

**LAO PEOPLE'S
DEMOCRATIC REPUBLIC**



LAO PEOPLE'S DEMOCRATIC REPUBLIC*

*Anonymous**

Part 1: Overview of Lao PDR

A. Country Background

Lao PDR Facts	
Geographical size	236,800 sq km
Population	6.76 million ¹
Ethnic breakdown ²	Main ethnic groups: Lao (53.2%) Khmou (11%) Hmong (9.2%) Phouthay (3.4%) Tai (3.1%)
Official language	Lao-Tai
Literacy rate (aged 15 and above)	79.9% ³
Life expectancy	66.6 ⁴
GDP	US\$15.81 billion (per capita US\$2,457) ⁵
Government ⁶	One party communist republic led by Lao People's Revolutionary Party (LPRP). President is head of state, general secretary of LPRP, and leader of the country. The elected National Assembly generally espouses the will of the party.
Political and social situation	As the main actor in development, the government has a monopoly on political power. Together with the politburo, it defines the country's economic orientation, strategies, and policies, with little input from civil society.

* Due to security concerns, the author prefers to remain anonymous.

¹ Data from 2016. 'Lao PDR' The World Bank, available at <https://data.worldbank.org/country/lao-pdr>, accessed on 25 July 2018.

² Data from 2015. 'Results of population and housing census 2015' Lao Population and Housing Census, available at <https://www.lsb.gov.la/pdf/PHC-ENG-FNAL-WEB.pdf>, accessed on 15 August 2018, at, 37.

³ Data from 2016. 'Human Development Report 2016' United Nations Development Programme (UNDP), available at http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf, accessed on 15 August 2018, at 232.

⁴ Data from 2016. UNDP (see note 3 above).

⁵ Data from 2016. The World Bank (see note 1 above).

⁶ 'Joint context analysis: Lao PDR' 9 October 2015, available at: <https://docplayer.net/31869338-Joint-context-analysis-lao-pdr.html>, accessed on 15 August 2018.

System of governance

According to the 2015 Constitution, the National Assembly (NA) is the highest organ of state power with control over fundamental issues such as law-making; thus, it has the ability to amend the Constitution itself, supervise, and oversee the activities of administrative and judicial bodies. Elected by Lao citizens, NA members, in turn, elect the President to five-year terms. The NA also has the procedural duty of appointing and dismissing the posts of Vice President, Prime Minister, Deputy Prime Minister, President of the People's Supreme Court (the highest court in the land), and President of the Office of the Public Prosecutor (OPP). The OPP exercises the right of public prosecution and ensures laws and regulations are implemented correctly and uniformly by all including ministries, government and social organizations, civil servants, and citizens.⁷ Political power is controlled by the Central Committee (an eleven-member politburo directing the country's affairs) while the government implements the directives of the party including its economic policies. As head of state, the President is commander-in-chief of the Lao People's Army and is also responsible for the stability of the national governmental system and the country's independent and territorial integrity. Local administration is divided into three levels: provinces, districts, and villages.

Political and social situation

As mentioned in a previous edition, Lao PDR is a one-party state with the LPRP as the only legal political party. Coming to power in 1975 as a Marxist-Leninist regime, it has maintained its hold on power ever since. Indeed, the 2015 Constitution defines the party as the “nucleus” of the political system.⁸ Although the Constitution outlines a formal separation of powers between the NA, administrative, and judicial bodies, in practice, such regulations are not enforced, and all remain subject to the ruling LPRP and its leader who can and does override constitutional provisions at will. For example, the State Inspection Organization (SIO) is supposed to act independently and play the role of government auditor by monitoring state budgets – in practice, again this organization is under the LPRP's control. Consequently, no body checks or acts as a counterpoint to the party; neither is there a constitutional court to judge the validity of NA pronouncements.⁹

In 2016, HE Thongloun Sisoulith was elected as the new Prime Minister and while his administration actively sought to address social issues, especially the impact of environmental destruction, human rights issues have not been taken into account and the government continues to restrict freedom of speech, association, and assembly.¹⁰

⁷ The Constitution of Lao PDR (No 63/NA), 8 December 2015, available at <http://www.na.gov.la/index.php?r=site/detailcontent&id=50&left=87>, accessed on 15 August 2018, at Art 86.

⁸ Constitution of Lao PDR 2015, Art 3.

⁹ Bertelsmann Stiftung, *BTI 2016: Laos Country Report*, Gütersloh: Bertelsmann Stiftung, 2016, available at https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Laos.pdf, accessed on 15 August 2018.

¹⁰ ‘Australia-Lao human rights dialogue’ Human Rights Watch, May 2017, available at https://www.hrw.org/sites/default/files/supporting_resources/australia_laos_human_rights_dialogue.pdf, accessed on 15 August 2018.

B. International Human Rights Commitments and Obligations

Lao PDR has been a member of the UN since 14 December 1955 and has ratified many of the core human rights instruments. It is now in the process of translating international human rights law into national laws, policies, and programmes.

Table 1: Ratification Status of International Instruments – Lao PDR¹¹

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Punishment (CAT)	21 Sep 2010	26 Sep 2012
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights (ICCPR)	7 Dec 2000	25 Sep 2009
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance (CED)	29 Sep 2008	
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	17 Jul 1980	14 Aug 1981
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		22 Feb 1974 (a)
International Covenant on Economic, Social and Cultural Rights (ICESCR)	7 Dec 2000	13 Feb 2007
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)		
Convention on the Rights of the Child (CRC)		8 May 1991 (a)
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		20 Sep 2006 (a)
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography		20 Sep 2006 (a)
Convention on the Rights of Persons with Disabilities (CRPD)	15 Jan 2008	25 Sep 2009

¹¹ 'Ratification status for Lao PDR' United Nations Human Rights Office of the High Commissioner, available at https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx, accessed on 15 August 2018.

As seen in Table 1 above, Lao PDR has ratified the majority of international human rights treaties. Thus, according to principles of international law, the state has an obligation to report to the United Nations any changes in its national laws, especially regarding human rights issues, and not to violate international laws. The Ministry of Foreign Affairs plays a key role in the preparation of these reports in collaboration and in coordination with line ministries, concerned organizations, and other stakeholders. By contrast, technical team reports are compiled by representatives from line ministries and mass organizations with little participation from civil society organizations.

To date, the government has been reviewed by only three conventions (CAT, ICCPR, and ICESCR) which all expressed concern that its domestic laws were not fully in line with treaty provisions. Further, the government has only invited the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography (1999) and the Special Rapporteur on Freedom of Religion (2010) to visit the country.¹²

As mentioned previously, Lao PDR's constitution only permits one political party, the purpose of which is to build a nation-state along communist principles. The state also controls the media and is especially protective of issues that could harm national security. As a result, human rights issues are strictly prevented from entering the public arena and investigations, either by insiders or outsiders, are discouraged. The following section will mainly discuss provisions in Lao PDR's national legislation that violate human rights.

C. National Laws Threatening Human Rights

Penal Code (2005)

Despite Art 34 (new) of the Constitution which stipulates that: “the state acknowledges, respects, protects and secures the human rights and basic rights of citizens according to the laws,” in practice, the government has failed to adequately protect human rights by, for example, retaining the death penalty in many sections of its penal code.¹³ Further, to date, no official report has been released revealing the number of cases subjected to the death penalty. However, according to its national report to the UN on the ICCPR, while the death penalty is provided for in the Penal Code for serious offences such as rape and brutal acts of murder, there is also a right of appeal and many sentences are eventually reduced to life imprisonment.¹⁴ Indeed, during a debate on a new draft of the Penal Code in 2017, many NA members spoke in favour of retaining the death penalty

¹² ‘Laos’ international human rights obligation and commitments’ Civil Rights Defenders, available at <https://www.sombath.org/wp-content/uploads/2016/08/2016-08-31-International-HR-Obligations-CRD.pdf>; accessed on 15 August 2018.

¹³ Penal Code 2005, ss.56, 57, 58, 60, 61, 62, 67, 68, 88, 101, 128(4), 134, and 146.

¹⁴ United Nations Human Rights Committee, ‘Initial reports of States parties due in 2010: Lao People’s Democratic Republic (CCPR/C/LAO/1)’ 27 April 2017, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsuzZlUkOYm4YH3ex106smajNen4I6qyF5Odr1%2BWCifMPXZrZk5yeWjqhOPBjpbrWpMmNtIL9TyrBu8BCc3FzkuDi3Na%2Fg64Z8MVHQ28apCSz>, accessed on 15 August 2018.

pointing to the serious harm caused to the state by such crimes as drug trafficking.¹⁵ However, although offenders may have the right to appeal, the process is unpredictable and prison conditions in Laos fail to meet international standards. In addition, the government does not release up-to-date information on its prison population.¹⁶

Moreover, the Penal Code also limits freedom of expression, especially criticism of the government. Article 65 states:

Any person conducting propaganda activities against and slandering the Lao People's Democratic Republic, or distorting the guidelines of the Party and policies of the government, or circulating false rumours causing disorder by words, in writing, through print, newspapers, motion pictures, videos, photographs, documents or other media which are detrimental to the Lao People's Democratic Republic or are for the purpose of undermining or weakening State authority shall be punished by one to five years of imprisonment and shall be fined from 500,000 Kip [US\$58] to 10,000,000 Kip [US\$1,171].

Similarly, Art 72 prohibits “any person [from] 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 fines ranging from 200,000 Kip [US\$23] to 50,000,000 Kip [US\$5,855]. Such draconian provisions led Human Rights Watch to urge the Australian government to focus on the right to free speech, association, and assembly during its human rights dialogue with Laos in 2017.¹⁷

Sexual orientation rights

Although homosexuality is legal in Lao PDR, current levels of acceptance towards the lesbian, gay, bisexual and transgender (LGBT) community are difficult to gauge. However, it is generally believed they are not fully accepted by society despite the lack of reports to the contrary. In addition, the government discourages or restricts people from organizing LGBT activities by withholding approval for such events¹⁸ leading to a lack of information about LGBT issues.

The group is also restricted by high levels of social stigma based on their physical appearance. As such, LGBT also face discrimination in the employment market¹⁹ even

¹⁵ Vientiane Times, ‘National Assembly remains in favour of death penalty’ J&C Services, 18 May 2017, available at <http://jclao.com/national-assembly-remains-in-favour-of-death-penalty/>, accessed on 23 August 2018.

¹⁶ ‘Lao Movement for Human Rights’ FIDH, available at https://www.fidh.org/IMG/pdf/fidh-lmhr_joint_shadow_report_ccpr_123__lao_pdr_june_2018.pdf, accessed on 15 August 2018.

¹⁷ Human Rights Watch (see note 10 above).

¹⁸ ‘Laos 2017 Human Rights Report’ US Department of State, available at <https://www.state.gov/documents/organization/277337.pdf>, accessed on 17 July 2018.

¹⁹ US Department of State (see note 18 above).

though Art 39 (new) of the Constitution insists that “Lao citizens have the right to work and engage in occupations which are not contrary to the laws.” In practice, however, many LGBT are hindered from achieving their full potential, especially transgenders who, it is reported, face the highest levels of discrimination and society stigma.²⁰

Further, the LGBT population, especially transgender women, report difficulty accessing justice. According to one local activist,²¹ the police failed to take any serious action after a transgender woman reported a crime, judging she may have caused it herself. This discrimination violates national law, especially the Criminal Procedure Law. Another case occurred in a rural area when a transgender woman having sex with her boyfriend was arrested by a community member. While the boyfriend was released, it is contended the transgender woman was not because she had violated village norms. Society then proceeded to punish her by publicly exposing her shame.²²

Finally, the government does not recognize same-sex marriages, and indeed, prohibits such unions under Art 10, s.1 (new) of the Family Law 2008.²³ This is in contrast to the 1990 Family Law which had no such provision – the previous Art 10²⁴ contained no words prohibiting same-sex marriage. Moreover, Art 37 of the Constitution states that: “Citizens of both genders enjoy equal rights in the political, economic, cultural, and social fields, and in family affairs.” However, no clear explanation of “family affairs” is offered. In addition, no significant movement advocates for same-sex marriage because of the aforementioned societal stigma.

Part 2: Outstanding Human Rights Issues

A. Freedom of Expression, Association, and Assembly

As mentioned in the section on the Penal Code, Lao PDR fails to protect rights to freedom of expression, association, and assembly, and little progress has been made from previous editions of this chapter. As such, the government still controls all the main media outlets in the country including radio, TV, and printed publications²⁵ as defined in national laws such as the Constitution, the Penal Code, and the Law on the Prevention and Combating of Cyber Crimes which criminalizes such acts as criticism of government performance, slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that may weaken the state.²⁶

²⁰ US Department of State (see note 18 above).

²¹ Informal interview with local activist, May 2018.

²² Informal interview with local activist, May 2018.

²³ Family Law 2008, Art 10 (new), available at <http://www.na.gov.la/>, accessed on 18 August 2018.

²⁴ Family Law 1990, Art 10, available at http://www.ilp.gov.la/lao_law/family_law.pdf, accessed on 18 August 2018.

²⁵ FIDH (see note 16 above).

²⁶ US Department of State (see note 18 above).

Accordingly, the government arrested a number of Lao citizens for criticising the government on social media.²⁷

In addition, the government also restricts a citizen's right to associate and has even used its power to force associations to remove sensitive words such as 'rights' or 'human rights' from their names.²⁸ Moreover, in 2017, it issued Decree on Associations No 238 of 2017²⁹ to control non-profit associations (NPA) and other civil society organizations in violation of international treaties such as the International Covenant on Civil and Political Rights (ICCPR) which requires states to respect the rights of freedom of opinion, expression and association.³⁰ This decree led a number of international organizations including Amnesty International, the International Commission of Jurists, and the World Organization Against Torture to call for its repeal. Rights to associate were also restricted by burdensome registration requirements. For example, Art 48 allows for dissolution of an association if "it does not apply for registration" which further expands the grounds for dissolution set out in the 2009 Decree.³¹ As such, no one can predict the future of the right to association in Lao PDR.

B. Enforced Disappearances

Although Lao PDR has signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), it has not yet ratified the treaty.³² Thus, as the notorious case of Sombath Somphone (a civil society leader who disappeared in 2012) demonstrates, the government fails to adequately investigate³³ such cases despite pleas from international organizations to do so.³⁴ To prevent this specific case disappearing from international view, on the fourth anniversary of his enforced disappearance, civil society called for individuals, institutions, and governments around the world to sign a statement demanding to know "Where is Sombath Somphone?"³⁵

²⁷ Quinn, A, 'The issue of human rights in Laos' Borgen Magazine, 20 September 2017, available at <http://www.borgenmagazine.com/issue-human-rights-in-laos/>, accessed on 18 August 2018.

²⁸ US Department of State (see note 18 above).

²⁹ The Decree on Association No 238, available at <http://laoofficialgazette.gov.la/kcfinder/upload/files/0619577.pdf>, accessed on 18 August 2018.

³⁰ 'Lao People's Democratic Republic: 9 NGOs call for the repeal of Decree on Associations No 238 of 2017' OMCT, 13 December 2017, available at <http://www.omct.org/statements/lao/2017/12/d24639/>, accessed on 18 August 2018.

³¹ OMCT (see note 30 above).

³² 'Laos: 5 years since civil society leader's 'disappearance' Human Rights Watch, 15 December 2017, available at <https://www.hrw.org/news/2017/12/15/laos-5-years-civil-society-leaders-disappearance>, accessed on 15 August 2018.

³³ 'Joint context analysis: Lao PDR' (see note 6 above).

³⁴ 'Lao PDR: On 4th anniversary of enforced disappearance, civil society demands to know: 'Where is Sombath Somphone?' OMCT, 15 December 2016, available at <http://www.omct.org/human-rights-defenders/urgent-interventions/lao/2016/12/d24115/>, accessed on 15 August 2018.

³⁵ 'Joint statement on Sombath Somphone' Human Rights Watch, 15 December 2016, available at <https://www.hrw.org/news/2016/12/15/joint-statement-sombath-somphone>, accessed on 15 August 2018.

Part 3: Conclusion

Lao PDR is a small country under the rule of one political party, the LPRP. Although HE Thongloun Sisoulith expressed a desire to address social issues, it appears human rights issues are still considered too sensitive to discuss in public especially political activities critical of government performance, which, it claims, damages national interest and national security. Freedom of expression, association, and assembly are thus prohibited by both the Constitution and national legislation leaving many citizens reluctant to express dissatisfaction.

Other serious human rights issues concern the right to life and LGBT discrimination, the former because the government and policymakers still strongly support the death penalty despite having signed and ratified international treaties to the contrary, and the latter because of prevailing social norms in the country which stigmatize certain ways of life. Consequently, discrimination and fear of discrimination prevent LGBT from fully exercising their rights to either legally marry or work. More importantly, forced disappearances remain a problem in Laos as are the rights to a free and fair trial and the right not to be arbitrarily arrested.

In conclusion, it is argued that the government is still failing to provide full human rights protection to all its citizens, particularly as it seeks to prevent citizens from exercising and participating in certain activities prohibited by national legislation. Thus, there is a need for outsiders and international organizations to pressure the government on its human rights record.

