws and government policies and actions comply with the provisions of the ICCPR. As such, it shows the government's deliberate failure to acknowledge and address the serious human rights violations occurring in the country. The government has also failed to provide information requested by the CCPR after the adoption of the 'List of Issues' in March 2018.

The information presented in this joint FIDH-LMHR shadow report has been collected from the following sources: official Lao PDR government statements; state-run media reports; verified news stories published by foreign media organizations; UN documents; and first-hand research conducted by LMHR.

Article 2 (Implementation of the Covenant at the national level)

Domestic legislation inconsistent with the Lao PDR's obligations under the ICCPR

Since 2014, the government has repeatedly announced that it was in the process of amending the Criminal Code. However, four years later, the process is still underway and no announcement has been made with regard to its timeframe and conclusion. Numerous decrees, articles of the Criminal Code, and other laws that restrict the rights to freedom of religion and belief, freedom of expression, freedom of peaceful assembly, and freedom of association are inconsistent with the Lao PDR's obligations under Articles 18, 19, 21, and 22 of the ICCPR.

In addition, the government's ongoing failure to undertake adequate investigations into all cases of enforced disappearances [see below, *Article 9*] violates its obligations under Article 2(3) of the ICCPR. The ICCPR states that governments must provide an "effective remedy" for violations of rights guaranteed by the Covenant, including the right to liberty and security of person.

Recommendations

- Review and amend legislation that is inconsistent with the provisions of the ICCPR.
- Take steps towards the establishment of a National Human Rights Institution in accordance with the 'Paris Principles'.

Article 6 (Right to life)

Death sentences still imposed for crimes that are not 'the most serious'

Despite the 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 ICCPR,¹ 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', including drug trafficking and possession.²

The qualification of drug-related offenses as 'most serious crimes' is a deliberate government policy. In its report to the CCPR, the government states that drug trafficking, which is punishable by death, is one of the "especially serious crimes."³ Lawmakers support this policy. In May 2017, during the ongoing parliamentary debate 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."⁴

¹ Human Rights Council, 21st session, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Lao People's Democratic Republic*, 5 November 2014, UN Doc. A/HRC/WG.6/21/LAO/1, Para. 36; Human Rights Council, 29th session, *Report of the Working Group on the Universal Periodic Review - Lao People's Democratic Republic*, 23 June 2015, UN Doc. A/HRC/29/7/Add.1

² Article 146 of the Criminal Code

³ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure - Laos*, 10 April 2017, UN Doc. CCPR/C/LAO/1, Para. 39

⁴ Vientiane Times, *NA members remain in favour of death penalty*, 18 May 2017

While the Lao PDR has not executed anyone since 1989, courts have continued to impose death sentences on convicted criminals, mostly for drug-related offenses. On 9 October 2015, it was reported that from 2010 to 2015, courts imposed about 20 death sentences each year.⁵ Up-to-date information on the death penalty, including statistics, is difficult to obtain in the Lao PDR.

Recommendations

- Provide disaggregated statistics by sex, age, and type of offense 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.
- Become a state party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2).

Article 7 (Prohibition of torture or cruel, inhuman or degrading treatment or punishment) ***Torture of inmates “common”***

The Lao PDR’s legal system does not contain a definition of torture in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the Lao PDR is a state party.

According to testimonies collected by LMHR from foreign former inmates, punishment practices in prisons across the Lao PDR amount to torture and ill-treatment, in contravention of Article 7 of the ICCPR [see also below, *Article 10*]. Many former prisoners described the practice of punishing inmates by locking their legs in wooden stocks for most of the day as “common.” This type of punishment can 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.

Recommendations

- Amend domestic legislation in order to incorporate a definition of torture based on the CAT.
- Conduct thorough, independent, and impartial investigations into all allegations of torture and ill-treatment, and deaths in custody; hold those responsible accountable; and provide adequate compensation to the victims and their families.
- Become a state party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

⁵ Vientiane Times, *EU campaigns to end capital punishment*, 9 October 2015

Article 9 (Liberty and security of person)

Government critics arbitrarily detained, enforced disappearances unaddressed

Lao PDR authorities have systematically subjected to arbitrary arrest and detention those who have publicly criticized the government [see also below, *Article 19* and *Article 21*]. In many cases, these individuals have been prosecuted under provisions of the Criminal Code. Normally, little or no information on the reasons for the deprivation of liberty or the charges faced is provided to those arrested. Detained activists have been held incommunicado without access to legal assistance and subjected to prolonged pre-trial detention. This amounts to a clear violation of Article 9 of the ICCPR [see also below, *Article 14*].

In recent years, a trend has emerged of arbitrary detentions of villagers, farmers, and activists who protested against the negative impacts of infrastructure and investment projects that involved land leases and concessions [see also below, *Article 27*].

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 Rubber Company in 2006.⁶ Among the detained villagers were a boy and a girl, both aged 15 [see also below, *Article 10*].⁷ As of 1 June 2018, at least 10 of the 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 and authorities have not provided them with adequate medical treatment. 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 to authorities a month earlier over the ongoing land dispute.⁸

In October 2012, a young woman, Sivangxay Phommarath, led more than 20 people from Gnommalat District, Khammouane Province to meet with an unknown person in Savannakhet Province. The group believed that the unknown person would help them obtain better compensation for land that had been confiscated to make way for a road expansion project in Gnommalat District. On 19 November 2012, authorities arrested Sivangxay, charged her with inciting social disorder, and detained her in Khammouane Provincial Prison. She was released in February 2013 after paying a 700,000-kip (US\$87) fine and on the condition that she and her husband would not break any laws and would not incite “unlawful acts.”

On 25 April 2014, security forces in Ban Tonpheung District, Bokeo Province, arrested Khankham, a 60-year-old woman, and detained her for several hours for protesting against soldiers, policemen, and technicians who had attempted to survey land for the construction of a golf course. The project was part of the expansion of the airport and casino-driven Special Economic Zone, developed by the Chinese company King Romans (Dok Ngiew Kham).

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

⁷ RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

⁸ RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

With regard to enforced disappearances, the government has consistently refused to adequately and effectively address the issue. In the most emblematic case, the government has failed to conduct a thorough, credible, and impartial investigation into the enforced disappearance of prominent civil society leader Sombath Somphone, who disappeared after being last seen at a police checkpoint on a busy street in Vientiane on 15 December 2012. His abduction was captured on a CCTV camera near the police checkpoint. The footage strongly suggests that police stopped Sombath's vehicle and, within minutes, unknown individuals forced him into another vehicle and drove him away in the presence of police officers. The fact that police officers appeared to have witnessed Sombath's abduction and failed to intervene strongly indicates state agents' involvement in, or acquiescence to, Sombath's disappearance. Despite the government's claim of an ongoing investigation, the authorities have failed to provide any update on the probe since June 2013.

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, Khamstone, Nou, Somkhith, and Sourigna) in various locations across the country for planning peaceful pro-democracy demonstrations. On 23 January 2007, Somphone Khantisoouk, 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.

On 29 September 2008, the Lao PDR signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). However, almost nine years later, the government has made no demonstrable progress towards the ratification of the treaty, nor has it refrained from acts that the ICPPED is intended to remedy or prevent.

Recommendations

- End the arbitrary arrest, detention, and imprisonment of individuals for the exercise of their rights guaranteed by the ICCPR.
- Immediately and unconditionally release all those who are currently detained for the exercise of their rights guaranteed by the ICCPR.
- Ratify the 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.

Article 10 (Humane treatment of persons deprived of their liberty)
Prison conditions below international standards, children detained

The Lao PDR 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 and violate Article 10 of the ICCPR.

The government report's repeated claims that the penitentiary system ensures the rights, humanity, and dignity of all persons deprived of their liberty are also contradicted by statements that lawmakers made in late 2017.⁹ In October 2017, National Assembly members raised concern over the growing prison population and the deteriorating conditions in prisons across the country.¹⁰ 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 pre-trial custody were not kept separate from convicted prisoners.¹¹

According to a testimony by a former prisoner in Phonetong 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 4m² 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.

The plight of three student leaders, arrested in Vientiane in October 1999 [see also below, *Article 21*], provides an example of the appalling conditions to which inmates can be subjected. Two of the student leaders, Thongpaseuth Keuakoun and Sengaloun Phengphanh, were incarcerated for more than 16 years and released on 26 January 2016. In late 2015, LMHR learned that Thongpaseuth and Sengaloun were kept in solitary confinement with their legs locked in wooden stocks at all times in Samkhe Prison, located on the eastern outskirts of Vientiane. Prison authorities allowed them to go out of their cells once a week or once every two weeks to wash and empty their accumulated excrement. Prison authorities did not allow them to receive visitors and prohibited them from receiving food and medication sent by family members.

Official statistics concerning deaths of prisoners are not available. FIDH and LMHR are aware of two relatively high-profile cases of custodial deaths that have not been adequately investigated and that could be indicative of a more widespread phenomenon.

In September 2001, Khamphouvieng Sisa-at, one of the five pro-democracy student leaders arrested in October 1999 and sentenced to 20 years in prison [see also below, *Article 21*],

⁹ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure – Laos*, 10 April 2017, UN Doc. CCPR/C/LAO/1, Paras. 75 and 82

¹⁰ 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

¹¹ Vientiane Times, *Raise legal, ethical standards, NA tells judicial bodies*, 27 October 2017

died in Samkhe Prison as a result of food deprivation, prolonged heat exposure, and lack of adequate medical care.

On 29 January 2018, Somsavanh, one of the 14 residents of Ban Yeup Village, Thateng District, Sekong Province, who were detained on 25 July 2017 [see above, *Article 9*] died in a jail in Lamam District, Sekong Province.¹² 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.¹³ As of 1 June 2018, at least 10 of the Ban Yeup 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 and authorities have not provided them with adequate medical treatment.

In addition, Lao PDR authorities have frequently detained children, in breach of the country's obligations under Article 37 of the Convention on the Rights of the Child (CRC), to which the Lao PDR is a state party, and its domestic legislation.¹⁴ 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.¹⁵

In one instance, on 25 July 2017, police in Ban Yeup Village, Thateng District, Sekong Province, detained two 15-year-old children (a boy and a girl), who were among the 14 local villagers arrested for cutting down rubber trees on land that had been confiscated by the government [see above, *Article 9*]. The two children spent more than 10 months behind bars and were eventually released on 1 June 2018.

Recommendations

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

¹² RFA, *Lao Detainee Dies in Custody, Relatives Doubt Official 'Suicide' Claim*, 21 February 2018

¹³ RFA, *Lao Detainee Dies in Custody, Relatives Doubt Official 'Suicide' Claim*, 21 February 2018

¹⁴ 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; Article 63 of the Law on the Protection of the Rights and Interests of the Children stipulates that the arrest of a child should be only carried out "as a measure of last resort"; Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure – Laos*, 10 April 2017, UN Doc. CCPR/C/LAO/1, Para. 80

¹⁵ Vientiane Times, *NA members remain in favour of death penalty*, 18 May 2017

Article 14 (Right to a fair trial)

Flawed trials amid denial of legal assistance

Despite the challenge of documenting criminal proceedings in the Lao PDR, the prosecution of Lao activists Somphone Phimmasone, Soukan Chaithad, and Lodkham Thammavong [see below, *Article 21*] exemplifies some of the violations that are likely to be commonplace for criminal trials in the country. The three activists were not given access to lawyer at any time throughout their detention, prosecution, and trial. In late May 2016, the three activists were shown on state-run TV, flanked by a row of four uniformed police. During the broadcast, all three defendants confessed to wrongdoing and expressed regret for their actions. This is a blatant violation of the defendants' right to be presumed innocent until proven guilty, guaranteed by Article 14(2) of the ICCPR.¹⁶ In its opinion adopted on 25 August 2017, the UN Working Group on Arbitrary Detention (WGAD) declared the detention of Somphone, Soukan, and Lodkham arbitrary because their right to a fair trial, protected by Articles 9(3) and 14(3)(c) of the ICCPR, had been violated. The WGAD also raised the issues of the incommunicado detention of Somphone, Soukan, and Lodkham during their lengthy pre-trial detention and the lack of legal representation or legal assistance provided to them at any stage.¹⁷

According to a testimony collected by LMHR from a former prisoner in Vientiane's Phonethanh Prison, some inmates languished behind bars for as long as 18 years without being granted access to a lawyer or being tried.

In July 2015, a report by a National Assembly committee found that detentions without charges occurred, and that some of these detentions were for periods longer than allowed by the Criminal Procedure Code.¹⁸ A National Assembly member from Huaphanh Province reported that more than 70 people in her province had been in prison for longer than one year without being charged.¹⁹

Recommendations

- Ensure all individuals deprived of their liberty are informed of the charges against them and are granted access to legal assistance from the moment of their arrest.
- Cease the practice of holding suspects in pre-trial detention for long periods and ensure that defendants in criminal proceedings are tried without undue delay.

¹⁶ Human Rights Committee, 90th session, *General Comment No. 32 - Article 14: Right to equality before courts and tribunals and to a fair trial*, 23 August 2007, UN Doc. CCPR/C/GC/32, Para. 30

¹⁷ 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

¹⁸ Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

¹⁹ Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

Article 18 (Freedom of religion or belief)

Christian minorities persecuted

The Prime Minister's Decree on the Management and Protection of Religious Activities (Decree 315), issued in August 2016, contains numerous provisions that ensure government control of, and interference in, religious activities. The stated purpose of Decree 315, which replaced the Decree on Religious Practice (Decree 92), details the overarching control that the government exercises over nearly all aspects of religious practice, including the holding of religious services, the construction of buildings, the training of religious leaders, cooperation with foreign countries and international organizations, and the importation and printing of religious documents.²⁰ In addition, Decree 315 also warns against religious organizations and individuals from disturbing "social order" or disrupting "national harmony."²¹ Many of these restrictions are contrary to Article 18 of the ICCPR.²²

In a clear violation of Article 18 of the ICCPR, authorities have regularly repressed and discriminated against Christians, especially Protestants. Since early 2014, authorities in remote areas of the country have further cracked down on Christian minorities, who have been arbitrarily arrested, intimidated, or chased from their villages for practicing their faith. Christians also face repression on the basis of their ethnicity as they often belong to ethnic minorities.

On 24 June 2014, authorities in Saisomboon Village, Savannakhet Province, detained five villagers who organized a Christian funeral for a member of their family.²³

In February 2015, five Christian men in Savannakhet Province were arrested after visiting a local terminally ill woman who had converted to Christianity and asked for prayers for healing. The woman eventually died and a court in Savannakhet found the five guilty of "abuse of the medical profession" and sentenced them to nine months in prison and a hefty fine.²⁴

In July and August 2015, authorities repeatedly harassed a group of about 50 Christians in the villages of Nhang and Don Keo, Nakai District, Khammouane Province, seizing Bibles and barring them from holding religious ceremonies.²⁵

In early September 2015, local authorities detained four Christian villagers in Nakai District, Khammouane Province, and threatened to put them in jail unless they signed a document recanting their beliefs.²⁶

²⁰ US Department of State, *International Religious Freedom Report for 2017*, May 2018

²¹ US Commission on International Religious Freedom, *Annual Report 2017*, April 2017

²² Human Rights Committee, *General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, 30 July 1993, UN Doc. CCPR/C/21/Rev.1/Add.4, Para. 4

²³ UCANews, *Pastors detained in Laos over Christian funeral service*, 27 June 2014

²⁴ AsiaNews, *Arrested for praying, Laotian Christian dies in prison for lack of treatment*, 21 September 2015; Christian Post, *Christian Jailed for Praying Dies After Laos Authorities Deny Him Medication, Watch Him Suffer*, 22 September 2015

²⁵ RFA, *Lao Authorities Threaten to Jail Christians For Practicing Their Religion*, 10 September 2015

²⁶ RFA, *Lao Authorities Threaten to Jail Christians For Practicing Their Religion*, 10 September 2015

On 8 September 2015, authorities arrested two Christian adherents in Nong-hang Village, Nakai District, Khammouane Province, and charged them with ‘spreading the Christian religion.’²⁷

In the second half of December 2017, 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.²⁸ It is believed the five were released after paying a fine. Nineteen others were also fined for their involvement in the celebrations.²⁹

In late December 2017, 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.³⁰

Recommendations

- Ensure the right to freedom of religion or belief is respected.
- End all acts of harassment as well as the arrest, detention, and imprisonment of individuals for their exercise of their religious beliefs.
- Significantly amend Decree 315 in order to bring it into line with the provisions of Article 18 of the ICCPR.

Article 19 (Right to freedom of opinion and expression)

Freedom of expression severely repressed, criminalized

The state tightly controls nearly all media in the Lao PDR, including TV, radio, and printed publications. Legal sanctions and the screening by government officials of content published by privately owned periodicals have resulted in systematic self-censorship by news outlets to avoid fines.

Under Decree 377, issued on 24 November 2015 and entering into force on 14 January 2016, all foreign media that seek to set up offices in the Lao PDR must obtain approval from the government. Article 14 of Decree 377 requires all foreign news agencies and reporters who wish to operate in the Lao PDR to submit all news stories to the Ministry of Foreign Affairs for review and approval prior to publication.³¹

In January 2012, the Ministry of Information, Culture and Tourism took off the air a popular radio program, *Talk of the News* (‘Wao Kao’), without explanation. The show had focused on a range of topics, including social justice, land grabs, and corruption.³² Fearing for his own safety after the disappearance of Sombath Somphone in December 2012 [see above, *Article 9*, and below, *Article 22*], the program’s host, Ounkeo Souksavanh, fled the Lao PDR.³³

²⁷ RFA, *Lao Authorities Threaten to Jail Christians For Practicing Their Religion*, 10 September 2015

²⁸ RFA, *Lao Christians Detained For ‘Breaking Rules’ on Christmas Celebration*, 22 December 2017

²⁹ Release International, *Thank God for the release of Lao Christians!*, 16 February 2018

³⁰ Release International, *Thank God for the release of Lao Christians!*, 16 February 2018

³¹ Decree On the Press Activities of Foreign Mass Media Agencies, Foreign Diplomatic Missions, and International Organizations in the Lao PDR, No. 377/GOV, 24 November 2015, available at: <http://laoservicesportal.gov.la/index.php?r=site%2Fdisplaylegal&id=93>

³² Asia Times Online, *Off the air in Laos*, 22 February 2012

³³ Economist, *Radio silence*, 23 July 2016

Numerous laws in the Lao PDR curtail the right to freedom of expression. Article 23 of the Constitution stipulates that all “cultural and mass media activities” contrary to “national interests” or “traditional culture and dignity” are prohibited. The existence of repressive laws and their strict enforcement by the authorities curtail the right to freedom of expression in the Lao PDR. The excessively broad and vaguely worded provisions of laws that restrict the right to freedom of opinion and expression are contrary to Article 19 of the ICCPR.

Article 65 of the Criminal Code (‘Propaganda against the Lao People’s Democratic Republic’) prohibits “slandering the Lao People’s Democratic Republic, or distorting the guidelines of the party and policies of the government, or circulating false rumors causing disorder” detrimental to, or for the purpose of weakening the state. Violators face one to five years’ imprisonment and a fine ranging from 500,000 kip (US\$62) to 10 million kip (US\$1,234).

In 2014, the government adopted legislation aimed at targeting online freedom of opinion and expression. Under Decree 327, adopted on 16 September 2014 and enacted on 10 October 2014, web users face criminal action for “disseminating or circulating untrue information for negative purposes against the Lao People’s Revolutionary Party and the Lao government, undermining peace, independence, sovereignty, unity and prosperity of the country,” as well as content that is deemed to “divide the solidarity among ethnic groups.”³⁴

Authorities have systematically cracked down on peaceful dissent, in the rare instances in which people have dared to publicly express their 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 its opinion adopted on 25 August 2017, the WGAD declared their detention arbitrary because it was intended to restrict the legitimate exercise of their right to freedom of opinion and expression, guaranteed by Article 19 of the ICCPR.³⁵ Somphone and Lodkham are currently detained in Vientiane’s Phonethong Prison. Soukan is incarcerated in Savannakhet Provincial Prison. Somphone, Soukan, and Lodkham were arrested in early 2016 as a result of their repeated criticism of the Lao PDR 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.³⁶ 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 [see also below, *Article 21*].

³⁴ Vientiane Times, *Internet abusers to face punitive measures*, 22 September 2014

³⁵ 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

³⁶ RFA, *Lao Police Publicly Confirm Arrest of Trio of Workers For Criticizing State*, 27 May 2016

On 18 September 2015, a court in Vientiane sentenced pro-democracy activist Bounthanh Thammavong, a Lao PDR-born Polish citizen, to four years and nine months in prison.³⁷ Bounthanh was arrested in June 2015 on charges of “disseminating propaganda against the government with the intention of undermining the state” under Article 65 of the Criminal Code in connection with a Facebook post that allegedly “criticized the guidelines and policies of the party and government.” He remains incarcerated in Vientiane’s Phonetong Prison.

On 21 May 2015, police in Phieng District, Xayaburi Province detained Phout Mitane without an arrest warrant. Police accused the 26-year-old local woman of posting photos on Facebook allegedly showing police officers extorting money from her brother over a traffic violation.³⁸ Phout was released on 4 August 2015 and fined one million kip (US\$123) after a police investigation found that despite taking the photos, she did not post them on Facebook.³⁹

On 25 June 2015, authorities in Luang Prabang Province detained Chanthaphone, a civil servant from the provincial Natural Resources and Environment Department for a month for posting a “confidential document” on Facebook.⁴⁰ The document contained information about provincial authorities granting a land concession to Chinese investors to develop the area around the Kouangxi waterfalls in Luang Prabang Province.⁴¹

Authorities have also taken action against foreigners for the exercise of their right to freedom of opinion and expression. In the most high-profile case, on 7 December 2012, the government gave Anne-Sophie Gindroz, the Director of Swiss NGO Helvetas, 48 hours to leave the country.⁴² The government charged her with violating legislation on foreign aid workers for writing a private letter to donors to express her concern over the shrinking democratic space and the erosion of the rule of law in the Lao PDR.⁴³

Recommendations

- Repeal or drastically amend Article 65 of the Criminal Code and all other vague provisions that are inconsistent with Article 19 of the ICCPR.
- End the arbitrary arrest of all individuals who peacefully criticize the government and exercise their right to freedom of opinion and expression.
- Immediately and unconditionally release all government critics and all other individuals who may have been detained for the exercise of their right to freedom of opinion and expression.
- Stop the harassment and arrest of individuals who speak out about shortcomings related to the negative impacts of infrastructure and investment projects or expose instances of corruption.

³⁷ 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

³⁸ RFA, *Lao Woman Detained After Posting Police Extortion Photos to Facebook*, 28 May 2015

³⁹ RFA, *Lao Authorities Free Woman Detained For Alleged Extortion Photos*, 12 August 2015

⁴⁰ RFA, *Laos Frees Woman Detained For Publishing Concession Document Online*, 6 August 2015

⁴¹ RFA, *Laos Frees Woman Detained For Publishing Concession Document Online*, 6 August 2015

⁴² IFEX, *Swiss NGO director expelled from Laos for criticising government*, 11 December 2012

⁴³ IFEX, *Swiss NGO director expelled from Laos for criticising government*, 11 December 2012

- Allow the establishment of independent news organizations and create the conditions conducive to a pluralist media environment.
- Lift all restrictions placed on the presence and operations of foreign news organizations and journalists in the Lao PDR.

Article 21 (Right to freedom of peaceful assembly)

Freedom of peaceful assembly restricted

The Lao PDR severely restricts the right to peaceful assembly in violation of Article 21 of the ICCPR. Article 72 of the Criminal Code (“Gatherings aimed at causing social disorder”) criminalizes the “*organizing or participating in the gathering of groups of persons to conduct protest marches, demonstrations and others with the intention of causing social disorder.*” Violators face one to five years’ imprisonment and a fine ranging from 200,000 kip (US\$25) to 50 million kip (US\$6,170). Any attempt to organize or participate in such a gathering is also punishable.

The government has inexorably arrested and subjected to enforced disappearance or lengthy incarceration the few individuals who have sought to exercise their right to peaceful assembly.

In October 1999, Thongpaseuth Keuakoun, Sengaloun Phengphanh, Bouavanh Chanhmanivong, Khamphouvieng Sisa-at, and Keochay, five student leaders with the Lao Students Movement for Democracy (LSMD), were arrested in Vientiane for planning peaceful demonstrations that called for democracy, social justice, and respect for human rights. All five were subsequently sentenced to 20 years in prison on charges of treason. Thongpaseuth and Sengaloun were incarcerated for more than 16 years and released on 26 January 2016. Khamphouvieng died in Samkhe Prison in September 2001 [see above, *Article 10*]. In 2006, the government stated that Keochay had been released in 2002 upon completion of his prison term and “transferred to guardians to further educate him to become a good citizen.” However, Keochay’s family was never informed of his alleged release, and his fate or whereabouts remain unknown. The fate and whereabouts of Bouavanh also remain unknown.

In November 2009, security forces detained nine people (two women, Kingkeo and Somchit, and seven men, Soubinh, Souane, Sinpasong, Khamstone, Nou, Somkhith, and Sourigna) in various locations across the country for planning peaceful pro-democracy demonstrations. To date, their fate and whereabouts remain unknown [see also above, *Article 9*].

Lao PDR authorities have even gone so far as to prosecute Lao citizens who have participated in peaceful demonstrations abroad. In late March 2017, the Vientiane People’s Court sentenced activists Somphone Phimmasone, Soukan Chaithad, and Lodkham Thammavong to 20, 16, and 12 years’ imprisonment under various charges, including under Article 72. These charges stemmed from their participation in a peaceful demonstration against the Lao PDR government in front of the Lao PDR embassy in Bangkok on 2 December 2015.

Recommendations

- Repeal Article 72 of the Criminal Code and replace it with legislation that regulates the right to freedom of peaceful assembly in accordance with Article 21 of the ICCPR and other relevant international standards.
- Refrain from arresting, detaining, and prosecuting individuals for the exercise of their right to freedom of peaceful assembly.
- Immediately and unconditionally release Somphone Phimmasone, Soukan Chaithad, and Lodkham Thammavong and all individuals who may have been detained for the peaceful exercise of their right to freedom of peaceful assembly.

**Article 22 (Right to freedom of association)
Space for civil society virtually non-existent**

The space for civil society to conduct activities related to most human rights issues remains non-existent in the Lao PDR. The government has enacted various pieces of legislation that have imposed severe restrictions on the right to freedom of association. These restrictions are inconsistent with the provisions of Article 22 of the ICCPR.

Under Decree 115, which was enacted in November 2009, the government allowed the formation of non-profit local civil society organizations, also known as Non-Profit Associations (NPAs) at the district, provincial, or national level. However, Decree 115 only allowed the existence of economic, social welfare, professional, technical, and creative associations. According to the government’s report to the CCPR, none of the 147 NPAs that were registered in the Lao PDR as of 2016 and for which information was available engaged in human rights work, political activism, or advocacy.⁴⁴

In addition, the registration process for NPAs was extremely cumbersome and slow. On 16 November 2017, following the conclusion of her official mission to the Lao PDR, the UN Special Rapporteur on the sale and sexual exploitation of children said that civil society actors and organizations were operating in an “environment of lengthy, uncertain and restrictive procedures.”⁴⁵ On 23 November 2017, the Lao PDR’s European Development Partners (the EU, EU Member States, and Switzerland) revealed that “almost no NPAs” had registered since 2012.⁴⁶ The government also used its influence to manipulate and control the membership of civil society organizations and forced some organizations to change their names to remove certain words, such as “rights.”

On 15 November 2017, a new Decree on Associations (Decree 238) came into effect and replaced Decree 115. Decree 238 imposed further restrictions and controls on the activities of all domestic NPAs. Decree 238 was drafted and adopted into law without any genuine input from civil society.⁴⁷ Under the new decree, only NPAs whose registration has been

⁴⁴ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure – Laos*, 10 April 2017, UN Doc. CCPR/C/LAO/1, Para. 136

⁴⁵ OHCHR, *End of mission statement of the UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, on her visit to Lao People’s Democratic Republic (8-16 November 2017)*, 16 November 2017

⁴⁶ EEAS, *European Development Partners’ Statement at the Lao PDR’s 2017 Round Table Implementation Meeting - Vientiane*, 23 November 2017

⁴⁷ FIDH, *Interview with foreign aid worker in Laos*, December 2017

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.⁴⁸ Reports have already emerged of associations expressing their concern over the restrictive regulations and cumbersome registration procedures imposed on NPAs under the new decree.⁴⁹ Civil society representatives have said the new decree would force many associations to shut down.⁵⁰

Amid the existing oppressive environment, the enforced disappearance of prominent civil society leader Sombath Somphone in December 2012 [see also above, *Article 9*], created a climate of palpable fear that has since gripped Lao civil society. Many activists and human rights defenders saw the enforced disappearance of Sombath as a threatening message that the authorities wanted to send to those who wished to raise issues concerning the impact of unchecked development and investment projects on human rights. Shortly before his disappearance, Sombath had played a key role in organizing the Asia-Europe People’s Forum (AEPF), a civil society gathering that was held in October 2012, ahead of the official Asia-Europe Summit Meeting. At the forum, discussions on land and water issues and poorly regulated investment projects that threatened people’s livelihoods were openly discussed for the first time in the Lao PDR.

The government has also successfully isolated Lao civil society from its regional counterparts. In October 2015, it was reported that the government had decided not to host the 2016 ASEAN Peoples’ Forum/ASEAN Civil Society Conference (APF/ACSC).⁵¹ The event is a gathering of members of civil society from across Southeast Asia, held just before the annual ASEAN Summit. Chair of the pro-government Lao CSO Committee Maydom Chanthanasinh related that among the reasons for the cancellation of APF/ACSC were that “foreigners” would use the event to criticize ASEAN governments and that the government could not guarantee the safety of “extremist” activists whom he claimed had planned to attend the meeting.⁵² This was the first time the APF/ACSC was not held in the country holding the ASEAN chairman since its inception in 2005. In mid-April 2015, information surfaced that the government had pressured Lao civil society organizations to omit key concerns, such as land rights, the impact of hydropower dams, and enforced disappearances from the list of human rights issues that could have been discussed during APF/ACSC.⁵³

Recommendations

- Drastically amend the Decree on Associations (Decree 238) to bring it into line with Article 22 of the ICCPR.

⁴⁸ FIDH, *New Decree on Associations is the last nail in the coffin for civil society*, 21 November 2017

⁴⁹ RFA, *Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law*, 24 January 2018

⁵⁰ RFA, *Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law*, 24 January 2018

⁵¹ RFA, *Laos Refuses to Host Meeting of ASEAN Civil Society Groups*, 12 October 2015

⁵² RFA, *Laos Refuses to Host Meeting of ASEAN Civil Society Groups*, 12 October 2015

⁵³ RFA, *Lao Civil Society Pressured to Drop Rights Issues From ASEAN Forum*, 22 April 2015

- Respect and protect the rights of all human rights defenders, activists, and members of civil society and cease all threats, intimidation, and other acts of harassment against them.

Article 25 (Participation in public affairs and the right to vote)

Elections not “genuine” in the one-party state

On 20 March 2016, the Lao PDR held its sixth legislative election since the establishment of the National Assembly in 1991. The polls elected 149 members to the National Assembly for a five-year term. Despite an official turnout of 97.9%, as with the past legislative elections, the polls failed to meet most of the benchmarks that define a competitive, free, fair, inclusive, and participatory electoral process. This is clearly inconsistent with the Lao PDR’s obligations under Article 25 of the ICCPR to hold “genuine elections” that guarantee the “free expression of the will of the electors.”

The Lao PDR’s oppressive legal framework prevents the development of a multi-party political system because it allows only one party, the Lao People’s Revolutionary Party (LPRP), to legally exist and operate. According to Article 13 of the Law on National and Provincial Elections, all candidates must be selected, approved, and proposed by the LPRP or a state-sponsored mass organization. The LPRP tightly controls nearly every aspect of the electoral process through the National Election Committee (NEC). Members of the NEC are appointed by the President from a list of nominees submitted by the National Assembly. Ahead of the March 2016 election, the 17-member body was headed by the country’s former Vice-President and new President-designate Bounnhang Vorachit. All NEC members were LPRP members. Fourteen of them were members of the LPRP’s Central Committee.

Recommendations

- Take measures to ensure competitive general elections that allow the registration and participation of other political parties and independent candidates.
- Establish an independent body tasked with the management of all electoral processes.
- Lift all restrictions on the rights to freedom of expression, peaceful assembly, and association that are incompatible with the provisions of the ICCPR and that pose an obstacle to the creation of conditions that are conducive to holding genuine elections in accordance with Article 25 of the ICCPR.

Article 27 (Rights of persons belonging to minorities)

Rights of ethnic minorities denied

Land rights have become a key issue of concern for a number of ethnic minority communities. The ongoing awarding of long-term concessions to domestic and foreign investors, predominantly in the mining and commercial agriculture sectors, has resulted in widespread land confiscation and forced relocation without adequate compensation. The building of large infrastructure projects has also negatively impacted ethnic minority communities. These infrastructure and investment projects have been regularly designed and implemented without adequate consultation with affected communities. Whole communities have been forced from their land, which has had a detrimental impact on their livelihoods, as well as their way of life and cultural expression, in contravention of Article 27

of the ICCPR. The government has also targeted human rights defenders who worked with communities affected by land concessions and have advocated for a more sustainable and all-inclusive form of socio-economic development.

In many cases, investors used their concessions as an opportunity to exploit natural resources in the surrounding area to generate higher profits than its approved activities. For example, investors have regularly used agricultural concessions as a cover to illegally log in forest conservation areas. This has resulted in environmental degradation and communities losing the ability to gather medicinal herbs and other plants that both sustain them and supplement their income. Ethnic minority groups who mostly live in resource-rich areas targeted by land concessions have been disproportionately affected by this exploitation of natural resources.

The construction of the Hongsa lignite-fired power plant in Hongsa District, Xayaburi Province, is a case study that illustrates how large-scale investment projects stemming from land concessions can have a negative impact of the rights of ethnic minorities. The project, launched in 2010 and which became operational in 2015, comprises a large open-pit lignite mine that supplies fuel for the Hongsa power plant. The plant is designed to generate 1.878 MW of electricity, most of which is sold to Thailand. The project, developed by the Thai-Lao joint venture Hongsa Power Company (HPC), resulted in the relocation of more than 2,000 villagers from 450 families and the confiscation of roughly 6,000 hectares of rice paddy fields. Many of the relocated villagers are from ethnic minority groups – such as Lue, Khmu, Prai, Hmong, and Mian – whose livelihoods are tied to the land and natural resources, including rice fields and forest products. There was no genuine consultation process conducted prior to the implementation of the project. The authorities and HPC representatives failed to inform local residents about the impacts of mining and lignite-fired power plants. Local residents were unaware of the long-term impacts the plant would have on the environment – such as air pollution, and the potentially harmful effects on their health, as well as the destruction of forested areas. Residents received only positive information from representatives of HPC. Villagers who complained to district authorities were threatened with arrest because they were perceived to be opposed to the project. In early June 2014, local farmers complained about the progressive reduction of land for rice cultivation as a result of the project. Farmers said that out of the 60 hectares available before the project started, only six hectares remained in 2014.

Recommendations

- Reform the current system for the approval and management of all land leases and concessions with a view to increasing transparency and accountability.
- Create an agency responsible for resolving land-related grievances in a swift, competent, independent, impartial, and effective way. This entity must be empowered to enforce the implementation of relevant laws and regulations.
- Review laws related to the management of land, forest, and water resources through a time-bound, transparent, inclusive, and participatory process.