



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

**Joint submission to the UN Special Rapporteur on extreme poverty and human rights**

The Lao PDR government's emphasis on the adoption of poverty reduction policies has been constantly contradicted by its failure to ensure that people living in poverty can participate in a free, active, and meaningful manner in key decision-making processes that affect their lives. This failure has been perpetuated through serious violation of human rights guaranteed by international instruments to which the Lao PDR is a state party, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These violations have disproportionately affected those living in poverty and completely excluded them from participating in political processes and from seeking redress for human rights violations.

**1. Right to participate in the conduct of public affairs severely restricted**

In Lao PDR, severe obstacles and restrictions exist to its citizens' rights to participate in the conduct of public affairs and to vote and be elected in genuine elections.

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 selected, approved, and proposed by the ruling Lao People's Revolutionary Party (LPRP) or a state-sponsored mass organization. The LPRP tightly controls every aspect of the electoral process through the National Election Committee.

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.

**2. Curbs on the right to freedom of association impact civil society**

Restrictive legislation greatly limits the formation and operations of local civil society organizations, known as Non-Profit Associations (NPA) in the Lao PDR. On 15 November 2017, a new Decree on Associations (Decree 238) came into effect, replacing Decree 115 enacted in 2009. Decree 238 imposed additional 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.<sup>1</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 the power to approve the formation of associations; criminalizes unregistered associations; imposes strict

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<sup>1</sup> FIDH, *Interview with foreign aid worker in Laos*, December 2017

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>2</sup> Following its enactment, civil society representatives feared Decree 238 would force many associations to shut down.<sup>3</sup>

### **3. Right to due process and right to seek justice for human rights violations**

Individuals facing criminal charges are routinely denied the right to due process and the right to seek justice for violations of their human rights.

On 22 March 2017, more than 12 months after their respective dates of arrest, government critics Somphone Phimmasone, Soukan Chaithad, and Lodkham Thammavong were sentenced to 20, 16, and 12 years in prison respectively on trumped-up charges under Articles 56 (‘Treason to the nation’), 65 (‘Propaganda against the Lao PDR’) and 72 (‘Gatherings aimed at causing social disorder’) of the Criminal Code. The three were not given access to lawyer at any time throughout their detention, prosecution, and trial. Somphone, Soukan, and Lodkham were arrested in early (February and March) 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. The three had also been among a group of about 30 people who protested against their government in front of the Lao PDR embassy on 2 December 2015, in Bangkok.<sup>4</sup>

The prosecution of the three dissidents exemplifies some of the violations that are commonplace for criminal trials in the country. 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.<sup>5</sup> 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.<sup>6</sup> 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.

Another government critic, pro-democracy activist Bounthanh Thammavong, a Lao-born Polish citizen, remains incarcerated since his arrest in June 2015. He was arrested on charges under Article 65 of the Criminal Code (‘Propaganda against the Lao PDR’) 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>7</sup>

In many cases, authorities also harassed, threatened, and arbitrarily detained villagers and farmers who sought redress for the confiscation of their land without adequate

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<sup>2</sup> FIDH, *New Decree on Associations is the last nail in the coffin for civil society*, 21 November 2017

<sup>3</sup> RFA, *Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law*, 24 January 2018

<sup>4</sup> RFA, *Lao Police Publicly Confirm Arrest of Trio of Workers For Criticizing State*, 27 May 2016

<sup>5</sup> Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

<sup>6</sup> Vientiane Times, *NA comments on prosecutors, judges reports*, 10 July 2015

<sup>7</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

compensation. On 25 July 2017, after authorities repeatedly failed to address their grievances, 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.<sup>8</sup> Among the detained villagers were a boy and a girl, both aged 15.<sup>9</sup> Ten of the villagers remain detained without trial, more than 18 months after their arrest.<sup>10</sup> Some of the 14 villagers 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>11</sup>

#### **4. Repression of the right to freedom of expression limits people's participation**

The Lao PDR's tight control over the media, the lack of independent reporting in the country, and the existence and enforcement of draconian legislation that limits the right to freedom of opinion and expression represent serious violations of the freedom to seek and receive information – a key element of the people's right to participation.

Numerous provisions of the Lao PDR Criminal Code curtail the right to freedom of expression. In response to the rapid growth in internet and social media users in the early 2010s, the government adopted measures aimed at discouraging the free flow of information online. 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.”<sup>12</sup>

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 [For some examples, see above, 3. *Right to due process and right to seek justice for human rights violations*].

#### **5. Communities excluded from decision-making processes in infrastructure and investment projects**

A combination of the government's flawed policies and poor implementation of relevant legislation has resulted in the denial of the right of individuals and communities to participate in decision-making processes related to the design and implementation of infrastructure and investment projects. The denial of this right has been compounded by the lack of recourse for those who have been negatively affected by such projects.

Land rights remain one of the most pressing issues of concern for individuals and communities in Lao PDR.<sup>13</sup> The ongoing awarding of long-term land leases and concessions

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

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

<sup>10</sup> RFA, *Lao Protest Villager Freed, 10 Still Held*, 17 January 2019

<sup>11</sup> RFA, *Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province*, 27 September 2017

<sup>12</sup> Vientiane Times, *Internet abusers to face punitive measures*, 22 September 2014

<sup>13</sup> Vientiane Times, *Hotline helps government administration*, 23 February 2018

to domestic and foreign investors has resulted in widespread land confiscation without adequate compensation. Whole communities have been forced from their land, which has negatively affected the livelihoods of residents. The legal framework governing land leases and concessions contains numerous provisions that require potentially affected communities to be consulted prior to the implementation of a project.

Article 8 of Decree 112, enacted in 2010, guarantees to individuals and communities affected by investment projects the right to: 1) receive information on the investment project and the benefits and environmental/social impacts during village meetings organized by the local administration and the project developer; 2) receive information on the project's impact and prevention/mitigation measures; 3) participate in consultation meetings organized by the authorities and the project developer at village, district, and province level to share their opinions and give comments on the project; 4) participate in discussions on compensation, resettlement, and restoration of the living conditions for affected communities.

Despite these legislative provisions, there exists a wide enforcement gap that ignores the rule of law and facilitates corruption. In contravention of the legal framework, investment projects have usually been implemented without any adequate consultation and active participation by individuals and communities across the country. In cases where resettlement was promised, relocation sites tended to be inadequate both in terms of location and infrastructure. In the vast majority of cases, the land at the resettlement site was non-arable and far from a reliable source of water for irrigation. As a result, rural communities suffered a loss of livelihood and food insecurity.