Universal Period Review Submission
June 2014
Laos

The government of Laos continues to severely restrict fundamental rights including freedom of speech, association, and assembly. Since 2010 the government has arbitrarily arrested and detained, and in at least two cases forcibly disappeared civil society activists and those deemed critical of the government.

This submission focuses on four core areasthat United Nations member countries largely failed to address during Lao's previous UPR in 2010: enforced disappearances; freedom of speech, association, and assembly; the treatment of detainees in drug detention centers; and labor rights.

Enforced Disappearances
Despite having accepted relevant recommendations during its previous UPR, Laos has signed, but not ratified, the International Convention for the Protection of all Persons from Enforced Disappearance. Enforced disappearances violate a range of fundamental human rights protected under the International Covenant on Civil and Political Rights (ICCPR), which the government has ratified, including prohibitions against arbitrary arrest and detention; torture and other cruel, inhuman, or degrading treatment; and extrajudicial execution.

The enforced disappearance of prominent civil society leaderSombathSomphone, who was detained at a police checkpoint in Vientiane and has not been heard from since, is emblematic of the Laogovernment's lack of accountability for rights abuses.

Sombath Somphone was last seen by his wife, Ng ShuiMeng, on the evening of December 15, 2012 as they were driving separately from his office to their home. She lost sight of his vehicle about 6 p.m. near the police post on Thadeau Road in Vientiane. ShuiMeng obtained close-circuit television (CCTV) from the police which shows that Sombath's jeep was stopped by the police at the Thadeau police post. The police took Sombath into the police post. Shortly thereafter, Sombathre-emerged from the police post, was escorted to a different vehicle and driven away.

Government officials have repeatedly denied that the government tookSombath into custodyyet have failed to conduct a serious investigation into his enforced disappearance orprovide any other credible information about current whereabouts. Furthermore, the government has continually rejected all offers of technical assistance for the investigation from various governments, including offers to analyse the original CCTV footage in order to assist with determining the identities of the individuals in the videotape, and gathering additional details (such as license plates) of the vehicles that were involved.

Similarly, the Lao government has failed to make progress in the case of Sompawn Khantisouk, the owner of two ecotourism businesses in LuangNamtha province, who was forcibly disappeared on January23, 2007.Sompawn received a call from a local police officer to visit the police station concerning a supposed arson attack on his home the previous day. Riding his motorcycle, Sompawnstopped on the way to the police station to talk to a man about ordering fence posts and while talking with that person he received another phone call from the same police officer to hurry up. A few minutes later, as he was driving to the police station, witnesses saw an SUV signal to Sompawn to pull his motorcycle over. Witnesses stated that four men wearing police uniforms then forced Sompawn into the car and drove away. A rudimentary police investigation ensued that focused on discrediting the witnesses, and concluded without further evidence that Sompawn'sdisappearance was the result of an unspecified personal or business conflict. His family filed a grievance of harm by the state to the National Assembly, but provincial and local officials never responded to the National Assembly's inquiries about the case.

Laos is obligated under international human rights law to prevent and remedy any enforced disappearances. Despite widespread calls for accountability, both regionally and internationally, questions about the enforced disappearances are met with denials or silence by senior officials of theLao government.

Suppression of Freedom of Speech, Association, and Assembly

Laos is a party to the ICCPR, and despite having accepted recommendations at its previous UPR to "amend further its Law on the Media, the Law on Publication and other related regulations to comply with international human rights standards" and to "allow media and civil society organizations to undertake education, advocacy, monitoring andreporting on human rights issues,"Laoshas failed to protect the right to freedom of speech, press, and assembly.The Lao government strictly controls all TV, radio and printed publications in the country. The constitution in article 23 sets out that all "mass media activities" that are contrary to "national interests" or "traditional culture and dignity" are prohibited. Article 44 of the constitution establishes that Lao citizens have the right to freedom of speech, press, assembly, association and demonstration that are "not contrary to the laws"— yet the penal code contains broad limitations that prohibit "slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state." In this way, the laws grant officials the authority to effectively limit basic rights and freedoms for anyone they deem critical of the government and authorities. Article 59 of the penal code providesprison sentences ranging from one to five years for anti-government propaganda, and up to 15 years for journalistswho fail to file "constructive reports" or who seek to "obstruct" the work of the government.[1]Government officials review all privately owned periodicals after publication and can impose fines for those they deem toviolate the law.

In practice, self-censorship is encouraged and is common, and the media remains tightly controlled by the authorities.For example, in January 2012, the Ministry of Information, Culture and Tourism cancelled the popular radio program, *Talk of the*

[1]Lao Penal Code, Art. 59.

News, without explanation. The show encouraged political and social debate on a range of topics, including land grabs and corruption.[2]

The government should immediate release ThongpaseuthKeuakoun, BouavanhChanhmanivong, and Sen-alounPhengpanh who were detained for the peaceful exercise of their basic rights. Both were arrested in 1999 for attempting to organize a demonstration and each were sentenced to 15 years in prison.[3]

Ethnic Hmong ThaoMoua and Pa Phue Khang were arrested in 2003 after serving as guides for foreign journalists reporting on the situation of the Hmong in Laos. They were sentenced for 12 and 20 years respectively, for obstruction of justice and the possession of weapons.[4]

Treatment of Detainees in SomsangaDrug Detention Center

The arbitrary detention of people suspected of using drugs, along with beggars, homeless people, children, and people with mental illnesses in compulsory drug detention centers across Laosremains a grave concern. As of mid-2011 (the last year for which data is publicly available), there were at least eight such centers across the country, of which the Somsanga detention center on the outskirts of Vientiane is the oldest and largest. Somsanga functions as a detention center, although it lacks the basic protections of due process, judicial oversight, and mechanisms for appeals. None of the persons whom Human Rights Watch interviewed had seen a lawyer or been sent to a court prior to their detention in Somsanga.

Human Rights Watch found that detainees at the Somsangacenter are locked in cells inside barbed wire compounds. Former detainees told Human Rights Watch that they were held for periods of three months to more than a year. Police, who guard the facility's main gate, are responsible for security and are a constant presence among detainees. Detainees live in a punitive and heavily controlled environment. Those who try to escape are sometimes brutally beaten by "room captains"—trusted detainees whom police and center staff designate to play a central role in the daily control of other detainees, including serving the center's as adjunct guards and punishing detainees who infringe center rules. One former detainee toldHuman Rights Watch that "room captains" beat detainees who had attempted escape "until they were unconscious." The detainee stated that guards witnessed the beatings and encouraged the "room captains." Former detainees also reported being punished by being tied up in the sun for hours without food or water.

Somsanga offers little effective, evidence-based treatment for those who need it. Confinement is Somsanga's central operating principle: most detainees remain in locked cells inside compounds with high walls topped with barbed wire. Human Rights Watch found that Somsanga holds most of its detainees against their will. Police or village militia (*tamnautbaan*) detain and bring people to Somsanga. Other detainees enter because their family members "volunteer" them out of a mistaken belief that the center offers therapeutic treatment, or because they feel social

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[2]Beaumont Smith, "Off the air in Laos," *Asia Times Online*, February 22, 2012, http://www.atimes.com/atimes/Southeast_Asia/NB22Ae01.html (accessed April 22, 2014).
[3]Amnesty International, "Annual Report 2013," https://www.amnesty.org/en/region/laos/report-2013#page (accessed June 4, 2014).
[4]Ibid.

pressure to help make their village "drug free." Regardless of how they enter, people held in Somsangaare not given the benefit from any judicial process to authorize their detention.

Many of the former detainees interviewed by Human Rights Watch for the report said they had directly witnessed suicides or suicide attempts by fellow detainees during their detention.Maesa, a child who spent six months in Somsanga, said that,"Some people think that to die is better than staying there." Former detainees spoke of suicides—both attempted and actualized—involving ingesting glassor hanging.

The treatment of individuals in compulsory drug detention centers violate a wide range of human rights, including the right to freedom from torture and cruel, inhuman and degrading treatment; the right to freedom from arbitrary arrest and detention; the right to a fair trial; the right to privacy; and the right to the highest attainable standard of health.In its 2010 UPR review, Laos accepted that acts of torture and maltreatment were considered criminal offenses and that the Criminal Procedure Code did not permit the inhuman treatment of detainees in any circumstances.[5] Despite new reports of arbitrary detention and cruel, inhuman or degrading treatment or punishment atSomsanga, the Lao government has not investigated these reports, held any person responsible or taken steps to close the center down.

Labor Rights

Laos violates the right to freedom of association for workers in law and in practice. The Trade Union Law 2008 defines a trade union as a "mass organization in the political system of the democratic centralism unified leadership under the Lao People's Revolution Party" and requires that unions affiliateto the Lao Federation of Trade Unions (LFTU), which is controlled by the government and the ruling party. Article 5 of the law requires trades unions to "organize and conduct activities in line with the unified leadership under the Lao Revolution Party." Laos violates article 22 of the ICCPR and article 8 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) by preventing workers from establishing or joining unions of their own choosing outside of the LFTU.

The LFTU is so close to the government that the president and two vice presidents of the LFTU are given status equal to a minister and vice ministers in the government and are paid salaries by the government. In public statements, the LFTU has regularly said that it plays a role in helping the government enforce "labor discipline" in line with the law. The LFTU's quasi-state function compromises its ability to represent workers, since it plays a dual, and sometimes conflicting, role as a controller as well as a potential protector of workers' interests.

Laos also effectively prohibits workers from exercising the right to strike. Article 65 of the Labor Law 2007 strictly prohibits workers or their representatives from calling a work stoppage in a wide variety of situations, including disputes regarding implementation of the labor law or regulations, or over workers benefits under the law. Work stoppages are also forbidden when the matter in dispute is currently being discussed in a negotiation that both sides have agreed to participate in, or during

[5]UN Human Rights Council, "Report of the Working Group on the Universal Periodic Review," June 2010, A/HRC/15/5.

the period when the dispute is being considered bygovernment labor authorities, or is being considered by the labor disputes settlement procedures of the courts. Any personor organizationthat engages either "directly or indirectly" in a stoppage, or who "verbally or materially incites workers" to conduct a stoppage "thus causing damage…or social disorder" is subject to prosecution.The penal code provides for between one and five years' imprisonment for those who join an organization that encourages protests, demonstrations and other actions that might cause "turmoil or social instability."

While it is important that the government has ratified core International Labour Organization(ILO) standards on nondiscrimination and ending child labor, it has not ratified ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organize) and Convention No. 98 (Right to Organize and Collectively Bargain).

International Criminal Court

Despite purported efforts by the government in 2005 and 2006 to examine needed legislative changes to enable ratification of International Criminal Court (ICC), Laos did not ratify the Rome Statute establishing the court. The ICC is the first permanent international tribunal with jurisdiction over war crimes, crimes against humanity and genocide. As a court of last resort, which only has jurisdiction when national courts are unwilling or unable to prosecute these crimes, the ICC is an essential institution in the effective implementation of international human rights and humanitarian law.

Recommendations

Regarding Enforced Disappearance

- Disclose the whereabouts or fate of prominent civil society leader SombathSomphone and businessman Sompawn Khantisouk. Investigate and hold accountable those responsible for theirand other enforced disappearances.
- Ratify the International Convention for the Protection of All Person from Enforced Disappearance and enact appropriate implementing legislation.

Regarding Freedom of Expression and Association

- Cease the harassment and arbitrary arrest of human rights defenders, independent journalists, social activists, and worker advocates.
- Ensure that civil society and media organizations can operate free of government interference in violation of their basic rights.
- Drop all charges and release everyone facing criminal prosecutionforexercising their rights to freedom of expression, assembly, or association.
- End government control of the media. Reform media ownership and licensing rules to allow media organizations to function freely and without fear of government reprisal for their reporting.

Regarding Labor Rights

- Amend the Trade Union Act and the Labor Act to bring them into full compliance with international labor standards, including the rights to freedom of association and collective bargaining, and right to strike.
- Ratify ILO Conventions No. 87 and 98.

- Recognize in practice the right of workers to form unions of their own choosing, including those not affiliated with the LFTU.

Regarding Drug Detention Centers

- Carry out prompt, independent, and thorough investigations into allegations of arbitrary detention and cruel, inhuman or degrading treatment or punishment in Somsanga and other drug detention centers.
- Stop the arbitrary arrest and detention of people who use drugs and other "undesirables" such as homeless people, beggars, street children, and people with mental disabilities.
- Instruct the Lao Commission on Drug Control to release current detainees in Somsanga, as their continued detention cannot be justified on legal or health grounds, and permanently close the center.
- Instruct the Ministry of Health and other relevant ministries and departments to expand access to voluntary, community-based drug dependency treatment and ensure that such treatment is medically appropriate and comports with international standards.

Regarding the International Criminal Court

- Undertake the necessary amendments of its national legislation and ratify the Rome Statute.