



# LAOS: HUMAN RIGHTS DENIED

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW, 35<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, JANUARY 2020

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First published in 2016

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: ASA 26/1024/2019

July 2019

Original language: English

**amnesty.org**

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# CONTENTS

INTRODUCTION	4
FOLLOW UP TO THE PREVIOUS REVIEW	4
THE NATIONAL HUMAN RIGHTS FRAMEWORK	5
THE CONSTITUTION	5
LAWS RESTRICTING PRIVACY, FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY	6
HUMAN RIGHTS SITUATION ON THE GROUND	7
ENFORCED DISAPPEARANCES, TORTURE AND OTHER ILL-TREATMENT, AND ARBITRARY DETENTION	7
THE DEATH PENALTY	8
LAND ACQUISITION AND BUSINESS AND HUMAN RIGHTS	9
RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW	9
ANNEX	11

# INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of the Lao People's Democratic Republic (hereinafter Laos), taking place in January 2020. In it, Amnesty International evaluates the current human rights situation in Laos, as well as the implementation of recommendations made during the country's previous UPR.

Human rights protection in the country has remained weak since the last review, both in law and practice. While the authorities have implemented several legal reforms, including a revision of the Penal Code, these reforms have yet to be translated into practice. The Lao government continues to heavily restrict the rights to freedom of expression, assembly and association, and to practice arbitrary detention. In addition, incidents of torture continue to be reported.

The Lao authorities have detained and prosecuted individuals who they consider have criticised the government, however peacefully. Impunity for enforced disappearances continues.

On the positive side, no executions are known to have taken place since 1989, and the authorities report that the number of crimes for which the death penalty applies has been reduced.

In the final section of this document, Amnesty International makes several recommendations to Laos to address the human rights concerns raised in the submission.

## FOLLOW UP TO THE PREVIOUS REVIEW

Since Laos' 2015 UPR, there has been limited progress on implementing recommendations accepted by the government, including those relating to impunity and the ratification of UN human rights treaties.<sup>1</sup> In all, Laos accepted 116 of 196 recommendations made during the UPR, and said it required more time to consider or was not ready to implement 80 additional recommendations.<sup>2</sup>

While the government has initiated a program of legislative reform, including revising the Penal Code to make it conform more closely to international human rights law and standards, the country's laws still fall short of its international human rights obligations. Worse, the government

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<sup>1</sup> See Report of the Working Group on the Universal Periodic Review: Lao People's Democratic Republic, UN Doc. A/HRC/29/7/Add.1, 23 June 2015, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/131/75/PDF/G1513175.pdf?OpenElement> 121.1 (Republic of Korea); 121.2 (Angola); 121.3 (Finland).

<sup>2</sup> A/HRC/29/7/Add.1, 23 June 2015, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/131/75/PDF/G1513175.pdf?OpenElement>.

continues to pass and enforce additional legislation that penalizes the peaceful exercise of fundamental rights.

Little progress has been made on commitments to address impunity for rights violations, including, in particular, the enforced disappearance of Sombath Somphone since 2012.<sup>3</sup>

Amnesty International regrets that the government did not accept recommendations made at previous UPRs to establish a national human rights institution in conformity with the Paris Principles. While the constitution introduced a mechanism for the consideration of “requests for justice” in the form of National Assembly and Provincial Assembly Standing Committees that would receive and consider such requests, they meet only when the National Assembly is in session and do not constitute a national human rights institution.

The Lao government has yet to ratify the UN Convention for the Protection of All Persons from Enforced Disappearance, which it signed in 2008, and has twice undertaken - at the 2010 and 2015 UPRs - to ratify.<sup>4</sup>

Of nine outstanding requests for visits by UN Special Procedures, two have taken place since the last review. The Special Rapporteur on the sale of children visited Laos in November 2017, and the Special Rapporteur on extreme poverty and human rights came in March 2019.

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

## THE CONSTITUTION

Laos' Constitution, in force since March 2016, introduced provisions protecting the rights to life and physical integrity and to a certain extent guaranteeing the right not to be arbitrarily detained.<sup>5</sup> It does not specify that rights protections are to be extended to non-nationals.

Laos has no independent national human rights institution.

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<sup>3</sup> A/HRC/29/7 121.94 (Luxembourg); 121.95 (Poland); 121.96 (Portugal);121.97 (Sweden); 121.98 (Switzerland); 121.99 (United Kingdom); 121.100 (Australia); 121.101 (Canada); 121.102 New Zealand.

<sup>4</sup> A/HRC/29/7, 121.13 (Paraguay); 121.20 (Netherlands); 121.21 (Canada, Spain); 121.22 Uruguay; 121.23 (Italy); 121.24 (Brazil); 121.25 (Germany); 121.26 (France); 121.27 (Argentina).

<sup>5</sup> 2015 Constitution, Article 42: “The right of Lao citizens in their lives, bodies, honour and houses are inviolable. Lao citizens cannot be arrested, detained, or searched without the order of the Public Prosecutor or the people’s courts, except if otherwise provided by the laws.” The text of the constitution is available at <http://www.na.gov.la>.

## LAWS RESTRICTING PRIVACY, FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The legislative framework excessively restricts the rights to privacy,<sup>6</sup> freedom of expression,<sup>7</sup> association,<sup>8</sup> and peaceful assembly, imposing sweeping and arbitrary limitations. Laws with vaguely-worded and restrictive provisions not only have a chilling effect on the peaceful exercise of human rights, but also on individuals' ability to seek redress for rights violations. Measures to restrict and criminalize peaceful online expression and the formation of associations allow the state to violate a range of rights, including the right to freedom of expression and the right to privacy. The police have extensive and unjustifiable latitude to detain individuals peacefully exercising their rights - from peaceful assembly, criticism of the government, to seeking remedies to land appropriation—on the unwarranted claim that these acts represent a threat to security, including by aiming to overthrow the government.<sup>9</sup>

In addition, those tried on security grounds may face further violations of their right to a fair trial, including to a public trial under Article 214 of the Law on Civil Procedure and Article 15 of the Law on People's Courts, which allow for the trial *in camera* of cases concerning "secrets of the State or society."

The Decree on Associations, dated 11 August 2017, which came into force on 15 November 2017, grants government the power to prohibit the formation of associations and to aggressively monitor an association's activities. It also allows the government to inspect, monitor, and curtail the activities and finances of associations, order the dissolution and imposition of disciplinary measures on associations and individual members for failing to register or comply with invasive reporting regimes and requirements to comply with vaguely-worded state policies on national unity—without right of appeal. In addition, it includes measures to criminalize unregistered associations and prosecute their members.<sup>10</sup>

Decree 327 on Internet Based Information Control/Management (2014) - which allows for a range of sanctions, including criminal prosecutions, fines and "re-education" - bars internet users from posting, commenting in support of, or sharing certain material online, via imprecisely-worded provisions that are inconsistent with the right to freedom of expression.<sup>11</sup> These restrictions broadly cover information and photographs deemed to be either false, untrue, or intended to "undermine social unity" or expose undefined "secrets". It also holds web intermediaries liable for the circulation of material that contravenes government or Lao People's Revolutionary Party guidelines. In violation of the right to privacy, it requires registration of all internet users with their full names and addresses.

Article 65 of the Criminal Code (titled "Propaganda against the Lao People's Democratic Republic"), which prescribes between one and five years' imprisonment and a fine from 500,000

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<sup>6</sup> Decree 327 on Internet Based Information Control/Management (2014), available at <https://www.directoryofngos.org/ingo2/a/download?id=document2093&field=file&notetype=document&file=RGVjcmVIXzMyN18tX01hbmZ2VtZW50X29mX0ludGVybmVOXy1fMTZfU2VwXzlwMTQucGRm>.

<sup>7</sup> Article 65 of the Criminal Code ("Propaganda against the Lao People's Democratic Republic")

<sup>8</sup> The Decree on Associations, dated 11 August 2017.

<sup>9</sup> RFA 20 May 2019, "Lao villager dies after 8 years in Land grab protest, available at <https://www.rfa.org/english/news/laos/villager-05202019154307.html>.

<sup>10</sup> See Amnesty International, Laos: Joint Open Letter on Repeal of Decree on Associations, December 2017, available at <https://www.amnesty.org/en/documents/asa26/7608/2017/en/>.

<sup>11</sup> Decree 327 on Internet Based Information Control/Management (2014), available at <https://www.directoryofngos.org/ingo2/a/download?id=document2093&field=file&notetype=document&file=RGVjcmVIXzMyN18tX01hbmZ2VtZW50X29mX0ludGVybmVOXy1fMTZfU2VwXzlwMTQucGRm>.

kip (US \$60) to 10 million kip (US \$1,194), contains broad provisions infringing on the peaceful exercise of right to the freedom of expression. It prohibits “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,” if such activity is deemed detrimental to, or carried out for the purpose of “weakening the state.”<sup>12</sup>

# HUMAN RIGHTS SITUATION ON THE GROUND

## ENFORCED DISAPPEARANCES, TORTURE AND OTHER ILL-TREATMENT, AND ARBITRARY DETENTION

There has been no progress in investigating or prosecuting past cases of enforced disappearance, and the government has failed to establish the fate and whereabouts of individuals alleged to have been forcibly disappeared.<sup>13</sup> Two cases, including that of Sombath Somphone, were being examined by the UN Working Group on Enforced or Involuntary Disappearances as of September 2018.<sup>14</sup>

The Lao authorities have also held individuals in incommunicado detention for months on end, without disclosing their fate or whereabouts to their family or lawyers. Such practices often amount to enforced disappearance and encourage, or indeed constitute, torture.

For example, the Lao authorities concealed information regarding the fate and whereabouts of three persons arrested in March 2016 for more than two months, before parading them on state television on 25 May 2016.<sup>15</sup> Similarly, relatives of a group of 14 villagers—including minors—who were detained for logging on disputed village land in Sekong Province in July 2017 reported that members of the group were held incommunicado for periods of at least a month, as well as in solitary confinement, and that some were subjected to torture.<sup>16</sup> In addition, reports continue of

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<sup>12</sup> Radio Free Asia, Lao Court Jails Polish Activist on basis of Online Criticism of Government, 1 October 2015, available at <https://www.rfa.org/english/news/laos/activist-10012015134330.html>.

<sup>13</sup> Amnesty International, Annual Report 2017 Laos, available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/laos/report-laos/>.

<sup>14</sup> Amnesty International, Laos: Caught on Camera The Enforced Disappearance of Sombath Somphone, 13 June 2013, available at <https://www.amnesty.org/en/documents/ASA26/002/2013/en/>; Amnesty International, Civil Society Worldwide Demands Answers to the Disappearance of Sombath Somphone, 13 December 2018, available at <https://www.amnesty.org/en/documents/asa26/9581/2018/en/>.

<sup>15</sup> Amnesty International, Laos: Three Activists Held Incommunicado, September 2016, available at [https://ua.amnesty.ch/urgent-actions/2016/08/184-16?ua\\_language=en](https://ua.amnesty.ch/urgent-actions/2016/08/184-16?ua_language=en).

<sup>16</sup> Radio Free Asia: Lao Villagers Arrested in 11-Year-Old Land Dispute in Sekong Province, 1 August 2017, available at <https://www.rfa.org/english/news/laos/lao-authorities-arrested-in-11-year-old-land-dispute-in-sekong-province-08012017155944.html>; Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province, 27 September 2017, available at <https://www.rfa.org/english/news/laos/lao-police-beat-villagers-arrested-in-lengthy-land-dispute-in-sekong-province-09272017095650.html>; Lao Land Protest Villagers Held in Failing Health, November 2017, available at <https://www.rfa.org/english/news/laos/villagers->

no apparent legal basis being given for detentions or releases,<sup>17</sup> with individuals reportedly being arbitrarily detained for years without trial.<sup>18</sup>

Incidents of torture continue to be reported, including through severe beatings and electric shocks.<sup>19</sup>

It appears that the Lao authorities did not exercise due diligence in investigating a pattern of abductions by unknown perpetrators of Thai nationals whose extradition to face charges of lèse-majesté had been sought by the Thai authorities. This includes Thai nationals Ittipol Sukpaen, who disappeared in June 2016; Wutthipong “Ko Tee” Kottham-makhun, who disappeared after being abducted by Thai-speaking masked men in July 2017 (whose abduction the Lao authorities confirmed they had not investigated); Surachai Danwattananusorn, who disappeared after being abducted in Vientiane in December 2018 together with Chatcharn Buppawan and Kraidej Lulert, whose corpses were found in the Mekong river in Thailand in December 2018.<sup>20</sup>

## THE DEATH PENALTY

While Laos has not carried out any executions since 1989, it continues to hand down death sentences. The death penalty is applicable for a range of non-lethal crimes, including trading in and possession of narcotics. In a positive move, the Lao government in 2018 reported that it had reduced the scope of the offences for which the death penalty may be imposed from 18 to 12. It also said that there were 315 prisoners on death row at that time, of whom 311 had been sentenced for drug-related crimes and four for murder.<sup>21</sup>

Laos has continued to abstain in the vote on UN General Assembly resolutions on setting a moratorium on the use of the death penalty, most recently in December 2018.<sup>22</sup>

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; 11022017150047.html; Lao Detainee Dies in Custody, 21 February 2017, available at <https://www.rfa.org/english/news/laos/doubt-02212018164255.html>.

<sup>17</sup> RFA Lao Protest Villager Freed, 11 still held, 17 January 2019, available at <https://www.rfa.org/english/news/laos/freed-01172019171432.html>.

<sup>18</sup> RFA Lao Villager Dies After 8 Years in Jail Over Land Grab Protest, 20 May 2019, available at <https://www.rfa.org/english/news/laos/villager-05202019154307.html>.

<sup>19</sup> Radio Free Asia: Lao Villagers Arrested in 11-Year-Old Land Dispute in Sekong Province, 1 August 2017, available at <https://www.rfa.org/english/news/laos/lao-authorities-arrested-in-11-year-old-land-dispute-in-sekong-province-08012017155944.html>; Lao Police Beat Villagers Arrested in Lengthy Land Dispute in Sekong Province, 27 September 2017, available at <https://www.rfa.org/english/news/laos/lao-police-beat-villagers-arrested-in-lengthy-land-dispute-in-sekong-province-09272017095650.html>; Lao Land Protest Villagers Held in Failing Health, November 2017, available at <https://www.rfa.org/english/news/laos/villagers-11022017150047.html>; Lao Detainee Dies in Custody, 21 February 2017, available at <https://www.rfa.org/english/news/laos/doubt-02212018164255.html>.

<sup>20</sup> US Department of State, 2018 Country Reports on Human Rights Practices: Laos, 13 March 2019 available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/laos/> Associated Press, “Thai police says bodies from river were missing activists”, 22 January 2019, <https://www.apnews.com/46be62385c4e40aea66fe5881a7492ed>; Khaosod English, Police Deny 3<sup>rd</sup> Corpse was Found in Mekong, 23 January 2019, available at <http://www.khaosodenglish.com/news/crimecourtscalamity/2019/01/23/police-deny-3rd-corpse-was-found-in-mekong/>; Prachatai, 18 July 2019, Vietnam denies having information on missing activists’ fate. <https://prachatai.com/english/node/8142>.

<sup>21</sup> Replies of Lao People’s Democratic Republic to the list of issues CCPR/C/LAO/Q/1/Add.1, June 2018 available at <https://undocs.org/CCPR/C/LAO/Q/1/ADD.1>.

<sup>22</sup> <https://undocs.org/A/73/589/Add.2>.



## **LAND ACQUISITION AND BUSINESS AND HUMAN RIGHTS**

The state has failed in its duty to protect the rights of communities displaced by state and private commercial projects that have been given land leases under Laos' "Turning Land into Capital" policy. Communities have been required to relocate for development and private commercial projects, including for the construction of dams and for a China-Laos railway project.<sup>23</sup> Many have claimed that they were not adequately consulted or compensated by the state and companies, and have suffered damage to their livelihoods and to their environment.<sup>24</sup>

# **RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW**

## **AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF LAOS TO:**

### **THE CONSTITUTION**

- Amend the 2016 Constitution to ensure that it is fully consistent with Laos' international human rights obligations and, in particular, to ensure that the human rights of both citizens and non-citizens are protected without discrimination, and to provide specifically for fair trials and freedom from torture, arbitrary detention, and slavery.

### **LEGISLATION ON PRIVACY, FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY**

- Immediately order all public officials to refrain from initiating criminal proceedings against individuals for the peaceful exercise of their human rights, including the rights to privacy, freedom of expression, association, and assembly;
- Review relevant criminal cases that are awaiting prosecution, are still being prosecuted or have already been concluded, drop charges and expunge convictions, and ensure the immediate and unconditional release of individuals who have been deprived of liberty solely for the peaceful exercise of their human rights;
- Repeal laws and orders that restrict or criminalise the peaceful exercise of human rights or allow for arbitrary detention, including Articles 65 and 66 of the Criminal Code, Decree 237 on Internet Information Management, and the Decree on Associations, or else amend them to ensure full compliance with international human rights law.

### **ENFORCED DISAPPEARANCE, TORTURE AND OTHER ILL-TREATMENT**

- Initiate full, impartial, independent and efficient investigations into all allegations of enforced disappearance, torture and other ill-treatment;
- Where sufficient admissible evidence exists, prosecute those responsible for grave

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<sup>23</sup> Amnesty International Annual Report Laos 2017/2018; available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/laos/report-laos/>; Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Laos, 18-28 March 2019, available at [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24417&LangID=E\\_](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24417&LangID=E_)

<sup>24</sup> Amnesty International Annual Report Laos 2017/2018; available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/laos/report-laos/>.

human rights violations in fair trials without recourse to the death penalty;

- Improve investigations into cases of enforced disappearances, including by seeking expert technical assistance, where relevant, to examine evidence, and immediately provide any information gained from these investigations to victims' families;
- Provide full reparations to survivors and families of persons subjected to enforced disappearance, torture and other ill-treatment;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance without reservations, accept the competence of the UN Committee on Enforced Disappearances to receive individual and inter-state complaints, and implement the Convention in law, policy, and practice;
- Enshrine in law and ensure in practice that individuals are only detained in official places of detention, and are granted prompt access to lawyers, family members, and independent courts, and ensure that all questioning is recorded and takes place in the presence of an independent lawyer;
- Repeal legislation allowing for detention without charge or trial;
- Ratify and implement the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and establish an independent, efficient and well-resourced National Preventive Mechanism with powers to conduct unimpeded and unannounced visits to all places of detention and access all persons deprived of their liberty;
- Grant national and international human rights groups access to all places of detention;
- Ensure prompt, thorough, and independent investigations into the disappearance, abduction and killing of asylum-seekers, and ensure that refugees and asylum-seekers are protected, and any attacks on them are subject to prompt, thorough and independent investigation and that the perpetrators are brought to justice in civilian courts.

#### THE DEATH PENALTY

- Enact legislation abolishing the death penalty for all crimes and in all circumstances;
- Pending the abolition of the death penalty, commute all death sentences, immediately establish an official moratorium on executions and refrain from imposing the death penalty in any new cases;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

#### LAND ACQUISITION, AND BUSINESS AND HUMAN RIGHTS

- Ensure that communities whose land has been taken are provided with timely, accessible and full information on resettlement and compensation plans, avenues for their participation in planning and implementation, as well as policies and complaints mechanisms;
- Ensure that any resettlement plans entail genuine consultation with affected communities and seek their meaningful participation in formulating specific resettlement measures;
- Ensure that land acquisition, resettlement and compensation measures comply with international human rights obligations, particularly with respect to the right to adequate housing, prohibition of forced evictions, and the right to an adequate standard of living;
- Legally require companies to conduct human rights due diligence to identify, prevent, mitigate and account for their impacts on human rights, and to report publicly on their due diligence policies and practices in accordance with international standards.

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>25</sup>

EXAMPLES:

*Lao PDR: Submission to the UN Human Rights Committee, 2 June 2018, ASA 27/8509/2018*

*Amnesty International Report 2017/18, Lao PDR, POL 10/6700/2018*

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<sup>25</sup> All these documents are available on Amnesty International's website:  
<https://www.amnesty.org/en/countries/asia-and-the-pacific/laos/>

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