



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

United Nations Human Rights Committee (CCPR) - 121st session

Joint submission for the adoption of the List of Issues

LAO PDR

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, three years later, the process is still underway with no tangible results achieved to date.¹ Numerous decrees and articles of the Criminal Code restrict the rights to freedom of religion and belief, freedom of expression, and freedom of peaceful assembly and are inconsistent with the Lao PDR's obligations under Articles 18, 19, and 21 of the International Covenant on Civil and Political Rights (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.

Questions

- Explain why human rights violations committed by state actors have not been investigated.
- Outline the steps that have been taken towards the establishment of a National Human Rights Commission.

Article 6 (Right to life)

Death sentences for non-serious crimes still imposed

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,² the government has made no tangible progress to

¹ Lao News Agency, *Amendments Made to Draft Law on Criminal Code*, 17 May 2017

² 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.

this end. The Criminal Code still prescribes the death penalty for a range of offenses, including drug trafficking and possession, that do not meet the threshold of the ‘most serious crimes’.³

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.⁴ Up-to-date information on the death penalty, including statistics, is difficult to obtain in the Lao PDR.

Questions

- Provide disaggregated statistics on: 1) the number of persons sentenced to death each year; 2) the number of persons currently under sentence of death; 3) the number of death sentences reversed or commuted on appeal; 4) the number of instances in which death sentences have been commuted as a result of an amnesty; and 5) the number of instances in which clemency has been granted.
- Outline the steps the government has taken towards the abolition of the death penalty and the reduction of crimes punishable by death, particularly drug-related offenses.
- Clarify whether the Lao PDR has an official moratorium on executions.

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.

Questions

- Explain if and when the Lao PDR intends to incorporate the definition of torture into its domestic legislation.
- Provide statistics on prosecutions of prison officials for violations of Article 171 of the Criminal Code (‘Physical violence and torture of suspects or prisoners’).

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

³ Article 146 of the Criminal Code

⁴ Vientiane Times, *EU campaigns to end capital punishment*, 9 October 2015

Article 9 (Liberty and security of person)

Government critics held incommunicado, enforced disappearances unaddressed

Lao authorities continue to arbitrarily arrest and detain government critics and charge them under provisions of the Criminal Code. In many cases, little or no information is provided to those arrested on the reason for the deprivation of their liberty or the charges they face. Lao activists have been detained incommunicado without access to legal assistance, and held in prolonged pre-trial detention. This amounts to a clear violation of Article 9 of the ICCPR [see also below, *Article 14*].

The government has continued to refuse to adequately and effectively address the issue of enforced disappearance in the country. To this day, the fate and whereabouts of at least 13 activists remain unknown. 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.

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.

Questions

- Explain the steps taken by the government to investigate the enforced disappearance of Sombath Somphone and provide updated information on the investigation.
- Provide updated information on the 12 other cases of victims of enforced disappearance: Bouavanh Chanhmanivon and Keochay, two student leaders who were arrested in October 1999 for organizing a peaceful pro-democracy protest in Vientiane; nine people (two women, Kingkeo and Somchit, and seven men, Soubinh, Souane, Sinpasong, Khamson, Nou, Somkhith, and Sourigna) who were detained by security forces in November 2009 in various locations across the country for planning peaceful pro-democracy demonstrations; and Somphone Khantisouk, a critic of Chinese-sponsored agricultural projects in Luang Namtha Province, who disappeared in January 2007 after uniformed men abducted him.

Article 10 (Humane treatment of persons deprived of their liberty)

Prison conditions below international standards

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, anecdotal information received by LMHR points to a situation in which prison conditions are well below international standards and violate Article 10 of the ICCPR.

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 on 26 October 1999, 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. A third student leader, Khamphouvieng Sisa-at, died in Samkhe Prison in September 2001 as a result of food deprivation, prolonged heat exposure, and lack of adequate medical care.

Questions:

- Provide up-to-date information and statistics on: 1) the total prison population (disaggregated by sex, age, prison 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.
- Explain what steps the government has taken to allow external, independent monitoring of prison conditions.
- Provide statistics on disciplinary action, criminal prosecutions, and other measures taken against prison officials for violations of prisoners' rights.
- Provide information concerning the death of Khamphouvieng Sisa-at and the steps taken to provide compensation to his family.

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 recent trial of three Lao activists [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.⁵

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.

⁵ 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

In July 2015, a report by a Lao PDR 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.⁶ 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.⁷

Questions

- Provide statistics on cases in which free legal aid was granted in accordance with the Law on Lawyers.
- Provide statistics on cases in which compensation was awarded to defendants as a result of flawed judicial proceedings.

Article 18 (Freedom of religion or belief) Christian minorities persecuted

The Prime Minister's 2002 Decree on Religious Practice (Decree 92) contains numerous mechanisms for government control of, and interference in, religious activities. Decree 92 regulates up to the smallest details of control that the government exercises over religious organizations, including the construction of buildings, the training of religious leaders, relations with foreign organizations, donations received from abroad, and the printing of religious documents. Many of these restrictions are contrary to Article 18 of the ICCPR.⁸

In a clear violation of Article 18 of the ICCPR, authorities have regularly repressed and discriminated against Christians, mainly 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 ethnicity because in many cases they belong to ethnic minorities.

Question

- Explain how restrictions and persecution by the authorities against members of religious minorities, particularly Christians, comply with Article 18 of the ICCPR.

Article 19 (Right to freedom of opinion and expression) Freedom of expression severely repressed, criminalized

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.

⁶ Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

⁷ Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

⁸ 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

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.*"⁹

The state tightly controls nearly all media in the Lao PDR, including TV, radio, and printed publications. Under a Prime Ministerial decree issued on 24 November 2015, which came into force on 14 January 2016, foreign media that seek to set up offices in the Lao PDR must obtain approval from the government. Foreign reporters who are not based in the country and wish to file a story on the Lao PDR are required to apply for permission from the Ministry of Foreign Affairs at least 15 working days in advance.

In the rare instances where people have tried to express their opinions, authorities have cracked down on the public expression of government criticism. Since 2015, authorities have arbitrarily arrested and imprisoned at least six individuals who have used the internet to criticize the government or expose instances of corruption.

Questions

- Explain how legal restrictions on the right to freedom of opinion and expression comply with Article 19 of the ICCPR.
- Justify the restrictions placed on the presence and operations of foreign news organizations and journalists in light of the Lao PDR's obligations under Article 19 of the ICCPR.
- Provide detailed information on cases of individuals who have been arrested for the publication of online content.

Article 21 (Right to freedom of peaceful assembly)

Freedom of assembly restricted

The Lao PDR 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.

⁹ Vientiane Times, *Internet abusers to face punitive measures*, 22 September 2014

Lao 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 Phimmason, 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.

Questions

- Explain how Article 72 of the Criminal Code complies with Article 21 of the ICCPR.
- Provide statistics related to the number of peaceful assemblies held in the Lao PDR without the backing of the government or the Lao People’s Revolutionary Party.

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

The space for civil society to conduct human rights activities remains non-existent in the Lao PDR, in breach of Article 22 of the ICCPR. Political groups other than the Lao People’s Revolutionary Party-backed organizations are banned. The government has routinely used its influence to manipulate the membership of civil society organizations’ boards and has forced some organizations to change their names to remove certain words, such as “rights.”

Under a decree that went into effect in November 2009, the government allows the registration of non-profit civil society organizations, including economic, social welfare, professional, technical, and creative associations, at the district, provincial, or national level. However, the registration process is extremely cumbersome and slow.

Amendments to the November 2009 Decree, proposed by the government in 2014, could impose further restrictions on activities of local non-profit associations (NPAs), if enacted.¹⁰ The proposed amendments limit the scope of NPAs’ activities to the fields of agriculture, education, public health, sport, science, and humanitarian benefits.¹¹ As a result, NPAs would be barred from carrying out any human rights-related activities. In addition, a decree outlining new guidelines for international non-governmental organizations (INGOs), proposed by the Ministry of Foreign Affairs in June 2014, would impose burdensome and lengthy approval requirements for INGOs’ operations and considerably limit their ability to operate independently from the government.¹²

Questions

- Provide an update on the status of the proposed amendments to the November 2009 Decree on NPAs and the proposed new guidelines for INGOs.
- Explain the necessity of the restrictions placed on NPAs and INGOs’ ability to operate in light of the Lao PDR’s obligations under Article 22 of the ICCPR.

¹⁰ RFA, *UNDP Wants NGOs to be Closely Involved in Laos Policy Debate*, 17 November 2014; RFA, *Call For Laos to Consult NGOs on ‘Restrictive’ Guidelines*, 8 December 2014

¹¹ RFA, *NGOs Say Proposed Guidelines Would Hamstring Lao Civil Society*, 2 October 2014

¹² RFA, *NGOs Say Proposed Guidelines Would Hamstring Lao Civil Society*, 2 October 2014

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

Elections not “genuine”

On 20 March 2016, the Lao PDR held its sixth legislative election since the establishment of the National Assembly in 1991. 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 allows only one party to legally exist and prevents the development of a multi-party political system. All candidates must be approved by the ruling Lao People’s Revolutionary Party (LPRP). The LPRP tightly controls every aspect of the electoral process through the National Election Committee. 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.

Question

- Elaborate on the measures taken to promote a multi-party political system and the right of individuals to stand for election without the approval of the LPRP.

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 hydropower dams 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 negatively affected the livelihood of its residents, including their way of life and cultural expression in contravention of Article 27 of the ICCPR.

In addition, the government’s persecution of the Hmong ethnic minority group has led thousands to flee into the jungle in the Lao PDR’s northern Saysomboun region. Since 2005, several Hmong men who left the jungle and surrendered themselves to the authorities have been detained or subjected to enforced disappearance.

Questions

- Outline the measures that have been taken to ensure adequate consultation with affected local communities prior to the commencement of infrastructure and investment projects.
- Provide details concerning allegations of detention and enforced disappearance of members of the Hmong ethnic minority.