



Global Monitoring

status of action against sexual
exploitation of children

LAO PDR



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The terminology used in this report is consistent with the recently adopted Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines), which are available at: <http://luxembourgguidelines.org/>.

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ACRONYMS

AAPTIP	Australia-Asia Program to Combat Trafficking in Persons
ACTIP	ASEAN Convention against Trafficking in Persons Especially Women and Children
ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AFESIP	Acting for Women in Distressing Situations (Agir pour les Femmes en Situations Precaires)
AICHR	ASEAN Intergovernmental Commission on Human Rights
ARTIP	Asia Regional Trafficking in Persons (Project)
ASEAN	Association of Southeast Asian Nations
CCPWC	Counselling and Protection Centre for Women and Children
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CRC	Convention on the Rights of the Child/ Committee on the Rights of the Child
CSAM	Child Sexual Abuse Material
SEC	Sexual Exploitation of Children
CYF	COMMIT Youth Forum
ETIP	End Trafficking in Persons Programme
EU	European Union
GDP	Gross Domestic Product
GLO.ACT	Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants
GRID	Global Resource and Information Directory
ICMEC	International Centre for Missing and Exploited Children
ILO	International Labour Organisation
IOM	International Organisation for Migration
ITB	Internationale Tourismus-Börse
LAPTU	Lao Anti-People Trafficking Unit
LWU	Lao Women's Union
LYU	Lao Youth Union
MYF	Mekong Youth Forum
MoU	Memorandum of Understanding

NCMC	National Commission for Mothers and Children
NGO	Non-governmental Organisation
NTA	National Tourism Administration
OPSC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
PDR	People's Democratic Republic
SECTT	Sexual Exploitation of Children in Travel and Tourism
SEZ	Special Economic Zones
STD	Sexually Transmitted Disease
TIP	Trafficking in Persons
UN	United Nations
UNACT	United Nations Action for Cooperation against Trafficking in Persons
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFPA	United Nations Population Fund
UNIAP	United Nations Interagency Project on Human Trafficking
UNICEF	United Nations Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review
UXO	Unexploded Ordinance

FOREWORD

At the First World Congress against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm in 1996, governments from around the world first gave recognition that commercial sexual exploitation of children is a global crime of epidemic proportions. The Stockholm Declaration and Agenda for Action - a strategic framework for actions against CSEC - was adopted by the 122 governments participating in the Congress in order to guide a systematic global response against the sexual exploitation of children.

The outcome document of the First World Congress was soon followed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC). Adopted in 2000 as a legally binding treaty of the United Nations, the Optional Protocol (and other relevant international treaties) reaffirms the urgent need for political will and concrete actions from governments to ensure that children in their countries can live free from all forms of sexual exploitation.

In 2001, high-level delegates from 136 governments, local and international non-governmental organisations and children and young people, convened in Yokohama for the Second World Congress to review the achievements and challenges in combating CSEC as well as to identify new priorities needed to bolster and enhance action. Seven years later, the World Congress III in Rio de Janeiro provided the largest global platform to date for delegates from 137 governments to renew their state's commitment to protect children from commercial sexual exploitation. The Rio Declaration and Call for Action strongly urges all stakeholders, including the private sector, to continue their due diligence in taking the necessary follow-up actions to eliminate CSEC. The Rio Call for Action emphasises the obligation to uphold the rights of the child as identified in existing international human rights and child rights instruments. It also offers a framework for the accountability of all duty-bearers of children's rights, particularly governments, in the fight against sexual exploitation of children and re-affirms the continuing relevance of the Agenda for Action, first agreed to in Stockholm twelve years earlier.

This report provides a comprehensive baseline of information on all manifestations of sexual exploitation of children in the country and an assessment of achievements and challenges in implementing counteractions (including the participation of children and young people

themselves) to eliminate it. The report, which follows the framework of the Stockholm Agenda for Action, serves as an instrument for the sharing of information and experiences among various stakeholders and duty-bearers within the country as well as internationally. It also suggests concrete priority actions urgently needed to proactively advance the national fight against the sexual exploitation of children. Furthermore, this report enables the monitoring of the implementation of international instruments on child rights, related to sexual exploitation that have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations for their invaluable inputs to this report. ECPAT International would also like to express its profound appreciation of all the hard work of its dedicated team from within the Secretariat and for the generous support of its donors that helped make the finalisation of this report possible. The contributions of all involved have greatly strengthened the monitoring of the Agenda for Action and the heightened collaboration needed to fight the new and evolving complex manifestations of sexual exploitation of children.

METHODOLOGY

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organisations and other relevant actors for combating sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress II of 2001, the Mid-Term Review meetings held between 2004 and 2005 and the World Congress III in 2008. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for these reports involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of terms, explanatory literature on more difficult themes and concepts and a guide to relevant research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Desktop research has shown a continuing lack of information in the areas of Recovery, Rehabilitation and Reintegration. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports thus focus only on those areas of the Agenda for Action where verifiable information can be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; Protection and Child and Youth Participation, and where information on recovery, rehabilitation and reintegration, was available, it has been included under the country overview. These reports also reflect a greater focus on integrated and inter-sector collaboration for the realisation of the right of the child to protection from sexual exploitation, including the need nationally for comprehensive child protection systems.

Research of secondary sources, including CRC country and alternative reports, OPSC country and alternative reports, the reports of the Special Rapporteurs, as well as research and field studies of ECPAT, governmental and non-governmental organizations, regional bodies and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation. They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all reports feature updated information in relation to: (i) an overview of the main manifestations of sexual exploitation of children affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against sexual exploitation of children and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on relevant legislation; (vi) overview and analysis of country's efforts incorporate participation of children in youth in the development and implementation of efforts to combat sexual exploitation and (vii) priority actions required.



INTRODUCTION

Social/cultural/economic context of the country

LAO PDR COUNTRY CONTEXT IN STATISTICAL SUMMARY

Region	South-east Asia/Greater Mekong Region
Government	Single-party, Socialist Democratic Republic
Main languages	Lao (official), English, French, various ethnic languages
Main religions	Buddhist (66.8%), Christian (1.5%) ¹
Main minorities and indigenous groups	Lao (54.6%), Khmou (10.9%), Hmong (8%), Tai (3.8%), Phuthai (3.3%), Lue (2.2%), Katan (2.1%), Akha (1.6%) ²
Population (2015)	6,802,023 inhabitants ³
Population aged 0-14 (2016)	34% ⁴
Population aged 10-24 (2016)	32% ⁵
GDP (2015)	\$ 12.327 billion ⁶
GDP growth (2014)	7.5% ⁷
Projected GDP (2016)	\$13.761 billion ⁸
Population living in poverty (2012)	23.2% ⁹
International Visitor Arrivals (2015)	4.7 million ¹⁰
Internet Users (2016)	1.4 million ¹¹

A land-locked South-east Asian country with long borders neighbouring Cambodia, China, Thailand and Vietnam, the Lao People's Democratic Republic (Lao PDR) is opening its borders and moving into a new era of globalisation and its accompanying risks. With a complex history of war and French colonialism, Lao PDR was granted full sovereignty in 1954 and the communist Lao People's Democratic Republic was established in 1975 following the second Indochina War.¹² The development of the country is still suffering from the aftermath of this war, during which 80 million of the United States' bombs dropped on Lao PDR failed to explode on impact and these unexploded ordinances (UXOs) still contaminate one fourth of Laotian territory.¹³ These UXOs have since caused 50,000 casualties, and 40% of deaths in the last decade have been of children.¹⁴ National efforts to clear them have decreased casualties from 300 in 2008 to 41 in 2013; yet, at current rates, it would take two millennia to ensure safe access of Laotians to their land.¹⁵

Lao PDR is identified by the United Nations (UN) as one of the 48 Least Developed Countries in the world.¹⁶ According to national poverty lines from 2012, 23.2% of the population lives in

- 1 CIA (2016), "East & Southeast Asia: Laos", *The World Factbook*, accessed 3 January 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/la.html>.
- 2 *Ibid.*
- 3 The World Bank (n.d.), "Population, total", Lao PDR, accessed 14 December 2016, <http://data.worldbank.org/indicator/SP.POP.TOTL?locations=LA>.
- 4 UNFPA (2016), "World Population Dashboard", accessed 3 January 2017, <http://www.unfpa.org/world-population-dashboard>.
- 5 *Ibid.*
- 6 The World Bank (n.d.), "GDP (current US\$)", Lao PDR, accessed 14 December 2016, <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=LA>.
- 7 The World Bank (n.d.), "Lao PDR – Global Economic Prospects – Forecasts", Country, accessed 14 December 2016, <http://data.worldbank.org/country/lao-pdr>.
- 8 International Monetary Fund (2016), "World Economic Outlook Database", October 2016, accessed 9 January 2017, <http://www.imf.org/external/pubs/ft/weo/2016/02/weodata/index.aspx>.
- 9 The World Bank (n.d.), "Poverty headcount ratio at national poverty lines", Lao PDR, accessed 14 December 2016, <http://data.worldbank.org/indicator/SI.POV.NAHC?locations=LA>.
- 10 Mekong Tourism (n.d.), "2015 Statistical Report on Tourism in Laos", 5, accessed 14 December 2016, <http://www.mekongtourism.org/wp-content/uploads/Laos-2015-Statistics-Report-on-Tourism-in-English-Version.pdf>.
- 11 Internet World Stats, "Asia", accessed 14 December 2016, <http://www.internetworldstats.com/asia.htm>.
- 12 UN Division for Public Administration and Development Management (DPADM) and Department for Economic and Social Affairs (DESA) (2005), "Lao People's Democratic Republic, Public Administration Country Profile", 2, accessed 14 December 2016, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023237.pdf>.
- 13 Fagotto, Mark (2015), "Laos: Thousands Suffering from the Deadly Aftermath of US Bomb Campaign", *The Guardian*, 31 January 2015, accessed 14 December 2016, <http://www.theguardian.com/world/2015/jan/31/laos-deadly-aftermath-us-bomb-campaign-vietnam-air-attacks>; Faulder, Dominic (2001), "Laos: the Most Bombed Country on Earth", *The Irrawaddy*, August 2001, Vol. 9, No. 7, accessed 14 December 2016, http://www2.irrawaddy.org/article.php?art_id=2365; National Regulatory Authority for UXO/Mine Action in Lao PDR (2013), "UXO Sector Annual Report 2013", 8, accessed 15 December 2016, http://www.la.undp.org/content/lao_pdr/en/home/library/crisis_prevention_and_recovery/uxo-sector-annual-report-20130.html: During this war between 1964 and 1973, the 270 million bombs dropped in the United States' parallel "Secret War" on Lao PDR, aimed at destroying Vietnamese supply routes, makes Lao PDR the most-bombed nation in history.
- 14 *Ibid.*
- 15 *Ibid.*, 9: UXO Lao is Lao Unexploded Ordinance Programme run by the National Regulatory Authority for UXO/Mine Action (a public institution of the Lao PDR government), the National Committee for Rural Development and Poverty Eradication, supported by UNDP.
- 16 UNFPA (2014), "The Power of 1.8 Billion", 118, accessed 9 December 2016, https://www.unfpa.org/sites/default/files/pub-pdf/EN-SWOP14-Report_FINAL-web.pdf.

poverty, which despite being high is a dramatic decrease from the 1997 figure 39.1%.¹⁷ It has a population of 6.8 million of which 2.8 million are under the age of 18.¹⁸ Lao PDR was eighth on Business Insider's list of states with the highest projected compounded annual growth rate for the period 2013 to 2015.¹⁹ With a current growth in GDP at 7.4%²⁰ and a population expected to increase by 38% to 8.8 million by 2030, the World Bank predicts that almost 100,000 youths per year will be seeking work in the next decade.²¹ Industry leaders in mining and hydroelectricity create few jobs, productivity is slow and many jobs are unattractive: seven out of 10 workers are employed in the agriculture sector.²²

The International Organisation for Migration (IOM) suggests that increasing development and urban job opportunities means there is now a labour shortage in Lao PDR. Young people in particular, who are pressured to provide additional income for their families, are attracted by the prospect of higher wages, a more modern lifestyle and the ease of integration into neighbouring Thailand which has a similar culture and language.²³ It is a common phenomenon for Lao PDR teenagers to migrate to seek opportunities abroad in Thailand, to the extent that they are commonly referred to as *dek kham daen* or 'border-crossing children'.²⁴

The one-party socialist country only began initiating developments towards a market-based economy in 1986 with a new Constitution in 1991 guaranteeing the right to own property and protecting investments.²⁵ The embryonic legal system makes for a weak protection system as the country only opened its doors to tourists in October 1989 and progressively relaxed immigration and visa requirements. For example, in March 1994, the requirement that travellers have prior permission was removed – they can travel independently of tours – and in 1997 it became possible to get a tourist visa on arrival at certain entry points.²⁶ Visitors largely only began arriving in the mid-1990s. Even Lao PDR nationals, civil servants included, were required to have a valid reason and a *laissez-passer* authorisation to travel among provinces within the country until 1994. Now, passports to travel abroad or emigrate can be obtained from the Ministry of Foreign Affairs and border crossing permits to Thailand can be obtained

17 World Bank (n.d), "World Development Indicators, Poverty Headcount Ratio at National Poverty Lines, (% of the population)", accessed 9 December 2016, <http://data.worldbank.org/country/lao-pdr>.

18 UNICEF (2016), "The State of the World's Children 2016 – A fair chance for every child", 139, accessed 9 December 2016, http://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

19 Kawa, Lucas (2013), "The 20 Fastest-Growing Countries in the World", *Business Insider*, 23 January 2013, accessed 9 December 2016, <http://www.businessinsider.com/fastest-growing-economies-through-2015-2013-1?op=1>.

20 World Bank (2015), "Lao PDR", *Country at a Glance*, accessed 13 January 2017, <http://www.worldbank.org/en/country/lao>.

21 World Bank (2014), "Lao PDR Development Report 2014: Expanding Productive Employment for Broad-based Growth", accessed 9 December 2016, <http://www.worldbank.org/en/country/lao/publication/lao-pdr-development-report-2014>.

22 *Ibid.*

23 International Organization for Migration (2014), Lao People's Democratic Republic, *Countries*, updated December 2014, accessed 9 December 2016, <https://www.iom.int/countries/lao-peoples-democratic-republic>.

24 Child Frontiers (2011), "Report on the Commercial Sexual Exploitation of Children in Lao PDR: Research Study on the Commercial Sexual Exploitation of Children in Lao PDR", 39, accessed 9 December 2016, http://laocs-kis.org/wp-content/uploads/2015/03/Lao_PDR_CSEC_Study_Final.pdf.

25 UNDESA, Yamauchi, Sayo and Lee, Donald (1999), "Tourism Development in the Lao People's Democratic Republic - Desa Discussion Paper No 9", 4, June 1999, accessed 9 December 2016, <http://www.un.org/esa/desa/papers/1999/esa99dp9.pdf>.

26 *Ibid.*, 4 and 7.

from village authorities for a small fee.²⁷ The economic developments, increased mobility, and globalisation, while creating positive changes in many ways, can also create prime conditions for the sexual exploitation of children (SEC). One of the most difficult aspects of SEC in Lao PDR is that it is a relatively recent danger and so is largely unmapped.

The Situation of Children (overview of children's rights)

The Law on Anti-Trafficking in Persons and the Law on the protection of the Rights and Interests of Children defines a child as any person below the age of 18 (Article 4(30) and Article 2(1) respectively).²⁸ Due to the pressures of rapid development and rural-urban migration many children are being left by parents to be cared for by distant relatives or in temples and orphanages.²⁹ Children are considered indebted to their parents, and this burden is greatest for girl children who cannot earn merit by entering the monkhood.³⁰ A study published in 2016 reflected the rates of violence against children, with 15% of females experiencing physical violence in their childhood and 17.2% of males.³¹ The government has appeared keen to embrace opportunities to protect children from exploitation and invited the UN Special Rapporteur on the sale of children, child prostitution and child pornography to Lao PDR in 1998.³² Yet, despite the good intentions of the government to improve protection from and prevention of SEC, UNICEF reports that there is a limited institutional understanding of the terms 'sale of children', 'child prostitution' and 'child pornography' and that these are often included under the same heading of trafficking.³³ As international and non-governmental organisations begin to take note of the issue, there is a growing amount of data available. Though often research includes all of the Mekong Region and the data is not disaggregated among Cambodia, Lao PDR, Thailand and Vietnam; meaning figures specific to Lao PDR are often unknown. It has been suggested that Lao PDR could do more to combat SEC if it were to learn from the past experiences of other countries, and tackle all forms of sexual exploitation through a holistic approach.³⁴

27 Commission on Human Rights 55th session (1999), "Mission of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos, to the Lao People's Democratic Republic on the issue of trafficking of children (21-25 September 1998)", UN Doc. E/CN.4/1999/71/Add.1, 27 January 1999, para. 20, <http://www.refworld.org/docid/45377b850.html>.

28 Lao People's Democratic Republic (2015), "Law on Anti-Trafficking in Person", Law No. 73/NA; Lao People's Democratic Republic (2006), "Law on the Protection of the Rights and Interests of Children", Law No. 05/NA.

29 Save the Children Laos (n.d), "Laos: Child Protection", *What We Do*, accessed 16 November 2016, <https://laos.savethechildren.net/what-we-do/child-protection>.

30 Child Frontiers (2011), "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 18.

31 Lao Statistics Bureau, NCMC & UNICEF (2016), "Violence against Children, Survey in Lao PDR – Preliminary Report", 25, accessed 1 December 2016, [https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016\(1\).pdf](https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016(1).pdf).

32 Commission on Human Rights 55th session, "Mission of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos, to the Lao People's Democratic Republic on the issue of trafficking of children (21-25 September 1998)", 1999, para. 1.

33 UNICEF (2013), "Annual Report 2013, Lao People's Democratic Republic", 23, accessed 9 December 2016, http://www.unicef.org/about/annualreport/files/Lao_COAR_2013.pdf.

34 Sisavath, Phouthone (2011), "Combating Child Sex Tourism in a new tourism destination", (Master's Thesis, Unitec New Zealand), 1,, accessed 29 December 2016, http://unitec.researchbank.ac.nz/bitstream/handle/10652/2035/Phouthone%20Sisavath%20_2012-09-25.pdf?sequence=1.

Trafficking of Children for Sexual Purposes

The inequality among and within countries of the Mekong Region, and the wider Southeast and East Asian Regions, is a basis for vulnerability to sexual exploitation of children. While countries such as Brunei, Japan, the Republic of Korea and Singapore boast high per capita incomes, the geographically close and increasingly accessible Cambodia, Lao PDR, Myanmar and Vietnam are all near the bottom of this same scale. It is estimated that between 200,000 and 450,000 people are trafficked each year in the Greater Mekong region,³⁵ and Lao PDR is no exception to this regional problem.

The US State Department Trafficking in Persons Report (TIP Report) has almost consistently placed Lao PDR on Tier 2 since 2001, meaning that the US government considers that the State does not fully comply with the minimum standards expected in the fight against trafficking, but that it is making significant efforts to do. The most recent report in 2016, places it on the Tier 2 Watch List (as in 2004, 2010, 2014 and 2015).³⁶ If a country is ranked on the Tier 2 Watch List for two consecutive years and would be of the same ranking for the next year, it will receive an automatic downgrade to Tier 3 in the third year.³⁷ However, the Trafficking Victims Protection Act grants a waiver from this downgrade if there is a written plan, the implementation of which would constitute efforts to meet the minimum standards for the elimination of trafficking.³⁸ These conditions were met twofold by Laotian efforts: the promulgation of the Law on Anti-Trafficking in Persons in February 2016 and the finalisation of the 2016-2020 national action plan. Yet, these measures did not constitute adequate proof of a significant increase in anti-trafficking measures in comparison to the previous reporting period, resulting in the placement of Laos on the Tier 2 Watch List for its third year.³⁹

Lao PDR is predominantly a source country for trafficking. It is estimated that about 90% of persons trafficked from Lao PDR arrive in Thailand.⁴⁰ In 2004, the first study into human trafficking was released by the Ministry of Labour and Social Welfare and UNICEF; a strikingly high 60% of the victim participants in the qualitative study were girls between the ages of 12 and 18, and 35% of these ended up exploited in prostitution.⁴¹ 2014/2015 figures identify a total of 253 victims of trafficking, with 200 of them being children.⁴²

Figures from IOM indicate that of all the victims trafficked into Thailand assisted by the organisation between 1998 and 2010, the largest number came from Lao PDR: 1472 of

35 Sengsavang (n.d), "Human Trafficking in Laos", accessed 9 December 2016, <http://sengsavang.org/human-trafficking-in-laos/>.

36 U.S Department of State (2016), "Trafficking in Persons Report", accessed 1 December 2016, 237, <https://www.state.gov/documents/organization/258876.pdf>.

37 *Ibid.*, 39.

38 *Ibid.*, 237.

39 *Ibid.*

40 Sengsavang (n.d), "Human Trafficking in Laos", accessed 9 December 2016, <http://sengsavang.org/human-trafficking-in-laos/>.

41 UNICEF (2005), "Broken Promises, Shattered Dreams", 17 and 26, accessed 9 December 2016, <https://www.unicef.org/media/files/BrokenPromisesFULLREPORT.pdf>.

42 ASEAN (2016), "Regional Review on Laws, Policies and Practices within ASEAN relating to the Identification, Management and Treatment of Victims of Trafficking especially Women and Children", Jakarta; ASEAN Secretariat, 174.

3459 individuals.⁴³ Although not up-to-date, these figures suggest the problem is not a new phenomenon as the lack of information and only relatively recent action on the part of the government would suggest. A 2016 UNODC report confirmed that it is still the case with 345 Lao citizens registered as assisted victims of trafficking identified in Thailand in 2012-2015.⁴⁴ Figures from 2014 demonstrate a continuing trend: of 595 victims identified by the Thai government, 222 were victims of SEC and most of them from Laos and Thailand.⁴⁵

The Laotian government submitted in its second periodic report to the Committee on the Rights of the Child, covering 1997 to 2005, that economic progress and development, combined with inequalities in income and lack of resources to effectively control border areas, meant an increased risk of trafficking in women and children.⁴⁶ Due to the patterns of migration in the Greater Mekong Sub-region many individuals fleeing poverty may fit simultaneously several labels such as 'economic migrants', 'refugees' or 'victims of trafficking'. Many who begin as economic migrants later fall into the trap of deception and exploitation. The organisation Village Focus International provides examples of common scenarios where a female broker, most often related or known to a family in a poor rural area, presents a girl with an employment opportunity across the border in Thailand and offers to organise paperwork and transportation.⁴⁷ Allusions have been made to parents even 'selling' their daughters in Champassak province.⁴⁸ Upon arrival girls often find themselves forced into sex work in karaoke bars, massage parlours or beauty salons under the pretext that they must repay the debt incurred in bringing them across the border.⁴⁹ Some may be trafficked onwards to third countries such as China,⁵⁰ Japan, Malaysia, Myanmar,⁵¹ Taiwan and Western countries.

The UNODC reports that in East Asia the proportion of trafficking victims that are children is particularly high, due to the high rates of girls trafficked.⁵² According to a news report quoting the Social Welfare Department under the Ministry of Labour and Social Welfare, 157 Laotian

43 IOM (2010), "IOM Training Manual on Psychosocial Assistance for Trafficked Victims", Bangkok: IOM, 2-3, accessed 9 December 2016, <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/health/mental-health/IOM-Training-Manual-Psychosocial-Assistance-for-Trafficked-Persons.pdf>: The number of victims from Cambodia was slightly less (1371), and Myanmar in third position was much less (522).

44 UNODC (2016), "Country Profile: East Asia and the Pacific", *Global Report on Trafficking in Persons – Country Profiles*, accessed 9 January 2017. http://www.unodc.org/documents/data-and-analysis/glotip/Glotip16_Country_profile_East_AsiaPacific.pdf.

45 The Global Slavery Index (2016), "Thailand", *Country Study*, accessed 9 December 2016, <http://www.globalslaveryindex.org/country/thailand>.

46 UN Office of the High Commissioner on Human Rights (2011), "Committee on the Rights of the Child Reviews Report of the Lao People's Democratic Republic", *News Archive*, 27 January 2011, accessed 9 December 2016, <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10684&LangID=E>.

47 Link to the original Village Focus' "A Survivor of Human Trafficking: Ms B's Story" is invalid, but text has been reproduced: Stop Human Trafficking in Thailand (2016), "A Survivor of Human Trafficking: Ms. B's Story", (Facebook Status update) 17 May 2016, accessed 15 December 2016, https://www.facebook.com/permalink.php?story_fbid=239315793109669&id=238804943160754.

48 UNICEF (2005), "Broken Promises, Shattered Dreams", 40.

49 Village Focus International, "A Survivor of Human Trafficking: Ms B's Story".

50 UNODC (2009), "Terminal Evaluation Report of UNODC R76 Project", 13, December 2009, accessed 9 December 2016, https://www.unodc.org/documents/evaluation/ProEvals-2009/final_version_evaluation_report_lao_r76_18may2011rev.pdf; U.S Department of State (2016), "Trafficking in Persons Report", accessed 1 December 2016, 237, <https://www.state.gov/documents/organization/258876.pdf>.

51 UNICEF (2005), "Broken Promises, Shattered Dreams", pp. 26-7.

52 UNODC (2016), "Global Report on Trafficking in Persons", 103.

victims of trafficking had been returned in 2014 and, of these, 135 were under the age of 18 and all but two were female.⁵³ Most victims originated from Vientiane, or the wider Vientiane and Luang Prabang provinces.⁵⁴ Many children from provincial areas, or '*khaeng*', are most at risk of abuse as they are not familiar with city life, may not have access to information and the additional language barriers may mean that children are not aware of how to protect themselves.⁵⁵ Although the majority of victims are from rural areas, usually they are not so remote as to have escaped the draws of modernisation; it has been reported that some victims are not suffering from adverse poverty, but rather an attraction to higher status and materialism.⁵⁶

Domestic trafficking is also prevalent in Laos, in 2015, 46 of 189 victims identified by the government were domestically trafficked.⁵⁷ When engaging in prostitution, girls reportedly prefer to travel to a place where they are unknown and they also frequently shift from place to place; therefore, this movement does not necessarily occur only from rural to urban areas. In the northern border areas close to Thailand and Myanmar, local health workers, authorities and the girls themselves have reported that girls working in Bokeo province come from the capital Vientiane, Luang Prabang and Luang Namtha; in Luang Namtha, girls were reportedly originally from Luang Prabang, Oudomxay and Phongsali.⁵⁸ Demand for prostitution in border areas is inherently linked with sexual exploitation in travel and tourism (SECTT), discussed below. Girls move to supply sex services where there is greatest demand following construction projects, which often hire migrant workers who come to Lao PDR without their families, and other events and conferences. Yet, not enough is known about these girls, who are even more isolated as the local community views them as outsiders,⁵⁹ to enable investigation into whether they have been trafficked.

There is also evidence of Laotian women and girls being trafficked into China to fill the void of women and girls to marry resulting from the country's one-child policy and expensive bride price.⁶⁰ Unofficial reports claim the trafficking of hundreds of ethnic Khmu girls from

53 Vientiane Times (2015), "157 Victims Rescued in 2014", *The Nation*, 19 March 2015, accessed 9 December 2016, <http://www.nationmultimedia.com/news/breakingnews/aec/30256327>.

54 *Ibid.*

55 World Vision (2014), "Sex, Abuse and Childhood: a Study About Knowledge, Attitudes and Practices Relating to Child Sexual Abuse, Including Travel and Tourism in Cambodia, Lao PDR, Thailand and Vietnam", Australia: World Vision, 62, accessed 13 December 2016, <http://resourcecentre.savethechildren.se/sites/default/files/documents/sex-abuse-childhood-report.pdf>.

56 UNICEF (2005), "Broken Promises, Shattered Dreams", pp. 8, 47, 51, 56.

57 U.S. Department of State (2016), "Trafficking in Persons Report", 238.

58 Child Frontiers (2011), "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 17.

59 Child Frontiers (2011), "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 18: In interviews with Village Mediation Unit Representatives, community members and youth have shared their lack of a sense of responsibility for these mobile girls.

60 UNICEF (n.d.), "Children on the Edge: Protecting Children from Sexual Exploitation and Trafficking in East Asia and the Pacific", 13, accessed 13 December 2016, <http://www.unicef.org/vietnam/childse.pdf>; Watson, L., "Traffickers launch 'buy a bride' scheme for Chinese men as one-child policy creates shortage of women", *ITV*, 26 May 2015, accessed 17 November 2016, <http://www.itv.com/news/2015-05-26/traffickers-launch-buy-a-bride-scheme-for-chinese-men-as-one-child-policy-creates-shortage-of-women>; UN Economic and Social Council Commission on Human Rights, "Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy", UN Doc. E/CN.4/1997/47, 12 February 1997, para. 88, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G97/104/22/PDF/G9710422.pdf?OpenElement>: In some rural villages in China, 30-90% of marriages are a result of trafficking.

the northern provinces over several years and describe the failings of rescue operations due to the scale of Chinese territory and bureaucracy, in addition to lack of law enforcement resources and training.⁶¹ In March 2015, a 14-year-old school girl was reportedly trafficked across the border into China from the northern Luang Namtha region where she was forced into marrying a Chinese man.⁶² At the time, Lao PDR authorities claimed they were cooperating with their Chinese counterparts in an attempt to rescue the girl and also cited the recent success of Chinese authorities in repatriating a Lao PDR woman who had been trafficked to an ‘entertainment venue’ in China in 2014 where she had been working until she managed to escape. Authorities also claimed the arrest of three Chinese citizens suspected of ‘luring’ several Lao PDR girls into trafficking.⁶³ These reports show the exploitation of young Lao PDR women and girls may extend to the sex industry in China as well as the provision of brides.

Lao PDR women are also trafficked into Vietnam for sexual exploitation in the coastal and urban areas, despite a high level of awareness and prosecution rates for sex trafficking offences in the country, which reached 153 in 2010, for example.⁶⁴ The reverse is also true; Vietnamese and Chinese women are also trafficked into Lao PDR. Many Chinese girls seem to be brought to provide services within Lao PDR’s Special Economic Zones (SEZ) where casinos and hotel complexes are established in the northern border areas.⁶⁵ With respect to Vietnamese girls, many are trafficked by Vietnamese organised criminal gangs to serve the Vietnamese migrant worker community in the east of the country, particularly around the Sepone mining area.⁶⁶ Though the Lao PDR government claimed in 2015 to have no record of Chinese or Vietnamese girls being trafficked for prostitution into Laos⁶⁷, the 2016 TIP report identifies Lao PDR as a transit country for girls of Vietnamese and Chinese origin to be further trafficked into Thailand.⁶⁸ The Vietnamese newspaper Tuoi Tre reported 3,000 Vietnamese women and children trafficked into Laos and Cambodia in 2015.⁶⁹ Tellingly, in January 2016 the Laotian, Vietnamese and Cambodian Ministries of Public Security amplified cooperation and agreed on the exchange on information and experience in tackling cross-border trafficking.⁷⁰

61 AsiaNews.it (2012), “Hundreds of Laotian Women Sold in China, Victims of Human Trafficking”, 19 May 2012, accessed 13 December 2016, <http://www.asianews.it/news-en/Hundreds-of-Laotian-women-sold-in-China,-victims-of-human-trafficking-24794.html>.

62 Souksavanh, Ounkeo and Lipes, Joshua (2013), “Lao, Chinese Police Team Up in Search for Trafficked Lao Girl”, *Radio Free Asia*, 13 March 2013, accessed 13 December 2016, <http://www.rfa.org/english/news/laos/trafficking-03132015161559.html>.

63 *Ibid.*

64 Forss, Kim (2012), “Working Against Trafficking through the Multilateral System – A Study of Coordination Between UN Agencies at Global, Regional and National Levels”, Sweden: Swedish Ministry of Foreign Affairs, 45.

65 Child Frontiers (2011), “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 40.

66 *Ibid.*

67 Committee on the Rights of the Child (2015), “List of Issues in relation to the report submitted by Lao People’s Democratic Republic under Article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: Replies of Lao People’s Democratic Republic to the List of Issues”, UN Doc. CRC/C/OPSC/LAO/Q/1/Add.1, 12 May 2015, para. 29, accessed 13 December 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/096/01/PDF/G1509601.pdf?OpenElement>.

68 US Department of State (2016), “Trafficking in Persons Report”, 237: Laos is reportedly a transit country for some Vietnamese and Chinese women and girls who are subjected to sex trafficking and forced labor in neighboring countries, particularly Thailand.

69 News Desk (2016), “Laos, Cambodia, Vietnam sign agreement to combat human trafficking”, *Asia News Network*, 19 January 2016, accessed 21 November 2016, <http://annx.asianews.network/content/laos-cambodia-vietnam-sign-agreement-combat-human-trafficking-7852>.

70 Le, Ngoc (2016), “Vietnam signs MoU with Laos, Cambodia to fight human trafficking”, *Thanh Nien News*, 15 January 2016, accessed 21 November 2016, <http://www.thanhniennews.com/politics/vietnam-signs-mou-with-laos-cambodia->

Exploitation of Children for Prostitution

UNICEF has reported that child sexual exploitation is one of the worst manifestations of child labour in the Mekong Region and that 30-35% of all ‘sex workers’ in the Region are children between 12 and 17 years of age.⁷¹ A database analysis specific to Lao PDR showed that girls under 18 represented 47.4% – almost half – of the sample.⁷² Prostitution is forbidden in Lao PDR⁷³ and strict law enforcement means that the country does not share the open large-scale brothel industries visible in Thailand and Cambodia⁷⁴ Nevertheless, sex is traded in night clubs, bars, guesthouses and hotels, where children receive a commission on alcohol sold and are encouraged to offer sex services.⁷⁵ Research reported by World Vision in 2014 relayed concerning accounts of girls aged between 14 and 16 offering sex in beer and karaoke bars in the capital Vientiane and the possibility for clients to request particular types of girls such as students or virgins which are listed and graded by agents or *masamans* according to potential clients.⁷⁶ Local police officers and taxi drivers from Luang Prabang and Vientiane reported that *Sao Borikan* (female sex workers) are often provided by owners of rental accommodation to migrant workers.⁷⁷ As prostitution is illegal and the punishments can be harsh, to avoid detection many girls are shying away from basing themselves in a specific physical location. The phenomenon of *sao meu teu* or ‘mobile phone girls’, who may or may not be linked to a bar that charges them a fee, is growing and has been reported in five provinces where research was conducted.⁷⁸

As Thailand has attracted much attention for its sex industry and is taking measures to counter exploitation of children in prostitution, the continuing demand is being fulfilled by girls being brought from Lao PDR as well as from Cambodia, Myanmar and Vietnam.⁷⁹ The same links with the entertainment industry exist across the border and Thai officials reported that prostitutes are often found in karaoke bars. In a recent raid on four Thai karaoke bars officials discovered 72 young people between the ages of 13 and 20 working as prostitutes, and all of them were Laotian.⁸⁰ Young homosexual and transgender adolescent boys also leave Lao PDR to go to Thailand where there is reportedly a high demand for young boys in the sex industry in the tourist centres of Pattaya, Phuket and Bangkok.⁸¹

[to-fight-human-trafficking-58199.html](http://www.refworld.org/docid/555de0e74.html).

71 UNICEF, “Children on the Edge”, 3.

72 Committee on the Rights of the Child (2014), “Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Reports of States parties due in 2008: Lao People’s Democratic Republic”, UN Doc. CRC/C/OPSC/LAO/1, 21 August 2014, para. 24, accessed 13 December 2016, <http://www.refworld.org/docid/555de0e74.html>; AFESIP, “Database Analysis of Women in Prostitution in Vientiane Capital”, 2005-2006.

73 Lao People’s Democratic Republic (2005), “Penal Law”, No. 04/PO, 9 January 1990, amended in 2005, English Translation accessed 14 December 2016 http://www.wipo.int/wipolex/en/text.jsp?file_id=180194, Article 131.

74 Child Frontiers, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 14.

75 UNICEF, “Children on the Edge”, 3-4, 25-7.

76 World Vision, “Sex, Abuse and Childhood”, 60.

77 *Ibid.*, 63.

78 Child Frontiers, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 20.

79 UNICEF, “Children on the Edge”, 13.

80 Editor (2015), “Laos and Thailand to Work Together Against Human Trafficking”, *Thai Visa News*, 20 February 2015, accessed 3 January 2017, <http://news.thaivisa.com/thaivisa-news/laos-and-thailand-to-work-together-against-human-trafficking/24757>.

81 Child Frontiers, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 2011., 33.

Sexual Exploitation of Children in Travel and Tourism

While historically the literature most commonly refers to Thailand and the Philippines when discussing the sexual exploitation of children in travel and tourism (SECTT), travellers and tourists seeking sex with children have now reached most of the world.⁸² Particularly as Thailand has initiated measures such as arresting brothel owners; fining customers rather than prostitutes; making sex with a child subject to prison and fines; and granting boarding school scholarships to young girls 'at risk' of SEC.⁸³ The UN Special Rapporteur on the sale of children had concerns as early as 1998 that progress in Thailand would encourage those seeking sex with children to find alternative destinations.⁸⁴

Neighbouring undeveloped Lao PDR, 'undiscovered' among South-east Asian States, risked providing a safe haven for those seeking to carry out SEC under the radar. Travelling child sex offenders, both domestic and international, depend on their mobility and anonymity to facilitate their crimes and avoid law enforcement – even longer term residents have minimal connections in the communities.⁸⁵ Many Australians, Europeans and Americans travelling for business, teaching, volunteering or development work have been identified as travelling child sex offenders in the Mekong Region, though most are East Asian or regional.⁸⁶ That Laos is perceived as a 'safe country' to escape criminal pursuit in Thailand or Cambodia is a major concern of international law enforcement.⁸⁷

As recently as 2006 there were no reported cases of arrests or convictions for SECTT offences in Lao PDR,⁸⁸ which is thought to be evidence of a concerning lack of surveillance and awareness rather than an absence of a problem.⁸⁹ The 2007-2008 Child Wise Australia report on South-east Asian tourism excluded the 2007 and 2008 Lao PDR data from the total South-east Asian prosecution figures for SECTT due to a lack of clarity as to whether those prosecuted were arrested for related offences.⁹⁰ The arrest figures were seven and 11, while for convictions this was seven and nine, respectively, though two of the latter were subsequently acquitted and two others were awaiting trial; all but one were of Laotian origin. This is also reflected in World Vision's recent media study, which showed only one case of general child sexual abuse was reported in the media between October 2011 and May 2014.⁹¹ While there is a lack of

82 Sisavath (2011), "Combating Child Sex Tourism in a new tourism destination", 12, citing Zitze (2007), Lau (2008), Tepelus (2008), Zafft and Tidball (2010).

83 ECPAT The Netherlands and Defence for Children (2013), "Protection of Children Against Sexual Exploitation in Tourism: Capacity Building and Awareness Raising Activities in Thailand, Cambodia, Philippines, Gambia and Dominican Republic", 14, accessed 13 December 2016, <http://www.defenceforchildren.nl/images/13/2817.pdf>.

84 UN Special Rapporteur on the sale of children, child prostitution and child pornography, Ms Ofelia Calcetas-Santos, "Mission to the Lao People's Democratic Republic", para.18.

85 UNODC (2014), "Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frameworks, Lao PDR", 9, accessed 15 December 2016, https://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/childhood/LAO_Legal_Report_2014.pdf.

86 UNODC (2013), "Transnational Organised Crime in East Asia and the Pacific: A Threat Assessment", 19, accessed 15 December 2016, http://www.unodc.org/documents/data-and-analysis/Studies/TOCTA_EAP_web.pdf.

87 U.S. Immigration and Custom's Enforcement (ICE) interview (2010) conducted for Child Frontiers "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 27.

88 ChildWise Australia (2009), "Travelling Child-Sex Offenders in South East Asia: A Regional Overview – 2007/8", accessed 15 December 2016, http://childwise.blob.core.windows.net/assets/uploads/files/Travelling_child_sex_offenders.pdf.

89 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011 32.

90 ChildWise Australia (2009), "Travelling Child-Sex Offenders in South East Asia", 2009, 18-19.

91 World Vision Australia (2014), "Child Sexual Abuse: An Analysis of Media Case Reporting", 1 October 2011 – 31 May 2014

data on this trend, with tourism now the fastest growing sector in Lao PDR, the risk of child sex offenders entering the country increases and the sexual exploitation of children through travel and tourism is thought to be a growing phenomenon. Though the visitor numbers to the Lao PDR are swamped by those visiting neighbouring countries such as Thailand,⁹² the latest government statistics cited 4.7 million tourist arrivals in 2015⁹³ in stark contrast to the 1.2 million in 2006.⁹⁴ In general, as tourism in Lao PDR grows, so does the demand for sex workers.⁹⁵ Furthermore, it is usually fuelled by conditions which are prevalent in modern-day Lao PDR: weak legal protection for children from abuse and prostitution, corruption, facility of travel, growing Internet use and the vulnerability associated with poverty. It is the lack of research, figures and apprehension which may in fact be protecting and encouraging offenders in Lao PDR. World Vision suggested that the substantial difference in the percentage of foreign offenders recorded among States, with 31% in Cambodia but only 4% in Vietnam, could be due to the reputation of the Vietnamese law enforcement acting as a deterrent,⁹⁶ an example which could be followed by Lao PDR. On the other hand, the large-scale reporting in Cambodia may be due to the active cooperation of a large number of NGOs, such as *Action Pour Les Enfants*, with the media in addition to their efforts in identification, investigation and arrest.⁹⁷ The media has a large role to play in awareness-raising and could be an important tool in Lao PDR.

Intra-ASEAN tourism is being encouraged through measures outlined in the ASEAN Tourism Agreement of 2002, such as extending visa and travel tax exemptions for ASEAN nationals, harmonising travel documentation procedures and facilitating transport and communication links⁹⁸ Despite often-held ideas of the common western male ‘sex tourist’, most SEC offenders who travel to Laos originate from Thailand, China or other Asian countries. 23% of alleged offenders of SEC manifestations in the four Mekong countries studied by World Vision in 2014 (Cambodia, Lao PDR, Thailand and Vietnam) were foreigners, including long-term residents, economic migrants and tourists.⁹⁹ These results may be skewed as Western offenders in Asia, being more distinctive, may be more easily apprehended. It may also result from foreign governments or NGOs actively investigating their own nationals, or simply from stories of Westerners being more newsworthy in the English-language press.¹⁰⁰ Thai tourists

(Cambodia, Lao PDR, Thailand and Vietnam), 4 and 10, accessed 13 December 2016, <http://www.thinkchildsafe.org/thinkbeforedonating/wp-content/uploads/Child-Sexual-Abuse-World-Vision-Australia.pdf>.

92 Thaiwebsites (2016), “Tourism Statistics Thailand 2000-2016”, *Articles*, last updated 26 November 2016, accessed 13 December 2016, <http://www.thaiwebsites.com/tourism.asp>: The Kingdom of Thailand welcomed almost 30 million international arrivals in 2015.

93 Mekong Tourism (n.d.), “2015 Statistical Report on Tourism in Laos”, 9, accessed 14 December 2016, <http://www.mekongtourism.org/wp-content/uploads/Laos-2015-Statistics-Report-on-Tourism-in-English-Version.pdf>.

94 Lao Statistics Bureau (2014), “Statistical Yearbook 2014, Tourism”, accessed 15 November 2016, <http://www.lsb.gov.la/en/Tourism14.php>.

95 World Vision (2013), “Annual Report 2013: Child Protection”, accessed 13 December 2016, <http://www.wvi.org/sites/default/files/Child%20protection%20annual%20report%202013.pdf>.

96 World Vision Australia, “Child Sexual Abuse: An Analysis of Media Case Reporting”, 2014, 11.

97 *Ibid* 8.

98 ASEAN (2002), “ASEAN Tourism Agreement”, 4 November 2002, accessed 13 December 2016, http://asean.org/?static_post=asean-tourism-agreement.

99 World Vision Australia (2014), “Child Sexual Abuse: An Analysis of Media Case Reporting”, 1 October 2011 – 31 May 2014 (Cambodia, Lao PDR, Thailand and Vietnam), 4 and 10, accessed 13 December 2016, <http://www.thinkchildsafe.org/thinkbeforedonating/wp-content/uploads/Child-Sexual-Abuse-World-Vision-Australia.pdf>.

100 *Ibid.*, 11.

and business men looking to purchase sex reportedly make specific requests for school age students and teenage girls and often cross the border to Champassak and Savannakhet in groups for the weekend.¹⁰¹ A growing economy results in greater numbers of businessmen visiting the country and an increased number of long-term expats who work, live or retire in these countries may also be included in the profile of a travelling child sex offender.

Special Economic Zones (SEZ) are also relevant to SECTT as, by their very nature, they are established for the benefit of tourists, particularly Chinese and Thai nationals, and provide for gambling facilities which are illegal in these neighbouring countries. These SEZs exist in the border areas for easy access from these countries, in the 'Golden Triangle area' in Bokeo and Boten in Luang Namtha. Despite the laws against prostitution, these areas seem to effectively operate outside of the law and prostitution is clearly visible; interviews with Tourist Police in 2010 reported that Chinese girls as young as 13 or 14 years old were being sold in these areas.¹⁰² The interrelation between trafficking, prostitution and SECTT is particularly striking here.

Outside of these areas, certain websites and chat rooms attest to the sexual exploitation of children in travel and tourism in popular destinations such as Luang Prabang, Vang Vieng and Vientiane. The sites give advice to tourists on finding young Lao PDR nationals to sexually exploit; share tips on which bars and guesthouses do not enforce a policy on room visitors; where guards can be easily bribed; and where government regulation and oversight can be avoided.¹⁰³ By reason of the complex dynamics in the region, the large number of Lao PDR children and youth present in neighbouring countries exposed to SEC due to, for example, the demand for sexual exploitation from travellers in Thailand, should also be considered. The majority of boys exploited in prostitution in Thailand, particularly in Pattaya, are of Lao origin and return to work in the sex industry in the tourist destinations of Laos when they are older.¹⁰⁴

'Child Pornography'/Child Sexual Abuse Material

Research shows that in around 42% of SECTT cases worldwide, child sexual abuse material is also involved. It is used to groom or blackmail children, produced for the offender to relive and share the experience with others or the child abuse may even be live-streamed from 'cyber-sex dens'.¹⁰⁵ This strong connection, particularly with respect to fuelling demand, means child sexual abuse material (CSAM) must be tackled in combination with SECTT.

The Laotian government stated in its 2014 state report to the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC), that child sexual abuse materials exist and are in circulation and available to download in CD shops, but that there is no data

101 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 32-3.

102 Interview with Tourist Police, Boten SEZ, October 2010, cited in Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 34.

103 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 27, 32.

104 *Ibid.*, 33.

105 U.S. Department of State (2007), "Trafficking in Persons Report", 23, accessed 9 December 2016, <http://www.state.gov/documents/organization/82902.pdf>.

to elaborate on whether these are produced inside the country.¹⁰⁶ However, the Special Rapporteur on the sale of children, child prostitution and child pornography was concerned as early as 1999 that children between the ages of 12 and 14 had been involved in the production of pornography inside Lao PDR which had been exported, and that this could increase with the changes to the market economy.¹⁰⁷ The Tourist Police did report a case of production in 2009-10 which involved an elderly American man and his Laotian partner in the making of pornographic videos and images in Vang Vieng, exploiting young boys between 8-10 years old, which were sold online. The case was brought to the attention of police due to the frequency with which the couple visited Internet cafes to upload the images. The Laotian partner was arrested for the sale of pornography and fined 10,664,000 kip (US\$ 1333) which did not act as an effective deterrent as the couple paid the fine and then continued to produce CSAM.¹⁰⁸ The Committee on the Rights of the Child raised its concerns about reports that an increasing number of Lao PDR teenagers are taking explicit images and videos of themselves and sharing these or uploading them onto the Internet.¹⁰⁹ Children need to be aware of and protected from the dangers of these materials being passed along without consent, and further abuse that can be committed through 'sexual extortion' for further sexual materials, favours or money. Internet usage and facility of access to mobile phones and 3G in Lao PDR are increasing at a fast pace. This makes it difficult for the protection and security measures needed to protect children from grooming and awareness-raising of the risk in sharing personal images to keep up.¹¹⁰ As of June 2016, the number of Internet users in the country was estimated at 1.4 million.¹¹¹ Facebook, other social media and instant messaging applications are used by some offenders in Mekong countries to groom and lure children to isolated areas for intended abuse. Online sexual abuse is growing in the ASEAN region and is increasingly being used by travelling child sex offenders to facilitate their direct access to children.¹¹²

Child Marriage

The most concerning cases of child marriage in Lao PDR are established as part of the traditional customs and practices of its ethnic populations. In Hmong culture,¹¹³ acceptable practices include *Tshoob zawj*, where a woman is forced to marry a man and attempts to convince the parents may include payments. The Hmong or Khmu practice of *Tshoob nii*, literally means to 'pull a lady' or 'bride theft' and is effectively kidnapping the bride who may be as young as 12

106 Committee on the Rights of the Child, "Reports of States Parties due in 2008, Laos People's Democratic Republic", 2014, 7.

107 Commission on Human Rights 55th session, "Mission to the Lao People's Democratic Republic", 1999, para. 37.

108 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 34: The American died of a heart attack before the case could be pursued any further.

109 Committee on the Rights of the Child, "List of issues in relation to the report submitted by the Lao PDR under article 12, paragraph 1, of the OPSC", 2015, para. 5.

110 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 26-7.

111 Internet World Stats (2016), "Usage and Population Statistics, Asia" accessed 15 November 2016, <http://www.internetworldstats.com/asia.htm>.

112 UNODC (2013), "Better Regional Coordination Needed to Fight Online Sexual Abuse of Children in the Greater Mekong Sub-Region", 21 June 2013, accessed 13 December 2016, <http://www.unodc.org/southeastasiaandpacific/en/laopdr/2013/06/project-childhood/story.html>: Quote Ms. Margaret Akullo, Project Coordinator, Project Childhood.

113 UNDP (2011), "Customary Law and Practice", July 2011, accessed 14 December 2016, http://www.la.undp.org/content/dam/laopdr/docs/Reports%20and%20publications/Customary_Law_Laos2011_english_master1.pdf?download, 4 and 19: Hmong are an ethnic group primarily located in Northern Lao. They traditionally cultivate land until soil exhaustion requires relocation. The community structure is a clan based patriarchal one, with 21 clans in each three original groups. There is a leader of the locality, the head of each clan, the head of each family and various healers and officials in charge of funeral ceremonies.

or 13 years old. A bride-price is commonly exchanged between the families of the bride and groom among ethnic groups.¹¹⁴ In some cases, a child may even be offered as a bride as payment to settle a dispute. Brides are often bound by marriage through the spirit of the husbands, as brides must denounce their own upon marriage. Furthermore, men in Hmong culture are permitted to practice polygamy and there is a relaxed attitude toward adultery committed by men in contrast to the severe consequences for women found to have committed such acts.¹¹⁵ It is unclear whether the legal marriage age set at 18 can still be decreased to 15 in special circumstances since the amendment to the Family Law in August 2008, but in any case the delegation to the Universal Periodic Review in 2015 acknowledged challenges in implementation.¹¹⁶ Other States highlighted the concerns of the Committee on the Rights of the Child specific to child marriage in ethnic groups and requested greater efforts to eliminate this.¹¹⁷ Reportedly 43% of Laotian girls in minority groups and rural areas are married before 18 as opposed to 23% in urban areas.¹¹⁸ Figures from 2015 demonstrate a large gender gap in early marriage, with 62,358 women aged 15-19 years old married compared to 23,501 men of the same age range.¹¹⁹ The adolescent birth rate in Laos was 65 per thousand girls aged between 15 and 19 in 2014¹²⁰ (whereas the Asia Pacific average is 35 per thousand girls of this age)¹²¹ and many ethnic groups uphold dangerous traditional practices such as giving birth alone in the forest.¹²² Young motherhood can result in further vulnerability to sexual exploitation with scenarios such as the girls engaging in prostitution for survival of their children following their husbands abandoning them.

Women and Children in Traditional Ethnic Communities

While children exposed to new technologies are particularly vulnerable, at the other end of the spectrum, ethnic communities living in isolated rural areas also need special protection. According to the UN Special Rapporteur on the sale of children the recognised minorities living in Lao PDR require special protection as they risk being most fiercely impacted by the rapid changes that come about with globalisation.¹²³ For example, the construction of the Nam Theun 2 dam in Khammouane displaced 6200 ethnic minority people with direct consequences for their livelihood; consequences that the UN Special Rapporteur for Indigenous Peoples was trying to assuage through dialogue for relocation and compensation. In a similar vein, 65,000 former hill tribe opium farmers were relocated by the Laotian government into villages, which

114 *Ibid.*, 34-5.

115 *Ibid.*, 36.

116 Human Rights Council (2015), "Report of the Working Group on the Universal Periodic Review: Lao People's Democratic Republic", UN Doc. A/HRC/29/7, 23 March 2015, para. 109, accessed 15 December 2016, <http://www.refworld.org/docid/557169e54.html>.

117 *Ibid.*, para. 113.

118 Save the Children Laos (n.d), "Laos: Child Protection", *What We Do*.

119 Lao Statistics Bureau (2015), "The 4th Population and Housing Census (PHC) 2015", 119, accessed 1 December 2016, <http://www.lsb.gov.la/PDF/PHC-ENG-FNAL-WEB.pdf>.

120 World Bank (2014), "Adolescent fertility rate (births per 1,000 women ages 15-19) Data", accessed 9 December 2016, <http://data.worldbank.org/indicator/SP.ADO.TFRT?end=2014&start=1960&view=chart>.

121 UNFPA (2013), "Motherhood in Childhood: Facing the Challenge of Adolescent Pregnancy", accessed 9 December 2016, <http://www.unfpa.org/sites/default/files/pub-pdf/EN-SWOP2013.pdf>.

122 UNFPA (2013), "Teenage Pregnancy is Way of Life in Remote Laotian Villages", *News*, 30 October 2013, accessed 15 November 2016, <http://www.unfpa.org/news/teenage-pregnancy-way-life-remote-laotian-villages>.

123 Lao People's Democratic Republic (2015), "Health Governance and Nutrition Development Project", Ministry of Health, March 2015, accessed 4 January 2017, <http://documents.worldbank.org/curated/en/256921468047763084/pdf/IPP7840IPP03910IC0EAP0P1514250EGDP.pdf>, 4.

successfully eradicated production of the narcotic but left many villagers without means of subsistence and mortality rates as high as 4%.¹²⁴ These indigenous women are reportedly prime targets for traffickers and sexual exploitation.¹²⁵ The first study on trafficking in Lao PDR did note that 60% of trafficking victims were children between 12 and 18, and disproportionately representative of minority communities.¹²⁶ Almost all minority trafficking victims were from communities that had been recently removed from their lands for investment or infrastructure projects. Khmu girls from the northern provinces of Lao PDR have been identified as the major victims of trafficking to China and Thailand.¹²⁷

Lao PDR is proud of its multi-ethnic state and the Law on the Protection of the Rights and Interests of Children aims at “protection of the rights and interests of multi-ethnic children”, “without discrimination of any kind in respect of... ethnicity, language, beliefs, religion”.¹²⁸ However, the idea that children have individual rights and that their best interests may not correlate with customary laws has no traction in any ethnic group.¹²⁹ As an extreme example, in Hmong culture (uniquely) infanticide is a private act which does not result in sanctions.¹³⁰

There are three systems of justice in Lao PDR: the formal at the national level; the semi-formal at the village level; and the informal customary law and practice of ethnic groups.¹³¹ As Lao PDR works towards a rule of law state in 2020 through its Legal Sector Master Plan, the formal system of national legislation, courts, police and prosecution is still embryonic with a matching level of legal literacy and awareness of rights among the population.¹³² The pluralist traditional means of resolving disputes throughout the country makes enforcing the authority of a unified legal system difficult but does not negate the State’s overall duty under international law to ensure that ethnic practices do not promote or result in child sexual exploitation.

Not only persistent abject poverty, but customary laws of these groups themselves may have a particular impact on the exposure of ethnic girls to sexual exploitation as they maintain firm gender roles and inequalities. Women are traditionally excluded from customary power structures, denied from bringing cases for customary conflict resolution without representation

124 Human Rights Council, 6th Session (2007), “Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen”, UN Doc. A/HRC/6/15/Add.3, 1 November 2007, paras. 26-7, accessed 13 December 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/148/22/PDF/G0714822.pdf?OpenElement>.

125 *Ibid.*, para. 46. NB: The government does not recognise the existence of “indigenous people”.

126 UNICEF, “Broken Promises, Shattered Dreams”, 2005, 8, 18 and 57.

127 AsiaNews.it, “Hundreds of Laotian Women Sold in China, Victims of Human Trafficking”, 2012; Chayavong, Vongsa (2016), “Protection of Trafficked Khmu Girls from Lao PDR: Cases of Pre-reintegration, Process and Human Security in Thailand” (paper presented at the 13th Asia Pacific Sociological Association (APSA) Conference, Phnom Penh, Cambodia, 24-25 September 2016).

128 Lao People’s Democratic Republic (2006), “Law on the Protection of the Rights and Interests of Children”, 27 December 2006, No 04/NA, articles 1 and 6.

129 Lao Ministry of Justice Law Research and International Cooperation Institute and UNDP (2011), “Customary Law and Practice in Lao PDR”, 88, accessed 13 December 2016, http://www.la.undp.org/content/dam/laopdr/docs/Reports%20and%20publications/Customary_Law_Laos2011_english_master1.pdf.

130 *Ibid.*, 51.

131 *Ibid.*, “foreword, summary”, 1.

132 *Ibid.*; UNDP Lao PDR (n.d.), “Support Project for Implementation of the Law Sector Master Plan”, *Projects*, accessed 16 December 2016, http://www.la.undp.org/content/laopdr/en/home/operations/projects/democratic_governance/support-project-for-implementation-of-the-legal-sector-master-pl.html.

by a male relative and, if they do speak in procedures, their words are generally worth less than a man's.¹³³ They are otherwise discriminated by the favouring of boys in education and healthcare, inequitable inheritance rules (although certain minority groups practice matrilineal inheritance) and double-standards of sexuality, the high value placed on female virginity and its linkage to family honour.¹³⁴ Rape is usually considered a family matter in most traditional systems and may be settled by the exchange of livestock or alcohol or, particularly where rape is understood as extra-marital sex, by the victim being forced to marry her rapist to remedy the wrongdoing.¹³⁵ Women who have extra-marital sexual relations, particularly those who become pregnant, may be excluded from the community. In certain cases, such women or girls may be forced to go into the woods to give birth and to live for one month outside of society. The woman or girl and her child may remain stigmatised, and be deprived of a 'Saengxao', or spirit leader, which will exclude her and her child from all activities and traditions of the community. The child growing up in this way may, therefore, be particularly vulnerable to exploitation and abuse.¹³⁶

Sale of Children

As discussed above and indicated by the UN Special Rapporteur on the sale of children,¹³⁷ child marriage may act as a guise for what the OPSC would effectively include within its definition of sale of children.¹³⁸

The Committee on the Rights of the Child has requested more information on the internal adoption procedures within Lao PDR, concerned there was a risk that adoptions could constitute a form of the sale of a child where the only condition was the agreement of the village chief.¹³⁹ Similar concerns reflected the lack of any licence being granted to agencies to act as intermediaries in adoptions. A moratorium on inter-country adoptions has been in force in Lao PDR since February 2012,¹⁴⁰ but the Committee on the Rights of the Child requested further information on the reason for this, particularly because there did not seem to be any safeguards in place with respect to internal adoptions.¹⁴¹ The government explained that international adoptions remain suspended until sufficient child protection mechanisms are in place and cited the Adoption Decree signed in June 2014 as an important step which outlines new procedures to be followed.¹⁴²

133 *Ibid.*, 28-9.

134 *Ibid.*, 88 and 90.

135 *Ibid.*, 53, 82 and 87.

136 *Ibid.*, 37 and 91.

137 Human Rights Council (2013), "Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid", UN Doc. A/HRC/25/48, 23 December 2013, para. 26, accessed 13 December 2016, http://www.ohchr.org/Documents/Issues/Children/SR/A-HRC-25-48_FINAL-en.doc.

138 OPSC, definition of sale of children, Article 2(a): "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration."

139 Committee on the Rights of the Child, "List of issues in relation to the report submitted by the Lao PDR under article 12, paragraph 1, of the OPSC", 2015, para. 12.

140 U.S. Department of State - Bureau of Consular Affairs (2012), "Intercountry Adoption", *Alerts & Notices*, 30 March 2012, accessed 13 December 2016, <http://travel.state.gov/content/adoptionsabroad/en/country-information/alerts-and-notices/laos12-03-30.html>.

141 Committee on the Rights of the Child, "List of issues in relation to the report submitted by the Lao PDR under article 12, paragraph 1, of the OPSC", 2015, para. 12.

142 *Ibid.*, para. 41.

NATIONAL PLANS OF ACTION AND POLICIES ON THE PROTECTION OF CHILDREN FROM SEC

The Lao PDR government has yet to implement a national plan of action that specifically addresses SEC, despite adopting a SEC specific plan for 2007-2011.¹⁴³ The failure to implement such a plan needs to be addressed; in the meantime, several other national plans remain relevant to SEC prevention. A National Plan of Action to Combat Human Trafficking was drafted in 2006.¹⁴⁴ The Lao government reported to the Committee on the Rights of the Child that this explicitly included exploitation of children and had been adopted in 2008,¹⁴⁵ although other reports claimed this was being finalised in 2012. In any case, whether new or updated, in late 2012 the Lao government adopted an unprecedented national anti-human trafficking strategy with plans for a comprehensive anti-trafficking law.¹⁴⁶ In December 2015, the Law on Anti-Trafficking in Persons was approved by the Lao National Assembly, with promulgation of the law in February the following year.¹⁴⁷

There were reports of a National Action Plan for the term 2007-2011 aimed at preventing the importation, distribution and trading of pornography,¹⁴⁸ although the Committee on the Rights of the Child reported in 2015 the absence of any plan or policy in place to tackle the issue.¹⁴⁹

The 8th Five-Year National Socio-Economic Development Plan (2016-2020) includes targets such as establishing a social fund in all 18 provinces to improve the life of victims of trafficking and the creation of networks in 800 villages to protect the rights of children as well as combat human trafficking.¹⁵⁰ Priority activities include: formulating national programmes to prevent trafficking (the implementation of which is periodically evaluated); cooperating with international organisations and NGOs to prevent trafficking; develop and publish laws on the prevention of trafficking; raise awareness on the dangers of trafficking with a gender focus; examine the reality of human trafficking as well as the community's reaction to returned victims; creating a national database on human trafficking; establishing an anti-human trafficking hotline; raising awareness of exploitation of children in travel and tourism;

143 *Ibid.*, para. 41.

144 U.S. Department of State, "Trafficking in Persons Report", 2007, 132.

145 Committee on the Rights of the Child (2011), "Summary record of the 1600th Meeting, held 27 January 2011", UN Doc. CRC/C/SR.1600, 19 April 2011, para. 5., accessed 13 December 2016, http://www.bayefsky.com/summary/laos_crc_c_sr1600_2011.pdf.

146 Lips, Joshua, "NGOs Reveal Smuggling Law Delay", *Radio Free Asia*, 29 January 2013, accessed 13 December 2016, <http://www.rfa.org/english/news/laos/smuggling-01292013123801.html>.

147 U.S. Department of State. "Trafficking in Persons Report", 2016, 237.

148 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 24.

149 Committee on the Rights of the Child (2015), "Concluding Observations on the Report Submitted by Laos on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography", UN Doc. CRC/C/OPSC/LAO/CO/1, 3 June 2015, para. 25(b), accessed 13 December 2016, http://tbinternet.ohchr.org/Treaties/CRC-OP-SC/Shared%20Documents/LAO/INT_CRC-OP-SC_COC_LAO_20812_E.pdf.

150 Lao People's Democratic Republic (2016), "8th Five-Year National Socio-Economic Development Plan (2016-2020)", June 2016, Vientiane: Ministry of Planning and Investment, 133, accessed 13 December 2016, http://www.la.one.un.org/images/publications/8th_NSEDP_2016-2020.pdf.

improve coordination between sectors, concerned agencies and other parties in the justice process; improve coordination between agencies on law enforcement, prosecution and victim protection; provide safe houses for victims of trafficking; provide vocational training and job search expertise for victims of trafficking; and economic assistance to allow victims of trafficking to return home to their families.¹⁵¹

The Laotian government adopted the first **National Plan of Action for the Prevention and Elimination of Violence against Women and Violence against Children 2014-2020**.¹⁵² The government is investing in research into the different forms of violence which children in Lao PDR face, in order to direct the development of strategies and improve the impact of not only governmental action but also that of NGOs to identify, prevent and take action in response to violence against children.¹⁵³ The Special Representative of the Secretary General on Violence against Children, Maria Santos Pais, made her first visit to Lao PDR in October 2014 and met with the President of the National Assembly to discuss the progress on the Law on Preventing and Combating Violence against Women and Children, enacted in late 2014,¹⁵⁴ which is the first to focus comprehensively on all forms of violence against women and children.¹⁵⁵ The link between more general violence against children and SEC was revealed by 2011 figures from an international NGO running a shelter for homeless children in Vientiane. The figures showed that domestic violence was one of the most common reasons why children left their homes to live on the streets,¹⁵⁶ whereupon children become vulnerable to SEC.

In terms of the enduring situation of poverty and lack of opportunities which increase the vulnerability of children to sexual exploitation, the following initiatives were brought to the attention of the Committee on the Rights of the Child: **the National Strategy on Education System Reform 2006-2015** and **the Education Development Framework 2009-2015**.¹⁵⁷ The budget share for education was raised to 12.2% in 2008 and in the years from 2005-2009 the proportion of children attending primary schools rose from 84.2% to 93.6%.¹⁵⁸

151 *Ibid.*, 137.

152 UNICEF Media Centre (2014), “Laos: Prime Minister Calls for an End to Violence Against Children on Children’s Day”, 31 May 2014, accessed 17 November 2016, http://www.unicef.org/laos/media_22612.html.

153 *Ibid.*

154 Lao People Democratic Republic (2014), “Law on Preventing and Combating Violence against Women and Children”, 23 December 2014, No. 56/NA, English Translation: <http://un-act.org/publication/view/lao-pdrs-law-on-preventing-and-combating-violence-against-women-and-children-2014>.

155 Special Representative of the Secretary-General on Violence against Children (2014), “SRSG Santos Pais Promotes Protection of Children from Violence in First Visit to Lao PDR”, *Story*, 23 October 2014, accessed 15 December 2016, http://srsg.violenceagainstchildren.org/story/2014-10-23_1162.

156 U.S. Department of State - Bureau of Democracy, Human Rights and Labor (2011), “Country Reports on Human Rights Practices for 2011”, 16, accessed 13 December 2016 <http://www.state.gov/documents/organization/186495.pdf>; Save the Children (2011), “Children’s Situation in Laos”, *Resource Centre*, 10 October 2011, accessed 13 December 2016, <http://resourcecentre.savethechildren.se/start/countries/laos>: Save the Children indicates that around 800 children were living and/or working on the streets of Vientiane in 2011, and a survey of 270 found that 35% were under 10 years old and 60% were between 10-15 years old.

157 Committee on the Rights of the Child, “Summary record of the 1600th Meeting, held 27 January 2011”, 2011, para. 2.

158 *Ibid.*, para. 4.

COORDINATION AND COOPERATION

Local and National Levels

The relationship between Lao PDR's government and non-governmental organisations is not straightforward; the government arranges non-profit organisations into three groups: NGOs, mass organisations and organisations dealing with specialised groups such as lawyers.¹⁵⁹

Before the 2009 Decree on Associations,¹⁶⁰ there was no legal provision for so-called “Non-Profit Associations” to exist and, therefore, no clear procedure to become a registered legal entity with access to funds and power to act.¹⁶¹ This decree was thought to represent a significant step toward government-NGO collaboration; however, NGOs report that registration through the new channels is slow and cumbersome.¹⁶² Contrarily, the government has stated that it takes all requests for registration from NGOs into account.¹⁶³ There has also reportedly been a continued presence of government officers during field visits and increasing restrictions since Lao PDR hosted the Asia-Europe Forum in 2012.¹⁶⁴ Human Rights Watch aired its concerns in its UPR response in 2015 that both the operating guidelines for domestic civil society and the decree for international organisations have been tightened once again.¹⁶⁵ Two further draft decrees have reportedly been under consideration since 2014, which would further restrict the actions of NGOs. They would determine all overseas NGOs as ‘foreign agents’, place them under the supervision of the Ministry of Foreign Affairs, and limit and require Ministry of Finance approval for any funding of local NGOs from outside sources.¹⁶⁶ For these reasons, the Committee on the Rights of the Child remained concerned in 2015 about “the obstacles faced by NGOs and the limited scope for human rights defenders and journalists to monitor and report on children’s rights” due to harassment, intimidation arbitrary arrests and prison sentences.¹⁶⁷ As recently as 2016, the International Commission of Jurists published

159 NGO Group for the CRC (2011), “State Party Examination of Lao PDR’s Second Periodic Report 56th Session of the Committee on the Rights of the Child (17 January – 4 February 2011)”, 4, accessed 13 December 2016, <http://www.childrightsconnect.org/wp-content/uploads/2013/10/Lao-PDR-CRC-Amended-56.pdf>.

160 Lao People’s Democratic Republic (2009), “Decree on Associations”, No. 115/PM, 29 April 2009, English translation: http://www.iccsl.org/pubs/lao_pdr_decree_law_on_associations.pdf.

161 The International Center for Not-For-Profit Law (2009), “Lao PDR Approves Decree for Non-Profit Associations”, *News*, 29 May 2009, accessed 13 December 2016, <http://www.icnl.org/news/2009/05-21.html>.

162 Village Focus International (n.d.), “Laos”, *Where We Work*, accessed 13 December 2016, <http://www.villagefocus.org/WhereWeWork/Laos>.

163 NGO Group for the CRC, “State Party Examination of Lao PDR’s Second Periodic Report”, 56th Session of the Committee on the Rights of the Child (17 January – 4 February 2011), 2011, 4.

164 Hale, Erin and Solum, Aleksander, “Laos NGO Restrictions Threaten Development, Say Non-Profit Groups”, *South China Morning Post*, 17 September 2014, accessed 13 December 2016, <http://www.scmp.com/news/asia/article/1594490/laos-ngo-restrictions-threaten-development-say-non-profit-groups>.

165 Human Rights Watch (2015), “UN Human Rights Council: Adoption of the outcome of the Universal Periodic Review of the Lao People’s Democratic Republic”, *News*, 25 June 2015, accessed 13 December 2015, <https://www.hrw.org/news/2015/06/25/un-human-rights-council-adoption-outcome-universal-periodic-review-lao-peoples>.

166 *Ibid.*

167 Committee on the Rights of the Child, “Concluding Observations on the Report Submitted by Laos on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, 2015, para. 19.

a press release highlighting the strict regulations of civil society organisations and the close governmental scrutiny of these organisations' budgets and work plans.¹⁶⁸ Additionally, the 2016 ASEAN People's Forum/ASEAN Civil Society Conference, traditionally held parallel with the ASEAN Conference, was not allowed to meet in the host country Lao due to Lao officials' worry of criticism of the governments of the region.¹⁶⁹

The **International Organisation for Migration (IOM)** is one example of an international organisation that has been working in coordination with the Laos PDR government against human trafficking and providing assistance to victims since 2002 from its Bangkok office, and from its Laotian office established in Vientiane since 2007.¹⁷⁰

Lao PDR created the inter-agency **National Commission for Mothers and Children (NCMC)**, after it ratified the CRC in 1991, which is still supported by UNICEF.¹⁷¹ The NCMC monitors and implements activities related to children's rights, however it must be noted that the Committee on the Rights of the Child deemed the NCMC to be a state organisation, disqualified from the status of independent review body.¹⁷² Lao PDR delegates to the Committee on the Rights of the Child pointed out that NCMC members had been increased from five to 21 in 2007 to cope with the government's increased activities in the field.¹⁷³ Activities include campaigning to create awareness on children's rights by printing and distributing booklets on the CRC with adjoining protocols. Together with posters and cartoons, the NCMC distributed these booklets to students to give them awareness of their own rights.¹⁷⁴ Duties of the NCMC include research and data collection; proposals to improve policies related to preventing violence against women and children and promoting gender equality; and coordinating with local sectors and foreign countries in regards to preventing and combating violence against women and children.¹⁷⁵ During 2014 it was tasked with carrying out regional and national consultations for the development of a National Implementation Plan for the previous CRC recommendations and to prepare for the government's third periodic report due to be submitted to the Committee on the Rights of the Child in December 2016.¹⁷⁶ This Commission was also responsible for gathering data for the first national government study on different forms of violence against children, including physical, emotional and sexual violence. The data, collected with the support of UNICEF, was published in May 2016, with 2,948 females and

168 International Commission of Jurists (2016), "Tackle human rights abuses in Laos, says ICJ and other human rights organizations", 31 August 2016, *Press Release*, accessed 7 December 2016 <http://www.icj.org/tackle-human-rights-abuses-in-laos-says-icj-and-other-human-rights-organizations>.

169 Lanxang for RFA's Lao Service, Avary, Max and Boliek, Brooks, "Lao Government Muted Representatives for ASEAN People's Forum", *Radio Free Asia*, 9 August 2016, accessed 16 December 2016, <http://www.rfa.org/english/news/laos/lao-government-muted-08092016165754.html>.

170 IOM (2014), "Lao People's Democratic Republic", accessed 9 December 2016, <https://www.iom.int/countries/lao-peoples-democratic-republic>.

171 UNICEF (2014), "Lao PDR Celebrates the 25th Anniversary of Convention on the Right of the Child", *Media*, 12 December 2014, accessed 13 December 2016, https://www.unicef.org/laos/media_23337.html.

172 NGO Group for the CRC (2011), "State Party Examination of Lao PDR's Second Periodic Report 56th Session of the Committee on the Rights of the Child (17 January – 4 February 2011)", 3, accessed 15 December 2016, <http://www.childrightsconnect.org/wp-content/uploads/2013/10/Lao-PDR-CRC-Amended-56.pdf>

173 UN Committee on the Rights of the Child, "Summary record of the 1600th Meeting, held 27 January 2011", 2011, 2.

174 Lao People's Democratic Republic, "8th Five-Year National Socio-Economic Development Plan (2016-2020)", 2016, 41.

175 Lao PDR, Law on Preventing and Combating Violence against Women and Children, Article 63.

176 UNICEF, "Annual Report 2013, Lao People's Democratic Republic", 2013, 23. As of 9 January 2017 the report has yet to be submitted to the Committee.

3,333 males aged 13 to 24 surveyed.¹⁷⁷ The study found prevalent rates of sexual violence, with around 1 in 10 children experiencing sexual abuse during childhood and low rates of receiving service for sexual abuse, at 12%.¹⁷⁸ The most common manifestation of this abuse was unwanted sexual touching followed by forced or pressured sex.¹⁷⁹

In terms of data collection, the Lao Statistics Bureau, the Ministry of Planning and Investment and the Ministry of Health with support from the Ministry of Education and Sports collaborated with support from international organisations such as UNFPA to produce the first thorough Social Indicator Survey for Lao PDR (2011-2012). Although there is no focus on SEC, valuable information regarding child health, education, child development and welfare will allow restructuring of the welfare system to benefit vulnerable women and children.¹⁸⁰

Under the Law on the Protection of the Rights and Interests of Children, it is the **Ministry of Labour and Social Welfare** that is assigned the task of preventing exploitation and violence against children and developing the protective policies to achieve this. It is charged with collaborating with actors in other relevant sectors such as public health, education, justice, foreign affairs, public security and the Office of the Public Prosecutor to achieve this and is responsible for issuing regulations, as well as the establishment of the Committee for Protection and Assistance to Children.¹⁸¹ The Law on Preventing and Combating Violence against Women and Children similarly identifies various organisations to be strengthened for the purpose of preventing acts of violence against children including: the Village Mediation, Counselling Units, the police, office of the public prosecutor and the courts (Article 22). For child victims the law requires cooperation with the Committee for Protection and Assistance of Children (Article 29).

In 2004, the Law on Development and Protection of Women established a **National Committee against Human Trafficking**, which is chaired by the Deputy-Prime Minister and responsible for legal proposals and amendments; supervision of progress; and regional coordination.¹⁸² In 2012, the UN Special Rapporteur on trafficking in persons identified the specialised trafficking unit within the provinces (united under the Department of Public security) as a successful

177 Lao Statistics Bureau, NCMC & UNICEF (2016), "Violence against Children, Survey in Lao PDR – Preliminary Report", 10, accessed 1 December 2016, [https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016\(1\).pdf](https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016(1).pdf).

178 *Ibid.*, "Summary"

179 *Ibid.*, 35.

180 UNICEF Laos (2013), "Government Launches Social Survey Report", *Blog*, 6 July 2013, accessed 13 December 2016, <http://uniceflaos.blogspot.com/2013/07/government-launches-social-survey.html>; Ministry of Health and Lao Statistics Bureau (2012), "Lao Social Indicator Survey 2011-2012", accessed 13 December 2016, https://mics-surveys-prod.s3.amazonaws.com/MICS4/East%20Asia%20and%20the%20Pacific/Lao%20People%27s%20Democratic%20Republic/2011-2012/Final/Lao%202012%20MICS_English.pdf; LaoInfo (n.d.), "LaoInfo v6.0", accessed 13 December 2016, <http://www.laoinfo.gov.la/index.php/en>: Information made available in online database LaoInfo, aimed at local and national government members.

181 Lao PDR, Law on the Protection of the Rights and Interests of Children, Article 35,

182 Lao People's Democratic Republic (2004), "Law on the Development and the Protection of Women", 15 November 2004, NO. 70/PO, Article 26; Lao People's Democratic Republic (2006), "Decree on the Implementation of the Law on the Development and the Protection of Women (February 2006)", Article 31, accessed 13 December 2016, https://www.wcwonline.org/pdf/lawcompilation/Laos_On%20the%20Implementation%20of%20the%20Law%20on%20Development%20And%20Pr.pdf.

demonstration of decentralised counter-trafficking law enforcement.¹⁸³ The cross-disciplinary **Lao Anti-People Trafficking Unit (LAPTU)** was one of the first dedicated units in the Mekong Region and includes police, prosecutors, lawyers and social workers, and is supported by UNICEF with training for immigration officials, a manual and assistance with investigation and prosecution.¹⁸⁴ Arrests made through sting operations carried out by LAPTU resulted in the first successful prosecution and imprisonment for the crime of trafficking in Lao PDR in 2003.¹⁸⁵

Regional and International Levels

Sexual exploitation of children is a transnational problem requiring cross-border cooperation. This is most evident with respect to child trafficking and the sexual exploitation of children in travel and tourism, where the physical crossing of an international border by the victim or the offender is often involved. Manifestations of SEC are inter-related: trafficking often being a precursor to fulfilling a demand for exploitation of children in prostitution, and child sexual abuse material being easily distributed across borders and inciting or encouraging travelling child sex offenders for example. As South-east Asia has become a 'hot-spot' for SECTT, state cooperation is imperative, particularly considering that more than 3.8 million international visitors to Lao PDR come from the Asia-Pacific region.¹⁸⁶

While the government is cooperating with international organisations, it is the latter which appear to be leading the majority of projects and uniting different entities to counter SEC in Lao PDR. The UN Interagency Project on Human Trafficking (UNIAP, UNACT – UN Action for Cooperation against Trafficking in Persons since 2014) was established in 2000, with headquarters in Bangkok as well as national bases, to facilitate direct action on the issue of trafficking in the Greater Mekong Sub-region.¹⁸⁷ **UNODC** is working to strengthen legal and law enforcement institution responses to trafficking through cooperation with Interpol in the region. A workshop in 2012 brought together 80 members of government, civil society, embassies and UN organisations, including the UN Inter-Agency Project on Human Trafficking and the UNODC CHILDHOOD project, to combat SEC in association with AusAid in order to share best practices, assess the current laws and develop a new comprehensive anti-trafficking law, decree and implementation guidelines.¹⁸⁸ In March 2013, INTERPOL and the UNDOC agreed to establish an annual Southeast Asia Working Party on Crimes Against Children which would bring together government bodies, law enforcement officials, NGOs and private sector organisations from across the region to share intelligence information, best practices and investigation methods and to raise awareness of the issue.¹⁸⁹ Reports from

183 Human Rights Council (2012), "Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo", UN Doc. A/HRC/20/18, 6 June 2012, para. 60, accessed 13 December 2016, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A.HRC.20.18_En.pdf.

184 UNICEF (2005), "Building Walls of Protection: A UNICEF collaboration with the Government of Italy toward Eliminating the Exploitation of Children", Bangkok: UNICEF, 26, accessed 13 December 2016, http://www.unicef.org/eapro/Building_walls_of_protection.pdf.

185 *Ibid.*, 9.

186 Lao Statistics Bureau (2014), "Statistical Yearbook 2014, Tourism" accessed 15 November 2016, <http://www.lsb.gov.la/en/Tourism14.php>.

187 Forss (2012), "Working Against Trafficking through the Multilateral System", 2012, 53.

188 UNODC (2012), "Project Childhood introduced to Lao PDR" *Southeast Asia and Pacific*, 11 January 2012, accessed 22 November 2016, <http://www.unodc.org/southeastasiaandpacific/en/2012/01/childhood-lao-pdr/story.html>.

189 UNODC (2013), "INTERPOL-UNODC meeting agrees to form annual Southeast Asia Working Party on Crimes against

the first meeting in Bangkok 2013 identify 190 delegates from 29 countries, and a successful exchange of information.¹⁹⁰ While this meeting was considered to have genuine potential to create sustainable cooperation internationally and despite reports of a proposal to make the Working Party a recurring event, there are no reports of any more meetings.¹⁹¹

Between March 2011 and September 2016, UNODC cooperated with the government with the support of the United States on the **LAOX26 Project: Strengthening Criminal Justice Responses to Human Trafficking in Lao PDR** to improve legislative protection against trafficking and the protection of victims.¹⁹² The three stages: inception, field research and analysis/synthesis/ reported all focused on assisting Lao PDR with their legislative framework and criminal justice in the context of human trafficking. The evaluation of the project, published in 2016, noted success in the promulgation of the Law on Anti-Trafficking, raised awareness by provincial and local NGOs, and greater knowledge in addressing human trafficking in the Ministry of Justice and the Office of the Supreme People's Prosecutor staff.¹⁹³ Under LAOX26, 700 officials were trained on human trafficking; 30 vulnerable communities were reached by legal aid mobile teams; and grants were supplied to victim service providers; and radio stations were used as a forum for awareness raising.¹⁹⁴ Future recommendations include the development of guidelines connected to the Law on Anti-Trafficking as well as increased focus on gender equality.¹⁹⁵

In 2015, Lao PDR became one of four Asian countries selected for the **Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (GLO.ACT)**.¹⁹⁶ Together the EU, UNODC, IOM and UNICEF have created a four year initiative focusing on assisting governments, civil society organisations and victims. The project has 6 objectives: strategy and policy development; legislative assistance; capacity building; regional and trans-regional cooperation; protection and assistance to victims of trafficking and smuggled migrants; and assistance and support to children among victims of trafficking and smuggled migrants.¹⁹⁷

In January 2016, it was announced that the UNODC in cooperation with the Thai institute of Justice would launch the **Joint Project to Counter Human Trafficking**, to address the human trafficking to Thailand from Cambodia, Laos or Myanmar. The yearlong research project will

Children", *Southeast Asia and Pacific*, 27 March 2013, accessed 22 November 2016, <http://www.unodc.org/southeastasiaandpacific/en/2013/03/interpol-childhood/story.html>.

190 UNODC (2014), "Final Independent project evaluation of Project Childhood – Protection Pillar", 16, June 2014, UNODC: Vienna, accessed 22 November 2016, https://www.unodc.org/documents/evaluation/Independent_Project_Evaluations/2014/XSPT33_Independent_Project_Evaluation_Report_June_2014.pdf.

191 *Ibid.*, 22.

192 UNODC (2016), "Final independent project evaluation of the 'Strengthening Criminal Justice Responses to Human Trafficking in Lao PDR' Project, Lao X26", 1, September 2016, accessed 22 November 2016, https://www.unodc.org/documents/evaluation/Independent_Project_Evaluations/2016/LAOX26_UNODC_FinalEvaluationReport_2016.pdf.

193 *Ibid.*, vi-vii.

194 *Ibid.*, 18.

195 *Ibid.*, 32.

196 UNODC (n.d), "Glo. Act – Global Action against Trafficking in Persons and the Smuggling of Migrants (2015-2019)", accessed 13 December 2016, <http://www.unodc.org/unodc/en/human-trafficking/glo-act/index.html>.

197 UNODC, IOM and UNICEF (n.d), "Glo. Act – Global Action against Trafficking in Persons and the Smuggling of Migrants (2015-2019)", accessed 13 December 2016, http://www.unodc.org/documents/human-trafficking/2016/glo.act/GloACT_ProjectSummary_EN_2016.pdf.

culminate in a number of programming activities to address whatever needs are identified; a research report was planned to be released in December 2016 to relevant authorities.¹⁹⁸ Lao PDR's close ties with Thailand when it comes to human trafficking suggest that measures from this venture will affect Laotian child victims.

The Laotian response to child sexual abuse material and sexual exploitation in travel and tourism features very little international cooperation between the government and international organisations, even though international networks which share information on and track known offenders, such as the Virtual Global Taskforce, exist.¹⁹⁹ This has been a cause for concern from international law enforcement agencies interviewed in 2011, who argue that there may be a perception of Lao PDR as a place of impunity for crimes of child sexual abuse material or exploitation of children for sexual purposes.²⁰⁰

The Potential of ASEAN

Lao PDR became a member of the Association of Southeast Asian Nations (ASEAN) in July 2007 and reportedly played an active and meaningful role in the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009 - the first body dedicated to human rights in the region, pre-empting the 2012 ASEAN Human Rights Declaration.²⁰¹ While lacking specific mention of SEC, manifestations could come within the general Article 27(3) provisions: "No child or any young person shall be subjected to economic and social exploitation. Those who employ children and young people in work harmful to their morals or health, dangerous to life, or likely to hamper their normal development, including their education should be punished by law."²⁰² AICHR has issued certain declarations specifically directed at addressing aspects of SEC, such as the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children,²⁰³ the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers,²⁰⁴ and the ASEAN Treaty on Mutual Legal Assistance on Criminal Matters.²⁰⁵ A related instrument is the 1997 ASEAN Declaration on Transnational Crime, which agrees to strengthen regional cooperation, and to hold Ministerial meetings to develop regional and bilateral agreements and mutual legal assistance (to be

198 UNODC (2016), "Unique partnership started to tackle human trafficking to Thailand", *Southeast Asia and Pacific*, 11 January 2016, accessed 21 November 2016, <https://www.unodc.org/southeastasiaandpacific/en/2016/01/human-trafficking-thailand/story.html>.

199 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 28.

200 *Ibid.*

201 United Nations (2015), "Contribution by the United Nations in the Lao People's Democratic Republic for the 21st Session of the Universal Periodic Review" accessed 14 December 2016, <http://www.refworld.org/pdfid/54c0d8904.pdf>.

202 ASEAN (2012), "ASEAN Human Rights Declaration", 18 November 2012, accessed 13 December 2016, <http://www.asean.org/news/asean-statement-communicues/item/asean-human-rights-declaration>.

203 ASEAN (2004), "ASEAN Declaration against Trafficking in Persons, Particularly Women and Children" 29 November 2004, accessed 13 December 2016, <http://hrlibrary.umn.edu/research/Philippines/ASEAN%20Declaration%20Against%20Trafficking%20in%20Persons%20Particularly%20Women%20and%20Children.pdf>.

204 ASEAN (2007), "ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers", 13 January 2007, accessed 13 December 2016, <http://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>.

205 ASEAN (2004), "ASEAN Treaty on Mutual Legal Assistance on Criminal Matters", 29 November 2004, accessed 13 December 2016, <https://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters-pdf.pdf>.

discussed further below).²⁰⁶ Furthermore, an ASEAN Commission on the Promotion and Protection of the Rights of Women and Children has been established (ACWC)²⁰⁷ and ASEAN Guidelines for the Protection of the Rights of Trafficked Children which aims at preventing any further exploitation.²⁰⁸ In 2016, the first Regional Review on Trafficking in Person was launched by the ACWC.²⁰⁹

ASEAN is taking action against cyber-pornography and the exploitation of children online within its **Strategic Framework on and Plan of Action for Social Welfare, Family and Children**. Two conferences have taken place in the Philippines in 2012 and 2013 where law enforcement, NGOs and technical service providers were brought together to discuss cyber-pornography and cyber-prostitution, raise public awareness and find preventive and responsive strategies and good practices.²¹⁰ The result was recommendations to strengthen legislation to include cyber-pornography and cyber-prostitution in the definition of SEC which is prohibited and criminalised; mutual cooperation, assistance and extraterritorial jurisdiction to facilitate investigation and improve prosecution; strengthening telecommunications regulations and data retention policies; and a clear Code of Conduct for a referral and coordination mechanism.²¹¹

ASEAN's Tourism Agreement primarily aims to promote intra-ASEAN tourism, though Article 5 does recognise concurrent responsibilities, including "taking stern measures to prevent tourism-related exploitation of people, particularly women and children" and Article 6 encourages increased cooperation between law enforcement and sharing of immigration-related information.²¹² ASEAN has provided a forum for coordination with other international actors; for example, the European Union (EU) and ASEAN agreed to cooperate in matters of transnational crime, including human trafficking, with the Nuremberg Declaration on an EU-ASEAN Enhanced Partnership in 2007.²¹³

206 Datin Paduka Intan Kassim (Brunei Commissioner for Women to the ACWC) (2013), "Regional Frameworks and Initiatives" (Presentation for Regional Consultation on the Right to an Effective Remedy 27 September 2013, Bangkok, Thailand), accessed 13 December 2016, <http://www.ohchr.org/Documents/Issues/Trafficking/Consultation/2013/ACWC.pptx>.

207 ASEAN (2011), "First Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)", *Press Release*, 16 June 2011, accessed 23 November 2016, <http://asean.org/first-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc/>; Likewise, the thematic areas concerning children's rights are: elimination of violence against children, multiple forms of discrimination against vulnerable children including children in need of special protection, the right to quality education, incl. Early Childhood Care and Development (ECCD), trafficking in children, adolescent physical and mental health, children living with and affected by HIV and AIDS, children affected by war or armed conflict and in situation of disasters, social impact of climate change on children, the right of children to participate in all affairs that affect them.

208 The proposed guidelines are published in: Asia ACTs Against Child Trafficking (2007), "Protecting the Rights and Dignity of the Trafficked Children in South East Asia", 17-44, accessed 7 December 2016, http://lastradainternational.org/lisidocs/asiaacts_07_total_0708.pdf

209 ASEAN (2016), "ASEAN strengthens efforts to eliminate trafficking in persons", *ASEAN Secretariat News*, accessed 19 December 2016, <http://asean.org/asean-strengthens-efforts-to-eliminate-trafficking-in-persons/>.

210 'ECPAT International (2014), "The Commercial Sexual Exploitation of Children in East and South-East Asia: Developments, Progress, Challenges and Recommended Strategies for Civil Society", Bangkok: ECPAT, 36-37, accessed 13 December 2016, http://ecpat.net/sites/default/files/Regional%20CSEC%20Overview_East%20and%20South-%20East%20Asia.pdf; Working Toward a Cyber Pornography and Cyber Prostitution-Free South-East Asia', was held in Manila, Philippines, from 18-22 June 2012, and 22-26 April 2013.

211 *Ibid.*

212 ASEAN, Tourism Agreement, 2002.

213 Germany 2007 – Presidency of the European Union (2007), "Nuremberg Declaration on an EU-ASEAN Enhanced Partnership", accessed 13 December 2016, http://eeas.europa.eu/asean/docs/2007_16_nuremberg_declar.pdf.

The ASEAN Convention against Trafficking in Persons Especially Women and Children (ACTIP) was signed by the 10 ASEAN members in November 2015.²¹⁴ Useful provisions include the criminalisation of participation in an organised criminal group (Article 6), laundering of proceeds of crime (Article 7), corruption (Article 8) and obstruction of justice (Article 9). ACTIP additionally recognises areas of cooperation that will aptly constitute preventative measures against SEC including alleviating poverty, underdevelopment, lack of education and equal opportunity (Article 12(b)) as well as information on measures that can reduce children's vulnerability to trafficking (Article 12(f)). However, Lao PDR has yet to ratify ACTIP – it is recommended that this is done and the provisions cited are incorporated into Laotian law.

The first ASEAN-UN Plan of Action was agreed upon in September 2016, with particular focus on gender equality and women's empowerment. Several sections also focus on cooperation in combating trafficking in persons, by strengthening law enforcement cooperation, exchange of information and a holistic solution for the entire region.²¹⁵

Other Southeast Asia Agreements

There is a wealth of Southeast Asia regional agreements, many related to trafficking, such as the 2004 Medan Declaration to Combat Trafficking of Children for Sexual Purposes in Southeast Asia from the regional conference of 300 members from 15 countries in Southeast and South Asia.²¹⁶

The regional **Coordinated Mekong Ministerial Initiative against Trafficking** (COMMIT) was created when Lao PDR, Cambodia, China, Myanmar, Thailand and Vietnam signed the Memorandum of Understanding on Cooperation against Trafficking in Persons in the greater Mekong Sub-Region in October 2004.²¹⁷ COMMIT is governed by six national taskforces formed by members of ministries most relevant to the trafficking issue including justice, police, social welfare and women's rights which formulate the relevant policy and planning on trafficking in the specific country and collaborate at the regional level when the representatives meet twice a year.²¹⁸ UN-ACT forms the Secretariat and provides financial, technical and logistical support. The 2007 seminar on "Protecting Children from Trafficking and Sexual Exploitation in Tourism", for example, resulted in a Letter of Intent to collaborate on a regional registry of child sex offenders, a regional child-safe campaign by airlines and the establishment of a child-friendly regional hotline.²¹⁹ The latest COMMIT Senior Officials Meeting took place in Vientiane in November 2016, which featured the adoption of the ASEAN-COMMIT indicators of human trafficking and exploitation and the COMMIT Guidelines on Victim Identification and

214 ASEAN (2015), "ASEAN Convention Against Trafficking in Persons, Especially Women and Children", accessed 13 December 2016, <http://un-act.org/wp-content/uploads/2015/12/ACTIP.pdf>.

215 ASEAN (2016), "Plan of Action to Implement the Joint Declaration on Comprehensive Partnership between ASEAN and the United Nations (2016-2020)", para. 1.1.11., accessed 1 December 2016, <http://asean.org/storage/2012/05/ASEAN-UN-POA-FINAL-AS-OF-5-SEP-2016.pdf>.

216 UNICEF, "Building Walls of Protection", 2005, 49.

217 Cambodia, People's Republic of China, Lao People's Democratic Republic, Union of Myanmar, Kingdom of Thailand and Socialist Republic of Vietnam (2004), "Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region" 29 October 2004, accessed 13 December 2016, http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_160937.pdf.

218 ECPAT International, "The Commercial Sexual Exploitation of Children in East and South-East Asia", 2014, 39.

219 *Ibid.*, 39.

Referral Mechanisms: “The next step will be to localize and operationalize the indicators and guidelines in national contexts.”²²⁰ Additional measures include the strengthening of labour migration systems, in regards to the connection between trafficking and labour migration, as well as the introduction of an annually rotating COMMIT Chair, with the host country providing internal advice and guidance.²²¹ In light of the COMMIT initiative, bilateral Memoranda of Understanding (MoUs) have been put in place between states. Lao PDR has agreements with Thailand and Vietnam on cooperation in the fight against trafficking.²²² The agreement with Vietnam allows the participation of Vietnamese victims in Lao legal proceedings, with the same protection and assistance that Lao victims are entitled to.²²³ In 2014, The People’s Republic of China signed an agreement of cooperation in Preventing and Combating Trafficking in Persons with Lao PDR, cooperation focused on repatriation of victims; exchange of information and laws related to trafficking; and the establishment of liaison officers by the border.²²⁴ Cambodia and Vietnam signed a trilateral agreement with Lao PDR in January 2016, pledging to exchange information and experience related to trafficking.²²⁵

The Vital Lao PDR-Thailand Relationship

As most children trafficked out of Lao PDR are taken to Thailand, cooperation between these two states is vital. A 2011 report stated that 16-20 girls were being returned each month from Thailand to Lao PDR, and that the governmental relationship providing for coordination in this area showed some level of organisation.²²⁶ However, there were still concerning reports, such as that of a group of Laotian teenagers who had been in a Chiang Rai shelter awaiting repatriation for several years as neither the police in their home province of Huey Xai nor the Thai police had the funds to transfer them.²²⁷ In June 2012, Lao PDR and Thai officials met to launch a cross-border campaign to prevent human trafficking. This inter-state cooperation in rescue and repatriation revealed to the Ministry of Labour and Social Welfare

220 UN-ACT (2016), “COMMIT SOM 11 in Vientiane, Lao PDR Concluded”, *Updates*, 28 November 2016, accessed 8 December 2016, <http://un-act.org/commit-som-11-in-vientiane-lao-pdr-concluded/>.

221 *Ibid.*

222 Memorandum of Understanding Between the Government of the Lao People’s Democratic Republic and the Government of the Kingdom of Thailand on Cooperation to Combat Trafficking in Persons, Especially Women and Children, 13 July 2005, available at <http://www.thaianti-humantraffickingaction.org/Home/wp-content/uploads/2014/12/MoU-between-govt-of-Thailand-and-govt-of-Lao-on-Cooperation-to-Combat-Trafficking-in-Persons-Especially-Women-and-Children.pdf>. ; Agreement between the Government of the Lao People’s Democratic Republic and the Government of the Socialist Republic of Vietnam on Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking, 3 November 2010, available at: <http://un-act.org/publication/agreement-between-the-government-of-the-lao-peoples-democratic-republic-and-the-government-of-the-socialist-republic-of-vietnam-on-bilateral-cooperation-in-preventing-and-combating-trafficking-in-pe/>.

223 ASEAN, “Regional Review on Laws, Policies and Practices within ASEAN relating to the Identification, Management and Treatment of Victims of Trafficking, especially Women and Children”, 2016, 77.

224 Lao People’s Democratic Republic and People’s Republic of China (2014), “Agreement between the Government of the Lao People’s Democratic Republic and the Government of the People’s Republic of China on Cooperation in Preventing and Combating Trafficking in Persons”, 1 September 2014, accessed 13 December 2016, <http://un-act.org/publication/view/agreement-government-lao-pdr-government-china-cooperation-preventing-combating-trafficking-persons-english-version/>, Article 3.

225 Lee, N., “Vietnam signs MoU with Laos, Cambodia to fight human trafficking”, *Thanh Nien News*, 15 January 2016, accessed 21 November 2016, <http://www.thanhniennews.com/politics/vietnam-signs-mou-with-laos-cambodia-to-fight-human-trafficking-58199.html>

226 Child Frontiers,, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 2011, 41.

227 *Ibid.*, 42.

that at least 2017 individuals were trafficked across the border from Lao PDR into Thailand between 2011 and 2014, and that in the past 10 years 80% of victims were under 18 years old and 95% were female.²²⁸ UN-ACT reported that 133 victims of trafficking were identified and repatriated from Thailand to Lao PDR in 2014,²²⁹ with certain reports citing the Social Welfare Department of the Ministry of Labour and Social Welfare as having declared it to be as many as 157 returned under the Thai-Lao PDR MoU.²³⁰ Efforts on the part of Thai border officials at the Lao PDR-Thai Friendship Bridge were reportedly increased in January 2015 following the rescue of 72 Lao PDR teenagers between the ages 13 to 20 years old exploited through prostitution in four karaoke bars in the Song Phi Nong district in central Thailand.²³¹ More than 100 unaccompanied girls under (or suspected to be under) the age of 18 were reportedly turned away by Thai border officials within the first two weeks of the crackdown alone because without money and unable to provide details of their intentions they were considered at high risk of sexual exploitation and trafficking.²³² Many SEC victims start as economic migrants and later fall into traps, particularly because they are not familiar with immigration laws. Lao PDR previously entered into an agreement with Thailand on Labour Cooperation in October 2002, so as to record cross-border employment and combat the illegal migration which may lead to conditions allowing the sexual exploitation of vulnerable migrants.²³³ The focus is on information exchange, the return of migrants to their country of origin following a period of legal residence and the commitment of officials from the Lao PDR Ministry of Labour and Social Welfare to annual meetings with relevant Thai officials. The facilitation of regular economic migration of Laotian citizens into Thailand is intended, by allowing temporary passports to be issued by the Lao PDR embassy in Thailand and in 2004, a registration process was opened by the Thai Ministry of the Interior for Lao PDR irregular migrants to obtain permission to stay and a 'registration card'.²³⁴ The opportunity was taken by 179,887 Lao PDR nationals, of whom 105,259 were given work permits by the Ministry of Labour. These legal routes are intended to reduce the risk of trafficking and give migrants the protection of Thai law; however, as the process is time-consuming and expensive, many Laotians persist with the 'illegal' route. The reduction of the price of work permits from 2000 to 500 baht (approximately US\$ 62 to US\$ 15) has proved successful in encouraging legal migration for work in Thailand.²³⁵ In June 2016,

228 Vientiane Times, "Lao Pledges to Tackle Human Trafficking", *The Nation*, 12 December 2014, accessed 13 December 2016, <http://www.nationmultimedia.com/news/national/aec/30249756>.

229 UN-ACT (2015), "January Newsletter", accessed 14 December 2016, <http://un-act.org/wp-content/uploads/2015/01/Januar-2015-Newsletter.pdf>.

230 Vientiane Times, "157 Victims Rescued in 2014", *The Nation*, 19 March 2015, accessed 9 December 2016, <http://www.nationmultimedia.com/news/breakingnews/aec/30256327>.

231 Gerin, Rosanne (2015), "Lao and Thai Border Officials Team Up Against Trafficking of Young Women", *Radio Free Asia*, 13 February 2015, accessed 14 December 2016, <http://www.rfa.org/english/news/laos/border-officials-team-up-against-trafficking-02132015153655.html>.

232 *Ibid.*

233 Lao People's Democratic Republic and the Kingdom of Thailand on Labour Co-operation (2002), "Memorandum of Understanding (MoU) between the Royal Thai Government and the Government of Lao PDR on Employment Cooperation", 18 October 2002, accessed 21 November 2016, <http://apmigration.ilo.org/resources/memorandum-of-understanding-mou-between-the-royal-thai-government-and-the-government-of-lao-pdr-on-employment-cooperation>.

234 IOM (2008), "Situation Report on International Migration in East and South-East Asia: Regional Thematic Working Group on International Migration Including Human Trafficking", Bangkok: IOM, 49, accessed 14 December 2016, http://www.iom.int/jahia/webdav/shared/shared/mainsite/published_docs/brochures_and_info_sheets/iom_situation_report.pdf.

235 Thailand's Ministry of Foreign Affairs (2014), "Thailand's Trafficking in Persons 2014 Country Report", 11, accessed 14 December 2016, <http://www.mfa.go.th/main/contents/files/media-center-20150311-164953-538433.pdf>.

Thailand and Laos signed a MoU focused on the academic cooperation between the countries to exchange information in order to prevent trafficking as well as the collaboration to promote legal employment in accordance with respective countries' laws.²³⁶

PREVENTION: EDUCATION, INTERVENTION AND RESEARCH

Awareness Raising, Education and Deterrence

Following the 1998 visit to Lao PDR by the UN Special Rapporteur on the sale of children, the suggestion was made that, due to Lao PDR's long borders and lack of resources, traditional border action would not be effective to prevent trafficking in the country, identifying methods of education and information dissemination as vital to combating trafficking in the country.²³⁷ A concerning report released by **World Vision** in June 2014 found that in the Southeast Asia Region (Cambodia, Lao PDR, Thailand and Vietnam) those surveyed, both adults and children, believed that sexual abuse only meant the rape of girls.²³⁸ The fact that other inappropriate acts of touching, exposure to pornography or acts involving boys were not considered to be sexual abuse shows the urgent need for awareness raising and education among adults as well as children to encourage children to seek help and to improve preventive removal of risk and the identification of abuse by parents.

The Law on Anti-Trafficking identifies public awareness-raising as an important task "of the State, individuals, entities, and all sectors in the society" with the aim of challenging and changing prevalent attitudes and cultural and traditional perceptions (Article 20). The forums for this activity include integration into the general educational curriculum (Article 20). In its prevention section, the Law on Preventing and Combating Violence against Women and Children requires the promotion of children's rights as well as the provision of education (Article 21). During the Second Periodic Report to the Committee on the Rights of the Child in 2011, the Lao PDR government stated that the Convention had been integrated into the school curriculum and disseminated in the official languages and local dialects. It also claimed that radio, TV and magazines were available to assist teachers to prepare lessons based on the CRC, despite difficulties in information distribution to rural areas being noted by the Committee.²³⁹ The Committee as recently as 2015 expressed concern that the Laotian State has not taken enough measures to incorporate human rights education in the school curriculum.²⁴⁰

236 Thailand's Ministry of Labour (2016), "MOU between Thailand and Laos Focuses on Labour Cooperation to Resolve Issues to International Standards", 10 July 2016, accessed 21 November 2016, <http://www.mol.go.th/en/content/51590/1468134010>.

237 Commission on Human Rights 55th session, Mission to the Lao People's Democratic Republic, 1999, para. 65.

238 World Vision, "Sex, Abuse and Childhood", 2014, 9.

239 NGO Group for the CRC, "State Party Examination of Lao PDR's Second Periodic Report", 2011, 3.

240 Committee on the Rights of the Child (2015), "Concluding Observations on the Report Submitted by Lao on the Optional Protocol on the Involvement of Children in Armed Conflict", UN Doc. CRC/C/OPAC/LAO/CO/1, 3 June 2015, para. 17, accessed 14 December 2016, http://tbinternet.ohchr.org/Treaties/CRC-OP-AC/Shared%20Documents/LAO/INT_CRC-OP-AC_COC_LAO_20810_E.pdf.

The Lao Government reported in 2015 that they had undertaken trainings for law enforcement agencies nationally to prevent human trafficking. The trainings had 735 participants but only 112 females.²⁴¹ Considering at times the disproportionate number of underage female victims and prevalent cultural gender perceptions, this indicates a worrying lack of gender diversity. Despite a limited number of local and national NGOs, international organisations seem to have a strong presence in Lao PDR and it appears that the government makes efforts to actively work with them. In 2004, a radio soap opera funded by UNESCO and the Asian Development Bank was launched in the Hmong language and focused on issues pertinent to the highland minorities such as trafficking.²⁴² This was also initiated in the languages of other ethnic Lao PDR tribes such as the Khmu, Shan, Akha and Brao languages, among others, and in 2011 was transformed into a television drama in the Akhu language.²⁴³ As early as 2003 Save the Children UK and Save the Children Australia responded to government concerns that children in the north of the country were not aware of the trafficking threat by implementing a cross-border project in Bokeo, Luang Namtha and Sayabouly until 2006, which included advocacy, data collection and analysis and established village child protection groups.²⁴⁴ To recognise the International Day against Human Trafficking in 2014, the Lao PDR government, with the support of UN-ACT, organised anti-trafficking events which were attended by over 1000 individuals from a cross-section of sectors, including government law enforcement, students, the military and civil society.²⁴⁵

Efforts to combat tourists travelling to Lao PDR to abuse children were launched in January 2006 by the **Lao PDR National Tourism Administration (NTA)** in collaboration with Child Wise (Australia) in Vientiane. This was part of the government's participation in an ASEAN-wide Regional Public Education Campaign to Combat Child Sex Tourism which has been running for 12 years forming supportive relationships with National Tourism Administrations, the tourism industry, NGOs, academics and law enforcement to develop preventive policy and practices.²⁴⁶ The Special Rapporteur on the sale of children drew attention to the work of Child Wise and its Tourism Programme in her thematic report of December 2012 as the longest running overseas programme within Southeast Asia.²⁴⁷ This campaign had already been presented as an example of best practice in 2006 at the ITB in Berlin (Internationale Tourismus-Börse

241 Human Rights Council (2014), "National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Lao People's Democratic Republic", UN Doc. A/HRC/WG.6/21/LAO/1, 5 November 2014, para. 62, accessed 14 December 2016, <http://www.refworld.org/docid/54c0d60c4.html>.

242 UNESCO Bangkok - Trafficking and HIV/AIDS Project (n.d), "Radio Soap Opera in Hmong Language", accessed 14 December 2016, <http://www.unescobkk.org/culture/diversity/trafficking-hiv/projects/prevention-through-minority-language-film-radio-and-music/radio-programme-in-ethnic-minority-languages/hmong/>.

243 International Labour Organization (2015), "Minority Language Radio Project for HIV/AIDS, Trafficking and Drug Abuse Prevention in the Greater Mekong Sub-Region", *Good Practices database*, last updated 5 May 2015, accessed 14 December 2016, http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=67.

244 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 42.

245 UN-ACT (2015), "January Newsletter", accessed 14 December 2016, <http://un-act.org/wp-content/uploads/2015/01/Januar-2015-Newsletter.pdf>.

246 Child Wise (n.d.), "Child Wise Tourism Programme", accessed 14 December 2016, <https://www.childwise.org.au/page/13/child-wise-tourism-program>.

247 Human Rights Council (2012), "Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid", UN Doc. A/HRC/22/54, 24 December 2012, para. 70, accessed 14 December 2016, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.54_en.pdf.

Berlin – the world’s largest tourism trade fair) as a regional programme with flexibility to allow national solutions to suit the contrasting cultures.²⁴⁸

World Vision’s regional End Trafficking in Persons Programme (ETIP) was implemented between October 2011 and September 2016 across six countries of the Greater Mekong Sub-region and claimed to be the largest programme of its kind.²⁴⁹ The project was structured into three pillars: prevention of the vulnerable from being trafficked; protection of survivors of trafficking; and promotion of improved anti-trafficking policy. Under the Prevention pillar, the organisation hoped to change attitudes and behaviours and increase community ownership by appointing community watch volunteers and home visitors to identify vulnerable families and, when traffickers or brokers are acting in their communities, reporting to police and social workers.²⁵⁰ Children’s Clubs, where children can explore issues related to trafficking and learn how to protect themselves, were also part of the programme. Recent reports of these clubs have demonstrated continued involvement with one former participant becoming a Youth Facilitator.²⁵¹ Also, under the Prevention pillar, World Vision carried out a survey on the use of ICTs in Mekong countries, including Lao PDR, in order to learn how to best intervene with lobbying efforts to protect children from sexual exploitation online.²⁵² Under the protection and promotion pillar respectively, ETIP has provided returned trafficking victims with vocational training²⁵³ and commented on the draft to the now promulgated anti-trafficking law including suggestions such as victims’ right to access information.²⁵⁴

This is part of the wider ‘Project Childhood’ through which World Vision conducted a media study limited to identifying child sexual abuse cases (including exploitation of children in prostitution and trafficking for sexual exploitation) reported in the English-language media in Cambodia, Lao PDR, Thailand and Vietnam between October 2011 and May 2014. Of at least 215 offenders and 359 individual victims only one of these was reported in Lao PDR, as opposed to 108 in Cambodia, for example. The study suggested that this was a result of a lack of reporting of cases and redress in Lao PDR rather than reflective of the scale of the problem, as there are reportedly few independent newspapers and the national newspaper, the Vientiane Times, provides limited information online.²⁵⁵

248 UN World Tourism Organisation, Ethics and Social Responsibility (2006), “Report of the 18th Meeting of the Task Force for the Protection of Children in Tourism”, Berlin: ITB, 10 March 2006, accessed 14 December 2016, <http://ethics.unwto.org/en/event/18th-meeting-task-force-protection-children-tourism>.

249 World Vision, “Tackling Human Trafficking in the Greater Mekong Sub-Region”, 2013, 4.

250 *Ibid.*, 4-5.

251 Stephens, Matt, “What do we know about prevent human trafficking?”, World Vision Blog: Child Protection, 14 January 2016, accessed 22 November 2016, <https://blog.worldvision.org/content/what-do-we-know-about-preventing-human-trafficking>.

252 ECPAT International (2012), “Global Monitoring Status of Action Against Child Sexual Exploitation: Australia”, Bangkok: ECPAT, 21, accessed 14 December 2016, http://www.ecpat.net/sites/default/files/a4a_v2_eap_australia.pdf; World Vision, “Sex, Abuse and Childhood”, 2014: “This report presents an overview of the findings of four separate studies conducted in vulnerable communities in Cambodia, Lao PDR, Thailand, and Vietnam on knowledge, attitudes and practices related to child sexual abuse, including in travel and tourism. The studies were undertaken to contribute to the design and conceptual platform of Project Childhood Prevention Pillar.”

253 World Vision Laos (2015), “Empowering youth to prevent human trafficking”, *Article*, 11 January 2015, accessed 15 December 2016, <http://www.wvi.org/laos/article/empower-youth-prevent-human-trafficking>.

254 World Vision East Asia (n.d.), “Ending Trafficking in Persons – Semi Annual Update Jan-Jun 2015”, accessed 21 November 2016, http://www.wvi.org/sites/default/files/ETIP%20FY15%20Semi-Annual%20UPDATE_fnl.pdf.

255 World Vision Australia, “Child Sexual Abuse: An Analysis of Media Case Reporting”, 2014, 8.

The **Asia Foundation**, an international non-profit organisation based in San Francisco, has campaigned in Laos to inform at risk communities and youth about safe migration, raising awareness on labour laws and how to identify credibility of future employers. Through the Countering Trafficking in Southeast Asia programme, the Foundation has provided trafficking victims with vocational training to subsequently connect them with employment opportunities.²⁵⁶

In 2015, the **Australia-Asia Program to Combat Trafficking in Persons (AAPTIP)** implemented a new work plan for Lao PDR. In particular, the plan addresses data collection, as it has been severely lacking in Laotian law enforcement. As for education, the plan requires both training of prosecutors in order to conduct interviews sensitive to gender, age and type of trafficking as well as training of judges to ensure they have an understanding of good practice of victim protection in the courtroom.²⁵⁷

The **IOM** is actively raising awareness of the general population as to the risk, particularly for women and children, of human trafficking in Salavan, Savannakhet, Champasak and Bokeo provinces and, in 2015, this was extended to Vientiane province and the border areas of Savannakhet, with US and Italian funding.²⁵⁸ IOM provides information on safe forms of economic migration and has installed a screen at Vientiane airport showing stories of trafficking victims. This awareness-raising needs to be continued through to capacity building of those working in the area as interviews with immigration officials working at borders have revealed that even if a situation appeared suspicious, individuals crossing into Thailand with the appropriate paperwork would not be questioned further as the volume of crossings per day makes the practicalities of scrutiny very challenging.²⁵⁹

Around the same time the Laotian NTA also coordinated with Save the Children Australia in action specific to combating travelling child sex offenders producing posters of ‘Dos and Don’ts in Laos’ and a radio programme for the northern provinces discussing the issue of sexual exploitation of children in tourism.²⁶⁰ With the introduction of the Tourism Law, the head of the Lao NTA travelled to the provinces to increase understanding and encourage implementation.

²⁶¹

During weekday working hours, Lao Women’s Union operates a free hotline (1362) advising on children’s rights and for reports on cases of domestic violence and/or trafficking. A 24 hour hotline is operated by Peuan Mit (Friends International), in collaboration with the Ministry of Labour and Social Welfare, free of charge, at 1191 – a social worker on the line advises on

²⁵⁶ The Asia Foundation (2016), “Human Trafficking”, accessed 21 November 2016, <http://asiafoundation.org/wp-content/uploads/2016/07/HumanTrafficking.pdf>.

²⁵⁷ Australia-Asia Program to Combat Trafficking in Persons (n.d.), “AAPTIP Work Plan for Lao PDR (2015-2018)”, accessed 6 December 2016, <http://www.aaptip.org/content.php?mclid=1385333890&cp=la>.

²⁵⁸ International Organization for Migration (2014), “Lao People’s Democratic Republic”, *Countries*, updated December 2014, accessed 9 December 2016, <https://www.iom.int/countries/lao-peoples-democratic-republic>.

²⁵⁹ Interview with Immigration Police, Song Mek Checkpoint, December 2010, cited in Child Frontiers (2011), “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, p. 42.

²⁶⁰ Child Wise (2007), “2007 ASEAN Child-Sex Tourism Review”, Child wise: Australia, 16, accessed 14 December 2016, http://childwise.blob.core.windows.net/assets/uploads/files/Online%20Publication/ASEAN_Tourism_Review_2007.pdf.

²⁶¹ *Ibid.*, 17.

violence for children.²⁶² Additionally, reports can be made to the National Police Hotline at 191 as well as the Tourism Police Hotline at 192.²⁶³ The Lao delegate told the CRC in 2015 that the hotlines were run in the official Lao language, which all ethnic groups know.²⁶⁴ In 2012, the UN Special Rapporteur on Trafficking in Persons pointed out the inefficacy of the Thai Ministry of Social Development and Human Security's 1300 hotline, which is always open to take reports of violence, abuse and exploitation such as trafficking, only being available in Thai and English, despite most individuals trafficked only being able to speak Laotian, Khmer or Burmese.²⁶⁵

It must be mentioned that the Laotian press is severely restricted both by governmental censorship and self-censorship; a recent law on cybercrime penalises the publication of information meant to discredit the Laotian government.²⁶⁶ Such restrictions, according to UNICEF, may be reason why media coverage of child exploitation is rare in Laos, clearly detrimental to awareness raising efforts.²⁶⁷ Additionally, SEC that in some fashion involves government officials cannot be precluded, which means such a law essentially censors any reporting of SEC crimes.²⁶⁸

Summarily, though the importance of awareness raising is clear, reports have indicated that there is not necessarily a link between knowing of the risks of trafficking and a decreased intent to migrate. Dire financial straits have been proven at times to surpass potential danger, subsequently additional measures such as vocational training are necessary complements to awareness raising.²⁶⁹

Private Sector Involvement

The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code) is an initiative to promote responsible tourism and establishes partnerships with businesses in the tourism and travel industry to prevent the sexual exploitation of children. The reach of the initiative presently seems to extend to larger more prominent hotel and travel

262 UNICEF (2016), "Child protection in the digital age", 53, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf.

263 Tourism Laos (n.d.), "Emergency", accessed 29 November 2016, http://www.tourismloaos.org/show.php?Cont_ID=39.

264 OHCHR (2015), "Committee on the Rights of the Child considers reports of Lao People's Democratic Republic on sale of children, children in armed conflict", *News and Events*, 27 May 2015, accessed 14 December 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16016&LangID=E>.

265 Human Rights Council (2012), "Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo – Addendum, Mission to Thailand", UN Doc. A/HRC/20/18/Add.2, 2 May 2012, para. 37, accessed 14 December 2016, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-18-Add2_en.pdf.

266 Freedom House (2015), "Laos", *Freedom of the Press 2015*, accessed 21 November 2016, <https://freedomhouse.org/report/freedom-press/2015/laos>.

267 UNICEF, "Child protection in the digital age", 2016, 28. .

268 Lao People's Democratic Republic (2015), "Law on Prevention and Combating Cyber Crime", 15 July 2015, No. 61/NA. Article 13, English translation accessed 14 December 2016: https://www.laocert.gov.la/ftp_upload/Cyber_Crime_Law_EnVersion.pdf.

269 Stephens, Matt, "What do we know about prevent human trafficking?", *World Vision Blog: Child Protection*, 14 January 2016, accessed 22 November 2016, <https://blog.worldvision.org/content/what-do-we-know-about-preventing-human-trafficking>.

agent chains which have a wide reach, but is not yet so well-established in Lao PDR. At present, only four businesses reporting a presence in Lao PDR have signed The Code.²⁷⁰

Vulnerability Reduction

In its 1996 report to the Committee on the Rights of the Child, Lao PDR reported the highest child mortality rate in Asia.²⁷¹ Although improvements in socio-economic conditions and health provision have dramatically reduced the under-five mortality rate from 162 per 1000 live births in 1990 to 67 per 1000 in 2016,²⁷² Lao PDR still has one of the worst records in South-east Asia,²⁷³ and a child born in Phongsaly province (a rural area) is still 4.7 times more likely to die before the age of five than one born in Vientiane.²⁷⁴ Although enrolment in primary school is very high, only 45% of girls and 45% of boys of secondary school age attend.²⁷⁵ Girls reportedly drop out of school around the vulnerable age of 13-15 years old because there is a lack of middle and high schools so children may be forced to travel with many families unable to afford this cost.²⁷⁶

Protections have been put in place in the Laotian Constitution that provide assurance of education, healthcare and development policies aimed at progress for children and women and the protection of children's and women's rights.²⁷⁷ The Law on the Protection of the Rights and Interests of Children is progressive, seeking to fully promote the "best interests of the child" as not only a primary consideration, but the deciding factor in all decisions related to the child.²⁷⁸ The right of a child to be registered at birth, provision of care at home and protection are all provided for and a Committee for Protection and Assistance to Children was established with the purpose of receiving reports on children at risk and providing monitoring, advice, shelter and care.²⁷⁹ In 2015, UNICEF reported that Lao PDR had a birth registration rate of 75%, a very low number when compared to 99% in Thailand and 96% in Vietnam.²⁸⁰ The same year the CRC expressed concern that "births in small isolated villages may not be registered due to

270 The Code (n.d.), "Members of the Code", accessed 15 November 2016, <http://www.thecode.org/who-have-signed/>: Accor Hotels is one of these members. In fulfilling its pledge, in 2013 Accor worked worldwide collaborating with ECPAT France and two French police organisations in particular. It trained 32,000 employees in detecting and responding to child sexual exploitation, provided information to travellers and required suppliers to sign up to a supply chain agreement as part of its corporate social responsibility policy. The team also developed a pilot manual in Thailand, Brazil and Senegal which will be extended to South-east Asia and other affected regions if successful.

271 Committee on the Rights of the Child (1996), "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Initial reports of States parties due in 1993: Lao People's Democratic Republic", UN Doc. CRC/C/8/Add.32, 24 January 1996, para. 46, accessed 14 December 2016, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f8%2fAdd.32&Lang=en.

272 UNICEF (2016), "The State of the World's Children 2016 – A fair chance for every child", 119, accessed 15 November 2016, http://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

273 UNICEF (n.d), "Laos: The Situation of Children", accessed 15 November 2016, http://www.unicef.org/laos/about_22341.html.

274 UNICEF, "Annual Report 2013, Lao People's Democratic Republic", 2013, 1.

275 UNICEF (2016), "The State of the World's Children 2016 – A fair chance for every child", 135, accessed 15 November 2016, http://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

276 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 19.

277 Lao People's Democratic Republic (2003), "Constitution of the Lao People's Democratic Republic" amended 2003, Articles 22, 25 and 29, English translation accessed 16 December 2016, http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@ilo_aids/documents/legaldocument/wcms_117348.pdf.

278 Lao People's Democratic Republic, Law on the Protection of the Rights and Interests of Children, Article 4.

279 *Ibid.*, Article 3.

280 UNICEF, "The State of the World's Children 2016 – A fair chance for every child", 2016, 151-153.

communication difficulties or lack of knowledge of legal procedures.”²⁸¹; additionally, the birth registration in Lao PDR is not computerised or centralised.²⁸² In 2013, Save the Children carried out a ‘Literacy Boost’ Project in Lao PDR which aimed to improve literacy among early-grade children through teacher training, community reading groups and the creation of material aids.²⁸³ However, as of 2016, only 89% of males and 79% of females between 15-24 years old were literate.²⁸⁴

The **National Directory of Essential Services for Children and Youth** in Lao PDR was launched in September 2012 by the Lao Women’s Union in collaboration with UNICEF, UNFPA and World Vision. The Directory intends to provide a collated source of information on rapid referral to services for youth and children, including where to seek human rights assistance, medical or psycho-social attention or counselling, emergency contact or hotline numbers, or education advice.²⁸⁵ It was to be freely distributed in public health facilities, schools, NGOs and to specific service providers listed.²⁸⁶

In 2010, the UN Special Rapporteur on Trafficking in Persons referred to the study of a Hmong Laotian village to argue that investment should be directed to areas where there is a real risk of trafficking, due to proximity to a main road and known activity of traffickers, rather than blindly directing microfinance funding into the poorest villages without an assessment of whether the community has aspirations for an alternative lifestyle.²⁸⁷ In 2015, the Committee on the Rights of the Child also requested information disaggregated by, or focused on, specific ethnic minorities, as discrimination against the children of certain groups such as the Mon-Khmer and Tibeto-Burman ethnic groups seem to be a cause of increased vulnerability to SEC.²⁸⁸

Bar and shop owners are required to register employees with the local authorities; enquire for residency permits of those from other provinces; and are reportedly fined for hiring underage girls. Yet interviews from a 2010 study indicate that “informal protection networks exist among local officials whereby the local officials shield the sex workers from night patrols, government checks and help them to maintain a low profile in the village.”²⁸⁹ Combatting

281 Committee on the Rights of the Child, “Concluding Observations on the Report Submitted by Lao on the Optional Protocol on the Involvement of Children in Armed Conflict”, 2015, para. 14.

282 *Ibid.*, para. 15.

283 Save the Children (2013), “Literacy Boost, Lao PDR Baseline Report”, accessed 14 December 2016, http://resourcecentre.savethechildren.se/sites/default/files/documents/literacy_boost_lao_pdr_baseline_report-december_2013.pdf.

284 UNICEF, “The State of the World’s Children 2016”, 2016, 135,

285 UNICEF Lao (2012), “Directory of Essential Services for Children and Youth”, *UNICEF Laos Blog*, 12 September 2012, accessed 22 November 2016, <http://uniceflaos.blogspot.com/2012/09/directory-of-essential-services-for.html>.

286 UNFPA Lao PDR (2012), “Directory of Services for Youth launched in Vientiane”, *News*, 12 September 2012, accessed 15 December 2016, http://countryoffice.unfpa.org/lao/2012/09/12/5582/national_directory_of_services_for_youth_launched_in_vientiane/.

287 UN General Assembly 65th session (2010), “Report of the Special Rapporteur on trafficking in persons, especially women and children”, UN Doc. A/65/288, 9 August 2010, para. 28, accessed 13 December 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/483/11/PDF/N1048311.pdf?OpenElement>.

288 Concluding Observations on the Report Submitted by Laos on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2015, paras. 7 and 21(a).

289 Care International and LWU (2010), “Just Beginning: An Analysis of the Risks of Abuse & Exploitation of Sex Workers in Vientiane Capital”, cited in Child Frontiers, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 2011, 16.

against each manifestation of SEC suffers insurmountable barriers where corruption is rife; Lao PDR has attempted to limit these barriers through its Anti-corruption Law 2005 and the establishment of a Counter-Corruption Organisation which aims to prevent corruption at all levels of government, down to village officials, through preventive education, inspection and punishment.²⁹⁰ The government explained to the Committee on the Rights of the Child that this law was published and distributed to assist implementation and that a hotline number (165) was put in place so that officials may be reported directly to the National Assembly during meetings.²⁹¹ However, in 2015, Transparency International ranked Lao PDR 139th of 168 countries/territories on its Corruption Perception Index after giving it only 25 points.²⁹²

Research on SEC

Prevention, education and intervention must be based on a clear understanding of the situation; therefore, the first step needs to be to fill the gap in available data. When pushed by the Committee on the Rights of the Child during its recent session on Lao PDR's implementation of the OPSC in 2014 to provide figures on child trafficking, prostitution, pornography and sale of children, including specific disaggregation with respect to boys, Lao PDR was only able to provide the figures of children repatriated from Thailand – presumably provided by the Thai government.²⁹³ The total figures are provided below, disaggregated by age (18 or below/19 or above), and gender:

Year	Region	Age 19+	Age 18-	Total	Male	Female
2012	Urban	7	27	34		
	Rural	35	126	161		
	Total	42	153	195	26 (13%)	169 (87%)
2013	Urban	5	19	24		
	Rural	14	65	79		
	Total	19	84	103	9 (9%)	94 (91%)
2014	Urban	5	28	33		
	Rural	17	107	124		
	Total	22	135	157	2 (1%)	155 (99%)

In October of 2016, representatives from the respective justice ministries of Cambodia, Lao PDR, Thailand and Vietnam convened at the Second Regional Legal Research Group meeting on sexual exploitation in children in travel and tourism, in Hà Nội. Discussions included the need to strengthen regional cooperation and to agree upon collaborative opportunities in

290 Lao People's Democratic Republic (2005), "Anti-Corruption Law", No 03/NA, Article 5, English translation accessed 5 December 2016, <http://www.asianlii.org/la/legis/laws/al2005212.pdf>.

291 Committee on the Rights of the Child, "Replies of Lao People's Democratic Republic to the List of Issues", 2015, para. 31.

292 Transparency International, "Corruption Perceptions Index 2015", accessed 9 January 2017, <https://www.transparency.org/cpi2015/>: A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). A country's rank indicates its position relative to the other countries in the index.

293 Committee on the Rights of the Child, "Replies of Lao People's Democratic Republic to the List of Issues", 2015, paras. 1-3.

legal research.²⁹⁴ The importance in this research lies in its comparisons of the various legal sanctions of SEC offences, especially in the context of travel and tourism. The Regional Legal Research Group meet annually, with the 2017 meeting planned to be hosted in Cambodia.²⁹⁵

PROTECTION: LEGISLATION AND ACCESS TO JUSTICE FOR CHILDREN

International Instruments Related to SEC

Lao PDR has ratified the legal instruments which provide children with the greatest protection from the various manifestations of SEC under international law: the Convention on the Rights of the Child (CRC), the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC), and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (UN TIP Protocol). Despite a Presidential Ordinance on the Conclusion, Accession and Implementation of Treaties dated 7 October 2009 governing the implementation of international treaties, they do not necessarily reflect national law. Lao PDR submitted its first state party report on its progress on the implementation of the OPSC on 26 June 2013 (due in 2008) and its second periodic report on the implementation of the CRC on 24 April 2009 (overdue since 1998). The first had been submitted on 18 January 1996 with a delay of three years.²⁹⁶

International Instruments	
Human Rights Bodies Related to Child Rights	Comments
Charter-based Bodies	
Working Group on the Universal Periodic Review (UPR) – Human Rights Council	<p>Report of the Working Group on the UPR 23 March 2015. Recommendations related to SEC include:</p> <ul style="list-style-type: none"> • “Ratify additional human rights conventions and reinforce efforts to combat child labour (Angola); • Establish legislation which penalizes early marriage, adopting appropriate measures towards its elimination (Chile);

294 Viet Nam News, “Southeast Asian countries meet to fight child abuse”, *Viet Nam News*, 28 October 2016, accessed 21 November 2016, <http://vietnamnews.vn/society/345206/southeast-asian-countries-meet-to-fight-child-abuse.html#CXD0FJtdycvEhhRC.97>.

295 *Ibid.*

296 Reports available at UN Office of the High Commissioner for Human Rights website: OHCHR (n.d.), “Reporting status for Lao People’s Democratic Republic” *Human Rights Bodies*, accessed 15 December 2016, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=LAO&Lang=EN.

International Instruments	
Human Rights Bodies Related to Child Rights	Comments
Charter-based Bodies	
	<ul style="list-style-type: none"> • Redouble efforts to ensure that children were not employed in situations that could be detrimental to their health, development or well-being (Timor-Leste); • Establish measures and programmes to eradicate human trafficking and gender-based violence, especially of women and girls (Sierra Leone); • Step up efforts to prevent and combat modern forms of slavery and human trafficking with special attention to the investigation and prosecution of all cases of sale and trafficking of children, including providing protection of child victims (Serbia); • Pay particular attention to the interests of children, especially with respect to health care and education, in its further work on improving the population's living standards (Belarus).²⁹⁷ <p>Next review planned 35th session of the Human Rights Council UPR Periodic Review (Third Cycle) Jan-Feb 2020.²⁹⁸</p>
Special Rapporteur on the sale of children, child prostitution and child pornography	Ms. Ofelia Calcetas-Santos visited Laos from 21st to 25th September 1998. ²⁹⁹
Special Rapporteur on trafficking in persons, especially in women and children	No visits to date.
Special Representative of the Secretary-General on violence against children	Ms. Marta Santos Pais visited Laos on 23rd October 2014. ³⁰⁰

297 Human Rights Council (2015), "Report of the Working Group on the Universal Periodic Review, Lao People's Democratic Republic", UN Doc. A/HRC/29/7, 23 March 2015.

298 UN Human Rights Office of the High Commissioner (n.d.), "UPR, Calendar of reviews for the 3rd cycle (2017-2021)", accessed 5 January 2017, <http://www.ohchr.org/Documents/HRBodies/UPR/Calendar3rdCycle.doc>.

299 Commission on Human Rights 55th session (1999), "Mission of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos, to the Lao People's Democratic Republic on the issue of trafficking of children (21-25 September 1998)", UN Doc. E/CN.4/1999/71/Add.1, 27 January 1999, accessed 8 December 2016, <http://www.refworld.org/docid/45377b850.html>.

300 UNICEF Laos (n.d.), "Lao PDR welcomes Special Representative of the United Nations Secretary-General on Violence against Children" Media Centre, accessed 15 November 2016, https://www.unicef.org/laos/media_23184.html.

Child's Rights Instruments	Date of Ratification	Date of Submitted Reports
Convention on the Elimination of all Forms of Discrimination Against Women — 1979	14 August 1981 (ratified)	25 May 2008 ³⁰¹ 3 February 2003 ³⁰²
UN Convention on the Rights of the Child – 1989 ³⁰³	8 May 1991 (acceded)	Reporting cycle III-IV: reports due in December 2016. 22 April 2009 ³⁰⁴ 18 January 1993 ³⁰⁵
ILO Convention on the Worst Forms of Child Labour (Convention No. 182) – 1999 ³⁰⁶	13 June 2005	
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography – 2000 ³⁰⁷	20 September 2006 (acceded) Reservation to Article 5(2).	
UN Optional Protocol on the Involvement of Children in Armed Conflict – 2000	20 September 2006 (acceded)	
UN Convention against Transnational Organized Crime – 2000 ³⁰⁸	26 September 2003 (acceded)	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – 2000 (supplementing the UN Convention against Transnational Organized Crime) ³⁰⁹	26 September 2003 (acceded)	26 June 2013 ³¹⁰
Optional Protocol on a Communications Procedure – 2011 ³¹¹	Not ratified.	
Regional Instruments		
ASEAN Declaration against Trafficking in Persons, Particularly Women and Children – 2004 ³¹²	November 2004 (signed)	
ASEAN Treaty on Mutual Legal Assistance on Criminal Matters – 2004 ³¹³	November 2004 (signed)	
ASEAN Convention Against Trafficking in Persons, Especially Women and Children -2015 ³¹⁴	November 2015 (signed)	

National Legislation

Lao's infancy as a democracy is reflected in its underdeveloped legal sector: the rule of law is not yet prevalent but rather a governmental goal hoped to be achieved by 2020.³¹⁵ The National Assembly is the legislative branch of Lao, with the right to consider, adopt, amend and abrogate laws (Constitution Article 52 and 53). Though it is considered a civil law system, increasingly features of common law systems have been incorporated in the Lao legal system: since 2003 Supreme Court decisions are binding on all lower courts.³¹⁶

The Law on the Protection of the Rights and Interests of Children prohibits forms of SEC with intertwined provisions: the law on sexual relations with children in Lao PDR is inseparable from the law dealing with prostitution. Article 89 of the law prohibits "Sexual relations with

- 301 CEDAW (2008), "Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Combined sixth and seventh periodic report of States parties, Lao People's Democratic Republic", UN Doc. CEDAW/C/LAO/7, 30 May 2008.
- 302 CEDAW (2003), "Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Combined initial, second, third, fourth and fifth periodic reports of States parties, Lao People's Democratic Republic", UN Doc. CEDAW/C/LAO/1-5, 18 August 2003.
- 303 UN General Assembly (1989), "Convention on the Rights of the Child" Res. 44/25 of 20 November 1989, entered into force on 2nd September 1990.
- 304 Committee on the Rights of the Child (2010), "Consideration of reports submitted by States parties under article 44 of the Convention, second periodic report of States parties due in 1998, Lao People's Democratic Republic", UN Doc. CRC/C/LAO/2, 10 August 2010.
- 305 Committee on the Rights of the Child (1996), "Consideration of Reports Submitted by State Parties under Article 44 of the Convention, Initial reports of States parties due in 1993, addendum Lao People's Democratic Republic", UN Doc. CRC/C/8/Add.32, 24 January 1996.
- 306 International Labour Organisation (1999), "Worst Forms of Child Labour Convention (No. 182)", entered into force on 19 November 2000
- 307 UN General Assembly (2000), "Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography", A/RES/54/263, 25 May 2000, entered into force on 18 January 2002.
- 308 UN General Assembly (2000), "United Nations Convention against Transnational Organized Crime, Annex 1", Res. 55/25 of 15 November 2000.
- 309 UN General Assembly (2000), "United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime", Res. 55/25 of 15 November 2000.
- 310 Committee on the Rights of the Child (2014), "Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Reports of States parties due in 2008, Laos People's Democratic Republic", UN Doc. CRC/C/OPSC/LAO/1, 21 August 2014.
- 311 UN General Assembly (2011), "Optional Protocol on a Communications Procedure", A/RES/66/138, 19 December 2011, entered into force 14 April 2014.
- 312 ASEAN (2004), "ASEAN Declaration against Trafficking in Persons, Particularly Women and Children" 29 November 2004, accessed 13 December 2016, <http://hrlibrary.umn.edu/research/Philippines/ASEAN%20Declaration%20Against%20Trafficking%20in%20Persons%20Particularly%20Women%20and%20Children.pdf>.
- 313 ASEAN (2004), "ASEAN Treaty on Mutual Legal Assistance on Criminal Matters", 29 November 2004, accessed 13 December 2016, <https://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters-pdf.pdf>.
- 314 ASEAN (2015), "ASEAN Convention Against Trafficking in Persons, Especially Women and Children", accessed 13 December 2016, <http://un-act.org/wp-content/uploads/2015/12/ACTIP.pdf>.
- 315 U.S. Department of State (2015), "Lao Investment Climate Statement", 8, accessed 6 January 2017, <https://www.state.gov/documents/organization/241836.pdf>.
- 316 Newman, Graeme R. et al (2010), "Crime and Punishment Around the World", Santa Barbara: ABC-CLIO, 126; Lao People's Democratic Republic (2003), "Law on People's Court", No. 05/PSA, Article 5.

children”, despite its primary focus being sexual exploitation of children in prostitution, i.e. sexual relations with children in exchange for money or other benefit. The criminalisation of sexual relations with minors when there is no exchange for money or other benefit only applies to victims under the age of 12:

“Any individual who has sexual relations with a girl or boy under twelve years of age by any means shall be considered as having committed rape and that person shall be punished by imprisonment from seven years to fifteen years and fined from 7,000,000 Kip to 15,000,000 Kip.”

Although Laotian law follows international standards in recognising children as all those under the age of 18, it does not recognise that any sexual relations with children are immediately counter to the rights of the child. Sex with a child, paid or unpaid, classifies as rape only where the child is under the age of 12. The Penal Law did not make any express provision for rape related only to age. In this sense Article 89 represents a key development by recognising that a child (even if only the very youngest) is not able to consent. This is nevertheless a worryingly low age limit for statutory rape and does not recognise that children between 12-18 years old who are not forced into these relations through immediate and direct poverty are equally in need of protection. Article 129 of the Penal Law criminalised ‘sexual intercourse with a child’ under the age of 15 whether male or female, but did not go so far as to call this ‘rape’. Laotian law therefore holds that children aged 15 and over are able to consent to sexual relations. Article 129 does ensure the criminalisation of sex with a child between the ages 12-15, even if no remuneration was offered. Because article 129 only concerns intercourse, other sexual activity which is not in exchange for some benefit does not appear to be illegal at all. This gap in protection urgently needs to be filled.

The available English translation of the Lao Penal Law defines rape as “Any person using force, armed threats, drugs or other [substances], or other means to place a woman in a state of helplessness in order to have sexual intercourse with the woman against her will, where such woman is not [the offender’s] spouse, shall be punished by three to five years of imprisonment and shall be fined from 1,000,000 Kip to 5,000,000 Kip.” (Article 128) It is to be noted that the separate offence of rape provides for aggravated penalties in the event the victim is under 15 years old (Article 128). The approach to rape in Lao PDR illustrates certain societal values which are problematic to the fight against SEC. Firstly, if only a female can be raped under the Penal Law it propagates an environment where society is not ready to recognise the sexual exploitation of boys. This is of particular concern as a recent survey undertaken in 2014 showed that 12% of males in Lao reported childhood sexual abuse, compared to 7.3% of females.³¹⁷ However, the Lao delegate reported to the CRC in 2015 that the Penal law has been revised to criminalise rape of boys as well³¹⁸ Parenthetically, barring such a revision, the Penal Law provision on sexual intercourse with a child (Article 129) does apply to boys. Secondly, the rape laws in the Penal Code only apply “where such woman is not [the offender’s] spouse”; a husband is therefore exempt from rape laws. Laws like this perpetuate women’s lower societal status and consequently their vulnerability to sexual abuse. It is also a reflection of damaging

317 Lao Statistics Bureau, NCMC & UNICEF (2016), “Violence against Children, Survey in Lao PDR – Preliminary Report”, 34, accessed 1 December 2016, [https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016\(1\).pdf](https://www.unicef.org/laos/VAC_preliminary_report_ENG_FINAL_-_30_May_2016(1).pdf).

318 OHCHR (2015), “Committee on the Rights of the Child considers reports of Lao People’s Democratic Republic on sale of children, children in armed conflict”, *News and Events*, 27 May 2015, accessed 14 December 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16016&LangID=E>.

societal attitudes towards marriage and a woman's place in the institution. Attitudes such as this perpetuate notions that contribute to justifications of practices of marital rape, child marriage and bride prices. Furthermore, the concept of rape usually hinges on a lack of consent, but for many ethnic communities in Lao PDR the idea of rape carries a different meaning of sexual relations outside of a socially-recognised relationship. Therefore, this is often used to legitimise sexual relations with a child. However, the Law on Preventing and Combating Violence against Women and Children defined forced sex (within marriage) as "any act by a husband to have sexual intercourse with his wife by using force, coercion, threats when the wife does not want to have sex or is in a situation when she is not ready to have sex." (Article 4) So while the law penalises the act of marital rape, it does not call it rape; Article 79 imposes a sentence of three months to one-year imprisonment and 300,000 Kip to 1 million Kip (US\$36-122). Even with the increased sentence where the forced sex causes serious injury, one to five-year imprisonment and 1 million to 3 million Kip fine hardly seems a proportionate sentence to marital rape. Due to reports of prevalent gender norms as well as the aforementioned issue of child marriage it is recommended (i) that forced sex within marriage be given its proper name: rape and (ii) that the sentences reflect the seriousness of rape, regardless if the perpetrator and victim are married or not.

The punishment for sexual intercourse with a child under 15 is 2-5 million kip (US\$ 247 - 617) and 1-5 years in prison (Article 129 of the Penal Law), which is the same as paying for sexual relations with a child 12-15 years of age under the Law on the Protection on the Rights and Interests of the Child (Article 89). Hence, this law has achieved an increase in punishment for offenders sexually exploiting children under 12 (7-15 million kip -US\$ 863-1850- and 7-15 years in prison, which is now also rape under Article 128), and has added an offence of sexual exploitation for those aged 15-18 years.

The maximum prison sentence of 15 years for the most extreme case in Laos – for rape of a child under 15 years old (Article 128 of the Penal Law) or sexual relations with a child under 12 years old (Article 89 of the Law on the Protection of the Rights and Interests of the Child) – is the same as the maximum for offenders using child sexual services in Cambodia and much less strict than the Vietnamese approach, where "every child sexual assault [offender] has got to be processed under trial and given the toughest punishment". For example, it was reported in 2013 that a Dutchman and a Vietnamese citizen were sentenced to life in prison for sexual assaults committed against children.³¹⁹

Exploitation of Children in Prostitution

According to the OPSC, the State parties must prohibit the prostitution of children (article 1), which is defined under article 2(b) as "the use of a child in sexual activities for remuneration or any other form of consideration." The "offering, obtaining, procuring or providing" a child for prostitution must be covered by the penal law of the state, whether committed domestically or transnationally as well as on an individual or organised basis (article 3). There must also be efforts in international cooperation to prevent, detect, investigate, prosecute and punish offenders and to address the root causes (article 10).

³¹⁹ Times Reporters (2013), "Better coordination against child sex tourism called for", *Vientiane Times*, 7 June 2013, accessed 30 November 2016, https://www.unodc.org/documents/southeastasiaandpacific//2013/06/laos-childhood/Vientiane_Times-Workshop_news_7_June_2013.pdf.

Prostitution is illegal in Lao PDR: Article 131 of the Penal Code makes it illegal for any individual to engage in, assist or facilitate prostitution; therefore, prostitutes themselves may be criminally charged and punished. The sentences are between three months and one year imprisonment or re-education and a fine of 50,000 to 500,000 kip (US\$ 6 to 62) for those engaging in prostitution and 300,000 to 1,000,000 kip (US\$ 37 to 124) for a facilitator.³²⁰ The Laotian government itself noted that this criminalisation of prostitution may have increased the vulnerability of sex workers and those exploited in prostitution.³²¹ It may contribute to fear and hesitation in asking for assistance in situations where women or girls may have been trafficked or coerced. Additionally, the criminalisation of the act of prostitution contributes to the stigma surrounding those who are sold for sex, which can have detrimental effects on their wellbeing.

With no mention of minors in Article 131, there is no penalty distinction for those who merely ‘facilitate or assist’ the prostitution of minors, even though the OPSC requires prohibition of “offering, obtaining, procuring or providing” of a child for prostitution purposes. If higher sentences are not necessarily equated with a perception of graver prohibition and assisting or facilitating is criminalised in some way, and indeed all prostitution is illegal, then the OPSC could arguably be fulfilled without any difference in sentencing being required for minors. Contrarily, it could be argued that by explicitly and severely penalising facilitation and assistance of exploitation of children in prostitution has a deterrent effect and effectively signals that gravity of the crime. The protection of children from being exploited through prostitution depends on how the law is enforced; regarding which there is no data.

There is also no definition of ‘prostitution’ and so no elaboration on the kind of sexual activity covered, and whether it is for monetary gain only. The law should clearly cover the purchase of any sexual activity as prostitution, and also the transfer of items other than money in exchange, considering the prevalence of this in marriage contracts in ethnic communities, for example. The law should also clarify that provision of the remuneration to the child directly or another person both equally fulfil the definition of prostitution.³²²

Article 132 of the Penal Law applies increased penalties when an individual’s procurement involves the prostitution of female minors or the individual is forcing a female individual under his/her guardianship into prostitution. The penalty increases from six months to three years imprisonment and a 5 million to 10 million Kip (US\$610-1220) fine to three to five years imprisonment and a 10 million to 50 million Kip (\$US1220-6100) fine. ‘Minors’ in this provision means those “under the age of majority”, which article 7 of the Penal Law sets at 15, presumably for all provisions of the Penal Code, although a UNODC report claims that it consistently refers to children as being under 18 years old³²³ and the Law on Anti-Trafficking defines a child as under 18 (Article 4(30)).

320 Lao People’s Democratic Republic (2005), “Penal Law”, No. 04/PO, 9 January 1990, amended in 2005, English Translation accessed 14 December 2016 http://www.wipo.int/wipolex/en/text.jsp?file_id=180194.

321 Committee on the Rights of the Child, “Reports of States parties due in 2008 under OPSC”, 2014, para. 79.

322 UNODC, “Child Sexual Exploitation in Travel and Tourism”, 2014, 19-20.

323 *Ibid.*, 18: The translators of the Penal Code note that other Laotian laws set a different age of majority. UNODC (2014), “Child Sexual Exploitation in Travel and Tourism”,

Article 133 of the Penal Law penalises forcing a person under 18 years of age to prostitution, with a punishment between 10 to 20 years in prison and fines ranging between from 20 million kip to 50 million Kip (US\$2442-6100). The gender neutrality of this provision is to be commended as it effectively fills a gap created by Article 132 which only applied to female minors (potentially only those under 15 years of age as well). However, the law is not completely in line as the very fact of having a separate provision for children who have been forced into prostitution suggests that children under 18 may have consented to being procured for prostitution (i.e. that they may have been procured under article 132 without being forced). In general, international law does not accept that children have the ability to consent to this and indeed, the Lao Law on Anti-Trafficking finds the crime of trafficking in the case of a child under 18 years even where there has been no deception, threat, use of force or debt bondage. Since a child under 18 years old cannot consent to being trafficked for purposes of sexual exploitation in Lao PDR it is incongruent that he or she can consent to being exploited through prostitution. In practice, it could be that the trafficking provisions are used in these cases, however these inconsistencies in the law should be removed as to facilitate law enforcement and enable application to those cases where the elements of prostitution, but not trafficking, are present. The UNODC agrees that the law on forced prostitution ought to be clarified to show the interaction and any distinction from trafficking offences.³²⁴

However, though pertaining to sexual intercourse with children, the Law on the Rights and Interests of Children does specifically criminalise exploitation of children in prostitution under Article 89:

- (i) Those aged between 15 and 17:
“Any individual who has sexual relations with a girl or boy under eighteen to fifteen years of age by paying or giving any type of benefit shall be punished by imprisonment from three months to one year or re-educated without deprivation of liberty and fined from 1,000,000 Kip to 2,000,000 Kip.”
- (ii) Those aged between 12 to 14:
“Any individual who has sexual relations with a girl or boy from under fifteen to twelve years of age by paying or giving any type of benefit shall be punished by imprisonment from one year to five years and fined from 2,000,000 Kip to 5,000,000 Kip.”

However, it must be noted that the provision’s title does not directly pertain to exploitation of children for prostitution but rather its substance does; thus, it could be argued that fulfilling the OPSC mandate and specifically criminalising exploitation of children for prostitution has still not been accomplished. An achievement is the recognition of ‘any type of benefit’ which recognises situations where offenders may provide food or shelter in exchange for sexual activity as prostitution equal to when payment is monetary; this extends and facilitates protection. Such an expansion is compliant with the OPSC article 2 definition as being ‘sexual activities for remuneration or any other form of consideration’. In addition, the choice of the term ‘sexual relations’ as opposed to ‘sexual intercourse’ in article 129 of the Penal Code seems to be more expansive, and it could be expected that this would include the whole range

³²⁴ *Ibid.*, 19.

of means of exploitation from sexual contact to intercourse. Contextually, this is of particular importance considering surveys of Laotian children have demonstrated a narrow perception of sexual exploitation, with few identifying physical contact, harassment or forcing a child to watch pornography as sexual abuse.³²⁵

However, the penalties under Article 89 are not very impressive: a sentence of 1 to 5 years imprisonment and 2-5 million kip (\$ 245 – 613) hardly reflects the serious nature of exploiting a child between 12 to 14 years for prostitution.

Additionally, Article 89 of the Law on the Protection of the Rights and Interests of Children criminalises other involvement in the exploitation of children for prostitution, involving all victims under 18:

“Any individual who has requested, received, recruited or offered children under eighteen years of age to become prostitutes, shall be considered as an offender and shall be punished as stipulated in Article 134 (New) of the Penal Law.”

Article 134 (New) of the Penal Code refers to “Human Trafficking” and imposes a penalty of fifteen to twenty years’ imprisonment and fines ranging between 100 million kip to 500 million Kip (US\$12213-61065) for the trafficking of children. This level of sentencing is more proportionate to the crime of exploitation of children for prostitution, however as noted previously, those cases must fulfil the elements of trafficking.

It is concerning that children younger than 18 years old who are exploited for prostitution do not seem to be exempt from criminal liability under the law, and are thus not recognised as victims. This seems to be the case despite article 129 in the Penal Law punishing sexual intercourse with a boy or girl under the age of 15 with a one to five-year prison sentence and a fine of up to 5 million kip (US\$ 618). Article 25(6) of the Law on Development and Protection of Women does state that in the case of trafficking, women and child victims will not be detained or prosecuted for trafficking, prostitution or illegal immigration, but this is solely when the case fits the definition of trafficking. Despite the Committee on the Rights of the Child identifying reports of past convictions of children for prostitution,³²⁶ the Laotian government denies any case of a victim of one of the OPSC offences – sale of children, child prostitution or child pornography – being treated as an offender rather than a victim; although in truth there is no official data on the number of child victims of prostitution who have been convicted for involvement in prostitution.³²⁷

Trafficking in Children for Sexual Purposes

International law provides protection for children from trafficking for sexual purposes through a number of international instruments, which variously extend protection to all individuals, but in particular women and children, through the UN TIP Protocol.³²⁸

325 World Vision, “Sex, Abuse and Childhood”, 2014, 35.

326 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 10.

327 *Ibid.*, para. 38.

328 Article 3(a) of the Protocol defines trafficking as:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of

According to Article 3(a) of the Protocol, the elements of trafficking are thus threefold: (i) the act of recruitment, transportation, transfer, harbouring or receipt of persons; (ii) the means of threat or use of force; (iii) and the purpose of exploitation. However, Article 3(c) states that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article.”

The Law on Anti-Trafficking in Persons, adopted in December 2015, sets out to define the principles, procedures and measures regarding anti-human trafficking activities (Article 1). The definition of trafficking in persons is found under Article 2:

“Trafficking in persons shall mean the recruitment, abduction, movement, transportation or transfer or receiving of persons, harbouring by means of propaganda, giving advice, deceiving, abuse of power, the use of threat, the use of other forms of coercion, putting persons in debt bonded conditions, child adoption or concealed adoption, concealed engagement, concealed marriage, the use of surrogate mothers, beggar the production, showing and distribution of pornographic materials or by other forms for the labour exploitation, sexual exploitation, slavery, prostitution, forced working in prostitution, removal of organs for purpose of trade and other forms of unlawful conducts contradicting to the national fine arts and traditions or for other purposes to gain benefits”

This definition is compliant with the definition of trafficking found in the UN TIP Protocol (Article 3). Its specific identification of situations such as adoption, concealed marriage and surrogacy trade tell of a legislation that has accounted for the existence of trafficking within seemingly legal or morally acceptable contexts. Additionally, “harbouring by means of propaganda” is a useful tool for instances of persons held under the idea that their trafficking is their only option, is necessary to fulfil a societal obligation (see young girls trafficked for marriage) or is socially normalised as the only escape from poverty. Similarly, the attempted justification of trafficking in persons through debt bonded conditions has been countered by its specific prohibition under Article 2.

This law seems to adequately implement the UN TIP Protocol, and largely directly transfers its terminology, covering the recruitment, transfer, harbouring or receipt of persons. The means used to do so, although not entirely reproduced, are blanket covered by “or by other forms”. Whereas Article 3(a) of the UN TIP Protocol provides that it be “for the purposes of exploitation”, which “shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation”, the Lao PDR law itemises certain aspects including exploitation in prostitution and CSAM which are manifestations of SEC, and “other unlawful purposes”. Whether this is sufficient depends on the strength of other Lao PDR national laws which are still in many ways embryonic, and may not protect individuals from “slavery or practices similar to slavery” by prohibiting forced labour, for example. Similarly, to the UN TIP Protocol, Lao Law identifies three elements of trafficking in person: (i) act, (ii) means and (iii) purpose (Article 9). The law is compliant with Article 3(c) of the UN Tip Protocol in that when

the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

the offence concerns a child below 18 years of age only the elements of act and purpose need to be fulfilled, making it an offence to traffic a child regardless of consent (Article 9).

The Law also outlines the various consequences of trafficking to its victims, helpfully providing definitions in different categories: physical, psychological, sexual, property or economic and social (Article 13). Article 15's definition of psychological consequences shows particularly foresight as its definition includes depression, self-esteem issues, and isolation. It also reflects a very real concern of trafficking victims (and many victims of sexual crimes in particular) including dissociation and discrimination from society, losing face and shame (Article 15). It is incredibly important that such societal reactions are addressed to avoid further victimisation of those who have suffered at the hands of traffickers, so its inclusion in this law is of importance. Article 16's definition of sexual consequences contains a comprehensive overview of how trafficking can affect reproductive health which can serve as a guide for services to ensure that victims have access to STD tests, pregnancy tests and counselling on sexual health, the latter of which is particularly important in areas where discussions of sexual behaviour is stigmatised. Article 16 does contain a consequence of "abnormal physical growth" the definition of which is unclear and could be attributed to a translation error. Parenthetically, the sexual consequence of "inappropriate sexual behaviour" must not be hijacked to allow services or societies to condemn a healthy expression of sexuality due to traditionally held conservative views.

Article 17 defines the property and economic consequences for victims of trafficking including loss of future and loss of social welfare support. The latter is of particular interest as it acknowledges the long term economic effects of being trafficked; many of those who have worked will not have received contributions to their pensions like they would have in a legal job, which will have a substantial impact on their future. Finally, the Lao law defines social consequences as serious crimes which damage the national culture, traditions, public security and order.

Article 32 of the Anti-Trafficking law gives the right and obligation to make an oral or written report on trafficking to the following: (1) victims of trafficking, (2) their close family members, (3) their close relatives, neighbours, other persons or domestic and international organizations. The latter addition is of interest, considering the previously mentioned tense relationship between the Laotian government and NGOs. These reports are received by police officers or, in a demonstration of flexibility, when urgent can be submitted to individuals or organisations to be further submitted to the police (Article 33).

The penal measures the law outlines are five to 15 years' imprisonment and 10 million to 100 million Kip (US\$1221-12213) for the offence of trafficking in persons (Article 89). In the case of the victims being children, these penalties increase to 15 to 20 years' imprisonment and 100 million to 500 million Kip (US\$12213-61065) fine (Article 89). The Article penalises the preparation and attempt to commit an offence as well, though it is not defined what particular acts constitute preparation or attempt nor what kind of framework punishments for these acts would fall under. Additionally, the Women's Law penalises broader examples of involvement:

“Any individual who co-operates with the offender [who commits] an offence mentioned above, whether by incitement, providing assets or vehicles to the offender, the provision of shelter or the concealment or removal of traces of an infraction, shall be considered an accomplice in trafficking in women and children.”³²⁹

Lao PDR law therefore criminalises not only intentional commission of the act of trafficking in persons, but also attempts, participating as an accomplice, and organising or directing others, which is required by article 5 of the UN TIP Protocol. The punishment for being an accomplice under the Women’s Law is four to 10 years and fines from 5 million Kip to 50 million Kip (US\$610-6106) (Article 49). A footnote in the translated law notes that “cooperates” in Article 24 is a slightly broader idea than covered by the Penal Law’s definition of accomplice.³³⁰ This is a notable advantage in combating a crime which often involves a network of many individuals involved at different stages. But the decentralised nature of this legislation asks that all level of types of involvement that are penalised under Lao law be included under one law, the Law on Anti-Trafficking.

The Women’s Law also provides additional protections for women and children who have been trafficked, which correspond to rights granted by international law under the UN TIP Protocol. These protections are not provided in the Penal Law and therefore are not expressly granted to adult male victims. Article 25(8) grants the right to “suitable assistance in the form of shelter, food, clothes, medical services, vocational training, repatriation and others”, which fulfils the Article 6(3)(a) UN TIP Protocol rights to appropriate housing, the material and medical assistance in Article 6(3)(c), the educational and training opportunities in Article 6(3)(d) and Article 8 of the Protocol which relates to repatriation. Article 6(1) on privacy, identity protection and confidentiality of the victims and the provision of physical safety while within the territory of Article 6(5) are provided for through the “confidentiality and safety” for victims and witnesses in Article 27 and the right not to be photographed, videoed or broadcast on television.³³¹

It was reported in 2007 that returned victims of trafficking were still being subjected to periods of incarceration in immigration detention centres, fines or re-education to warn of the dangers of going to Thailand. It was hoped that the 2004 Law on Women, once fully implemented and disseminated, would bring an end to this practice of punishing victims.³³² It is unclear whether this has been the result.

The various laws dealing with trafficking and its victims, however, can cause confusion and a unified approach for law enforcement may be more beneficial. This has not been fulfilled with the promulgation of the Anti-Trafficking Law as there is no mention of the prosecution of child victims, nor does the new law contain a broader range of involvement.

329 Lao People’s Democratic Republic (2004), “Law on Development and Protection of Women”, 15 November 2004, No. 70/PO, Article 24.

330 *Ibid.*, footnote 14.

331 *Ibid.*, Article 25(7).

332 U.S. Department of State “Trafficking in Persons Report”, 2007, 133.

Sale of Children

Under the OPSC, State parties must prohibit the sale of children (Article 1) which is defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration” (Article 2(a)). The OPSC requires that the criminal law of each State party criminalise the act of “offering, delivering or accepting” a child for sale for various specified reasons, including for sexual exploitation (Article 3(1)(a)(i)). The Lao PDR government explained to the Committee on the Rights of the Child in 2015 that in the current draft of the revision of the Penal Law these OPSC requirements are defined and criminalised in under the offence of child trafficking: the recruitment, moving, transfer, harbouring or receipt of any child within or across national borders by any means for the purpose of forced labour or for any other unlawful activities.³³³

Arguably, the Law on Anti-Trafficking has provided a holistic legal approach in one reference; its definition of trafficking “for other purposes to gain benefits” (Article 2) does seem to cover instances of sale of children. There are two issues with this conclusion: (i) there is the notion of explicitly criminalising an offence, trafficking in persons and the sale of children are two different offences and that should be reflected in the legislation. Article 35 of the CRC requires the specific criminalisation of sale of children.³³⁴ (ii) The actual elements required for trafficking in persons may not be fulfilled by certain scenarios of sale of children. Elements such as movement and the purpose of exploitation, that are required in the crime of trafficking, may not occur in the sale of children. The CRC as recently as 2015 questioned that trafficking of children was illegal under Laotian law, but the sole crime of sale of a child was not.³³⁵

Under the Law on Preventing and Combating Violence against Women and Children, marriage for the purpose of selling a person to other people is considered an act of violence against women and children (Article 17).

Under the OPSC, improperly inducing consent for the adoption of a child against international legal instruments must also be a criminal offence.³³⁶ In this respect, Lao PDR has implemented a moratorium on inter-country adoption since 30 March 2012,³³⁷ due to concerns that the child protection mechanisms in the country are not yet strong enough to ensure the adoption process is not abused.³³⁸ An inter-ministerial committee was established to draft a new

333 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 33.

334 UNICEF Innocenti Research Centre (2009), “Handbook on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography”, 9, accessed 1 December 2016, https://www.unicef-irc.org/publications/pdf/optional_protocol_eng.pdf.

335 OHCHR (2015), “Committee on the Rights of the Child considers reports of Lao People’s Democratic Republic on sale of children, children in armed conflict”, *News and Events*, 27 May 2015, accessed 1 December 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16016&LangID=E>.

336 Article 3(1)(a)(ii), OPSC.

337 Committee on the Rights of the Child, Reports of States parties due in 2008 under the OPSC, 2014; United States Bureau of Consular Affairs, U.S. Department of State (2012), “Intercountry Adoption: Alerts and Notices”, 30 March 2012, accessed 14 December 2016, <http://travel.state.gov/content/adoptionsabroad/en/country-information/alerts-and-notices/laos12-03-30.html>.

338 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 41.

decree on adoption which observers believe will strengthen the protections as offered under international law; this new decree was signed by the Prime Minister in June 2014.³³⁹

‘Child Pornography’/Child Sexual Abuse Material

Beyond the prevention of the exploitation of children through “pornographic performances and materials” in the CRC (article 34(c)), the OPSC elaborates in article 2(c), defining child pornography as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”. Article 3(1)(c) of the OPSC requires states to prohibit the “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2” under its criminal law. The 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) prohibits the ‘mere’ possession of ‘child pornography’, procuring it for oneself or another or “knowingly obtaining access through information or communications technologies” in its article 20(1)(d)-(f).³⁴⁰ Although Lao PDR is not a State party to the Lanzarote Convention, the Convention is open to accession for non-member states of the Council of Europe and could provide guidance in filling the gaps in Laotian law. Lao PDR is not a participant of the Global Alliance against Child Sexual Abuse Online, though its neighbours Thailand and Cambodia are.³⁴¹

Article 138 of the Lao PDR Penal Code provides that “any person engaging in the widespread production, distribution or dissemination of pornographic items, magazines, pictures, video cassettes and other materials contrary to fine traditions” risks imprisonment of three months to one year and a fine of 200,000 to 5 million kip (US\$ 25 – 617).

This prohibition applies to all pornography and is not specific to children. Article 86 (“Disseminating Child Pornography”) of the Law on the Protection of the Rights and Interests of Children does not fulfil the requirement of a specific prohibition of child pornography; however, it does increase the penalties when child pornography is concerned, providing that:

“Any person who produces, distributes, disseminates, imports, exports, displays or sells magazines, photographs, films, videos, VCDs, DVDs and other items of child pornography shall be punished by imprisonment from one year to three years and fined from 2,000,000 Kip to 6,000,000 Kip [US\$ 247 - 740].”

339 Contribution by the United Nations in the Lao People’s Democratic Republic for the 21st Session of the Universal Periodic Review, 2015, para. 36.

340 Council of Europe (2007), “Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse: Lanzarote Convention”, Treaty Series – No. 201, 25.X. 2007.

341 UNICEF (2016), “Child protection in the digital age”, 21, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf; European Commission (2017), “A Global Alliance against Child Sexual Abuse Online”, *Migration and Home Affairs*, accessed 10 January 2017, https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/global-alliance-against-child-abuse_en: launched in 2012, Ministers of Interior and of Justice of 54 participating countries committed to take concrete action to reduce the child sexual abuse material available online, increase efforts to investigate cases of such material online, increase awareness of the risks and identify victims of such abuse.

This law applies to CSAM involving those under 18 years of age. On this point, the Special Rapporteur on the sale of children has emphasised that a State's age of consent is of no relevance in this regard, as a child can never consent to being sexually exploited, including through CSAM.³⁴² It is important to have a separate offence related to CSAM to recognise the increased severity of this crime as well as concomitant penalties: UNODC believes the penalty in the Law on the Protection of the Rights and Interest of Children to be too low.³⁴³ The contrast is pronounced when compared to the punishment issued in Cambodia, where those involved in pornographic publication and distribution can be subject to a prison term of two to 20 years.³⁴⁴

The Law in Prevention and Combating Cyber Crime prohibits the dissemination of pornography, defining pornography as: "...data and information containing of context clearly appearing in physical aspects such as picture and image, animation, audio, video relating to sexual organs and sexual activities of human." (Article 14)³⁴⁵ This definition gives a lot of discretion, as its mention of animation could include simulated representations of children. For the Council of Europe Convention on Cybercrime (Budapest Convention), child pornography includes images of a "person appearing to be a minor" or "realistic images representing a minor."³⁴⁶ These images do not use real children, or at least not those who have in fact been involved in sexual activity, but images of children created using computer software. Although the Lanzarote Convention allows States to reserve the right not to criminalise production or possession of materials which feature "simulated representations or realistic images of a non-existent child",³⁴⁷ it is important for this to be criminalised as, despite avoiding direct abuse of a child in their production, these images can fuel demand for further exploitation of children as well as a normalisation of the sexualisation of children.

Neither Lao PDR law above criminalises the mere possession or receipt of child sexual abuse material without intent to distribute, as is outlined in the Lanzarote and the Budapest Convention.³⁴⁸ The Committee on the Rights of the Child shared its concerns in 2015 that there is no "legislation specifically criminalising possession of child pornography and the solicitation of children for sexual purpose (grooming), including by means of information and

342 Human Rights Council (2009), "Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M'jid Maalla", UN Doc. A/HRC/12/23, 13 July 2009, para. 55, accessed 14 December 2016, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.23.pdf>.

343 UNODC, "Child Sexual Exploitation in Travel and Tourism", 2014, 21.

344 Times Reporter (2013), "Better Coordination Against Child Sex Tourism Called For", *Vientiane Times*, 7 June 2013, accessed 14 December 2016, http://www.unodc.org/documents/southeastasiaandpacific//2013/06/laos-childhood/Vientiane_Times-Workshop_news_7_June_2013.pdf.

345 Lao People's Democratic Republic (2015), "Law on Prevention and Combating Cyber Crime", 15 July 2015, No. 61/NA. English translation accessed 14 December 2016: https://www.laocert.gov.la/ftp_upload/Cyber_Crime_Law_EnVersion.pdf.

346 Council of Europe (2001), "Convention on Cybercrime: Budapest Convention", Treaty Series – No. 185, 23.XI.2001, Article 9(2),

347 Article 20(3), Lanzarote Convention.

348 Budapest Convention, article 9 "Offences related to child pornography": 1) Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct: a) producing child pornography for the purpose of its distribution through a computer system; b) offering or making available child pornography through a computer system; c) distributing or transmitting child pornography through a computer system; d) procuring child pornography through a computer system for oneself or for another person; e) possessing child pornography in a computer system or on a computer-data storage medium; Lanzarote Convention, article 20(1) "Offences concerning child pornography".

communication technology.”³⁴⁹ There is no law in Lao PDR which provides for the necessary identification of users of public computers, such as in cybercafés and libraries.³⁵⁰ Nor is there any requirement under the law for Internet Service Providers to report suspected child sexual abuse material cases to law enforcement or other appropriate authorities. Nevertheless, the Law on Telecommunication 2011 prohibits telecommunications providers from exaggerating or displaying pornographic material.³⁵¹ In 2014, the government introduced a decree that authorises their ordering blocking of ISPs and suspension of connections when a violation of that decree or other laws is found.³⁵² The decree lists “Content Not Allowed for Dissemination on the Internet”, including pornography and services for buying or selling sex (Article 10(4)).

Individuals or organisations which “allow children to take part in pornographic and obscene activities” will be fined or subject to disciplinary sanctions, which includes having a business licence suspended or withdrawn, under Article 84 (Administrative Measures) of the Law on the Protection of the Rights and Interests of Children. This seems to cover cases where businesses allow their premises to be used for the production of pornography. It is doubtful that parents are included in this provision as Article 49 is specific to “prohibitions for parents, guardians” and only mentions that they must not allow children to be “infatuated with pornographic and obscene things”, without making provision for the punishment of parents who acquiesce to their children being used in pornography. In addition, administrative actions alone are arguably not sufficiently stringent for those who allow children to be exploited in pornography.

Online Child Sexual Exploitation

The Lanzarote Convention prohibits the solicitation of children for sexual purposes, otherwise known as grooming, under Article 23. Article 9(2) is also useful with respect to grooming as the state must “encourage the private sector, in particular the information and communication technology sector, the tourism and travel industry and the banking and finance sectors, as well as civil society, to participate in the elaboration and implementation of policies to prevent sexual exploitation and sexual abuse of children and to implement internal norms through self-regulation or co-regulation”. The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents requests specific laws to prevent the use of internet and other technologies for various crimes connected to the sexual exploitation of children.³⁵³

349 Committee on the Rights of the Child, “Concluding Observations on the Report Submitted by Laos on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, UN Doc. CRC/C/OPSC/LAO/CO/1, 3 June 2015, paras. 29(c) & 30(c), http://tbinternet.ohchr.org/Treaties/CRC-OP-SC/Shared%20Documents/LAO/INT_CRC-OP-SC_COC_LAO_20812_E.pdf.

350 ICMEC & the World Bank (2015), “Protecting Children from Cybercrime: Legislative Responses in Asia to Fight Child Pornography, Online Grooming, and Cyberbullying”, p. 175, http://www.icmec.org/en_X1/WorldBank/Laos_Country_Report_9-11-2014.docx.

351 Lao People’s Democratic Republic (2011), “Law on Telecommunication (Amended)”, No 9/NA, 21 December 2011, Article 36(10), English translation accessed 5 December 2016 <http://www.laotradeportal.gov.la/index.php?r=site/display&id=515#a36>.

352 UNICEF (2016), “Child protection in the digital age”, 26, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf; Lao People’s Democratic Republic (2014), “Decree Information Management on the Internet”, No 327, Article 18

353 World Bank and International Centre for Missing & Exploited Children (2015), “Protecting Children from Cybercrime”, 54, accessed 1 December 2016, https://www.sbs.ox.ac.uk/cybersecurity-capacity/system/files/Worldbank_Childprotection_Cybercrime.pdf; Third World Congress Against Sexual Exploitation of Children and Adolescents (2008), “The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents”,

In 2015 the World Bank and International Centre for Missing & Exploited Children confirmed that Lao PDR has no specific legislation which recognises the use of the Internet to commit crimes against children, nor is there any legislation relating to a definition or criminalisation of online grooming.³⁵⁴ However, the new Cybercrime Law prohibits the creation of anonymous or false social media account (Article 13) as does the 2014 Internet Decree (Article 8).³⁵⁵ Such provisions are undoubtedly an issue to freedom of speech, but in the context of online child sexual exploitation (OCSE) exists it could be argued that it is a potential safeguard against online grooming and sexting as it makes it more difficult for perpetrators to hide their identities.

Article 48 of the Law on the Protection of the Rights and Interests of Children prohibits children “being infatuated with pornographic and obscene things”, and Article 49 extends this to parents/guardians, prohibiting them from “allowing children to be infatuated with pornographic and obscene things”. There is no further definition of the term “infatuation” provided within the text of the law; therefore, it is unclear whether simply having access to these materials, or looking at them regularly, would be sufficient, or whether this must equate to a kind of addiction for the behaviour to fall under the prohibition. In theory this could prevent children from accessing and becoming accustomed to dangerous material online and falling into grooming traps which may be prepared by introducing the minor to sexually explicit materials or even encouraging them to produce it.³⁵⁶ Under Article 15 of the Law on Preventing and Combating Violence against Women and Children unwanted sexual comments constitute as sexual violence: it could be argued that the early stages of grooming fit these criteria. However, the link is not clear and is all the more problematic due to the lack of criminalisation and definition of grooming in national legislation; hence, its effectiveness is uncertain.

Sexual Exploitation of Children in Travel and Tourism

Although there is no international instrument defining sexual exploitation of children in travel and tourism, the 2016 Global Study on SECTT defined this manifestation of CSEC as “acts of sexual exploitation of children embedded in the context of travel, tourism or both.”³⁵⁷

Lao PDR has ratified the five international instruments which the UNODC singles out as those which establish obligations in the area of travel and tourism: the CRC, the OPSC, the UN Convention Against Organized Crime and its Trafficking in Persons Protocol and ILO Convention 182 on the Worst Forms of Child Labour, and is a state party to the UN World Tourism Organization which denounces CSEC in its Global Code of Ethics.³⁵⁸

accessed 12 January 2017, https://www.unicef.org/protection/Rio_Declaration_and_Call_for_Action.pdf: Participants of the conferences committed to action to prevent SEC, in particular in the context of abuse through the Internet and new technologies. Such actions included the criminalisation of production, distribution, receipt and possession of child sexual abuse material (Article 4); educational and awareness campaigns to improve understanding of the risks of the use of internet for sexually exploitation (Article 6); take legislative measures to require internet service providers, mobile phone companies and search engines to report and remove such material (Article 7); and make technologies assisting parents to filter inappropriate and harmful content available and affordable to parents (Article 13).

354 *Ibid.*, 176

355 Lao People’s Democratic Republic (2014), “Decree Information Management on the Internet”, No 327.

356 UNODC, “Child Sexual Exploitation in Travel and Tourism” 2014, 20.

357 Hawke, Angela and Raphael, Alison (2016), “Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism”, Bangkok: ECPAT International and Defence for Children-ECPAT Netherlands, accessed 14 December 2016, <http://globalstudysectt.org/global-report/>.

358 UNODC, “Child Sexual Exploitation in Travel and Tourism”, 2014.

The government confirms that there is no specific national legislation which explicitly prohibits the sexual exploitation of children in travel and tourism in Lao PDR.³⁵⁹ Although the OPSC points out the links between SECTT and the sale of children, sexual exploitation of children in prostitution and CSAM in the Preamble and demands international cooperation in combating sex tourism under Article 10, it neither defines the term nor requires criminalisation of this specifically and separately. Lao law does not criminalise the advertisement of sexual exploitation of children in tourism online.³⁶⁰ The Lao PDR government points to Articles 83 and 84 of the Law on Tourism as prohibiting human trafficking, prostitution, child sexual exploitation and abuse in the context of tourism,³⁶¹ however, the text of this law was revised in 2013 and only the old 2005 version is available online in English.³⁶²

The Law on the Preventing and Combating Violence against Woman and Children identifies the Ministry of Information, Culture and Tourism as one of the managing organisations in preventing and combating violence against women and children (Article 61).

The Law on the Protection of the Rights and Interests of Children does prohibit children from serving in nightclubs, guesthouses, hotels and restaurants,³⁶³ which may effectively keep children out of those tourism and entertainment-related industries where they may find themselves exposed to pressures to provide sexual services. However, experience in neighbouring countries highlights how enforcement measures are vital. During the CRC review of the first State Party Report on the OPSC, the Lao PDR government claimed to have fined owners and operators of venues and successfully closed down some where commercial sexual activities had been carried out;³⁶⁴ however, it is not clear whether this was due to the sexual services per se or because it was children who were providing them.

Child Marriage

According to UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Article 16(2): “the betrothal and the marriage of a child [under the age of 18] shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory”. State parties are strictly obliged under the OPSC, as child marriage that includes a dowry payment or bride price could be considered a manifestation of the sale of children under article 2(a) “whereby a child is transferred by any person or group of persons to another for remuneration or any other form of consideration.”³⁶⁵

359 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 32.

360 World Bank and International Centre for Missing & Exploited Children, “Protecting Children from Cybercrime”, 2015, 170

361 *Ibid.*

362 TourismLaos (2013), “Tourism Law”, available in Laos accessed 14 December 2016: http://www.tourismlaos.org/show.php?Cont_ID=877.

363 Lao People’s Democratic Republic, Law on the Protection of the Rights and Interests of Children, Article 48.

364 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 32.

365 Committee on the Elimination of Discrimination against Women & the Committee on the Rights of the Child (2014), “Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices”, UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, 4 November 2014, para. 23, accessed 14 December 2016, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f18&Lang=en.

ECPAT considers that child marriage may be a form of SEC where the marriage is conducted in exchange for goods, payment in kind or a 'bride price' between families, and the child is used for sexual purposes. ECPAT is of the view that child marriage can also increase the likelihood of subsequent sexual exploitation, due to risks of abandonment, poverty and girls resulting to the sex trade to survive.³⁶⁶

The CRC also states in Article 24(3) that "states Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." A recent Joint Statement by a UN group of experts from the relevant treaty committees and special procedures on the first international day of the girl child stated that forced early marriages cannot be justified on traditional, religious, cultural or economic grounds³⁶⁷ and CEDAW also requires measures to be taken to eliminate all forms of discriminatory traditional practices.³⁶⁸ The Lao PDR Law on the Development and Protection of Women 2004 specifically states that it is "prohibited to hurt women and children because of superstitious beliefs or other reasons."³⁶⁹

The Lao PDR Family Law of 1990 intended to strengthen the family unit and the position of women within. It puts conditions in place requiring the mutual consent of the couple who wish to marry and that they both be at least 18 years old.³⁷⁰ Although admirable progress, the same article of the law states that "in special and necessary cases, this limit may be lowered to less than eighteen years of age but not less than fifteen years of age" for both boys and girls. While there is some uncertainty as to whether international law applies a strict minimum age for marriage or whether the focus is on the ability of the child to consent, it is possible that the Lao PDR government does not do enough to comply with international human rights standards if children below 18 years of age are considered able to consent to marriage.

There is no further elaboration on what is a 'special and necessary case' for lowering the marriage age; however, during Lao PDR's second Universal Periodic Review the government stated that early marriages were illegal even in the case of pregnancy outside marriage, as they were believed to be connected to divorce and social problems.³⁷¹ Furthermore, the UN in Lao PDR recently reported that the possibility of decreasing the marriage age to 15 for girls

366 ECPAT International (2015), "Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage", Bangkok: ECPAT, accessed 4 January 2017, http://www.ecpat.org/wp-content/uploads/2016/04/Child%20Marriage_ENG.pdf.

367 Women Living Under Muslim Laws (2012), "UN: Forced Child Marriage, Slavery Like Reality In Every Single Region in The World -Joint Statement by a group of UN human rights experts to mark the first International Day of the Girl Child", accessed 14 December 2016, <http://www.wluml.org/news/un-forced-child-marriage-slavery-reality-every-single-region-world>.

368 Article 5 (a), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

369 Lao, Law on the Development and Protection of Women, Article 22.

370 Lao People's Democratic Republic (1990), "Family Law", No. 97/P, 24 December 1990, Article 9, English translation accessed 15 December 2016, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=75493&p_country=LAO&p_count=58.

371 UN Office of the High Commissioner on Human Rights (2011), "Committee on the Rights of the Child Reviews Report of the Lao People's Democratic Republic", 27 January 2011, accessed 14 December 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10684&LangID=E>.

(although the Family Code itself does not distinguish as to sex) has been repealed although it is not clear by what means or when exactly this was repealed.³⁷²

For a marriage age to be enforced the age of the child must be known, often a problem in rural areas and among certain minorities like the Hmong-Mien. The Committee on the Rights of the Child has recognised that birth registration is increasing, but even of those who are registered, 67% do not have a birth certificate.³⁷³

Extraterritorial and Extradition Laws in Relation to SEC-related Crimes

The OPSC, article 4(1), requires that all of these offences be criminalised, at least when they occur within the territory of the state due to the nature of SECTT implicating foreign nationals visiting Lao PDR as offenders or, less commonly, Lao PDR nationals as offenders abroad. In this regard, Lao PDR's laws on extradition and extraterritoriality become important. Article 3 of the Penal Law outlines its territorial applicability, as the law is binding on any individual who commits an offence within Laotian territory. Article 4 extends this to other forms of jurisdiction: over Laotian nationals or residents who commit offences outside of the territory under the active nationality principle and even to foreign nationals without a connection to the state for an offence committed outside of the territory in the case where this is provided for in international law (universal jurisdiction). This extraterritoriality could be useful in the case of a foreign national who has committed offences in another state but who is found to be present in Lao PDR.

However, there is no extraterritorial jurisdiction for offences against Laotian nationals with a foreign perpetrator on foreign territory, e.g. the passive nationality principle (unless provided for in international conventions as seen above). This was acknowledged by the World Bank and the International Centre for Missing & Exploited Children in relation to Lao's lack of extraterritorial jurisdiction over child sexual abuse material offences when the victim is Laotian.³⁷⁴ Notably, conventions such as ACTIP allow, but do not require, the establishment of jurisdiction when an offence is committed against a national (Article 10).

The Women's Law trafficking provisions are applicable to three sets of victims: (i) when the trafficking occurs in Lao territory to Lao PDR citizens foreign nationals or stateless persons or foreigners residing in Lao PDR; (ii) when the trafficking occurs abroad to Lao PDR citizens foreign nationals or stateless persons or foreigners residing in Lao PDR; (iii) and also any foreigner trafficked on the territory of Lao PDR – i.e. territorial and passive personality principles.³⁷⁵ As trafficking cases often occur across borders, several States may have jurisdiction.

372 Contribution by the United Nations in the Lao People's Democratic Republic for the 21st Session of the Universal Periodic Review, 2015, para. 24.

373 Concluding Observations on the Report Submitted by Laos on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2015, para. 21(c).

374 World Bank and International Centre for Missing & Exploited Children, "Protecting Children from Cybercrime", 2015, 174.

375 Lao PDR, Decree on the Implementation of the Law on Development and Protection of Women, Article 15.

The OPSC requires states to enforce their jurisdiction when they will not extradite a suspect to another state that wants to prosecute (articles 4(3), 5(5)). Under the Law on Nationality, Lao PDR will not extradite its own citizens to other States;³⁷⁶ this could have repercussions in the case of a Lao PDR citizen wanted by police in another State for offences related to sexual exploitation in travel and tourism. However, in the current dynamic and economic climate in Lao PDR with respect to its neighbours, it is more likely that Lao PDR will be the host country to those travellers and tourists who engage in SEC. Upon ratification of the OPSC, Lao PDR submitted a reservation that it did not consider itself bound by article 5(2) which states that the OPSC may be considered as a legal basis for extradition where there is no existing extradition treaty between States. It should be noted that in its 2013 report to the Committee on the Rights of the Child on its implementation of the OPSC provisions, the government stated that it had no intention to remove this reservation.³⁷⁷ In practice this means that Lao PDR may refuse a request to extradite an individual accused of SEC crimes abroad. Although figures for 2007-2008 did not report that any Lao PDR national had been arrested abroad for SECTT offences,³⁷⁸ Lao PDR must also ensure effective investigation and prosecution of foreign nationals who are present on its territory if the State is not willing to extradite them.

Lao PDR does not have a national law on extradition, and though it is party to extradition treaties, it has declared that bilateral agreements will be the manner in which it will proceed in cases of transnational criminal offences.³⁷⁹ The many Memoranda of Understanding which Lao PDR has adopted with its neighbours, as described in the *Regional Coordination and Cooperation* section, include extradition provisions and could therefore mean that its reservation to the OPSC has little negative effect in practice as most cases would be expected to be intra-regional. ASEAN States signed a Treaty on Mutual Legal Assistance in Criminal Matters in Malaysia in 2004, which was intended to improve cooperation between law enforcement in evidence collection, servicing of documents and identification of individuals; however, there is no provision for extradition and domestic laws take precedence.³⁸⁰

Many of the organised traffickers bringing Lao PDR girls into Thailand are Thai nationals who operate through local Lao PDR agents in the villages. A report from Child Frontiers in 2011 claimed that Laotian nationals were prevented by law from testifying in foreign courts.³⁸¹ However, such a law has not been identified and reports from 2015 include the testimony of Laotian trafficked workers in Thai courts.³⁸²

376 Lao People's Democratic Republic (2004), "Law on Lao Nationality", No. 05/NA, 17 May 2004, Article 6, accessed 14 December 2016, <http://www.asianlii.org/la/legis/laws/loIn2004214.pdf>.

377 Committee on the Rights of the Child, "Reports of States parties due in 2008 under the OPSC", 2014, para. 3.

378 ChildWise Australia, "Travelling Child-Sex Offenders in South East Asia", 2009, 19; Though anecdotal, there is evidence of Lao nationals committing CSEC abroad with a report of a Lao monk in June 2016 charged with possessing and distributing child pornography: U.S. Immigration and Customs Enforcement (2016), "Laotian man arrested at Los-Angeles area monastery on state child pornography charges", *News Releases*, accessed 19 December 2016, <https://www.ice.gov/news/releases/laotian-man-arrested-los-angeles-area-monastery-state-child-pornography-charges>.

379 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 31.

380 ASEAN (2004), "ASEAN Treaty on Mutual Legal Assistance on Criminal Matters", 29 November 2004, accessed 13 December 2016, <https://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters-pdf.pdf>.

381 Child Frontiers, "Report on the Commercial Sexual Exploitation of Children in Lao PDR", 2011, 8 and 41.

382 RFA's Lao Service, Souksavanh, Ounkeo and Gerin, Roseanne (2015), "Lao Migrants To Be Witnesses in Thai Human Trafficking Case", *Radio Free Asia*, 28 August 2015, accessed 17 November 2016, <http://www.rfa.org/english/news/laos/lao-migrants-to-be-witnesses-in-thai-human-trafficking-case-08282015130327.html>.

Judicial Remedies and Complaint Mechanisms: Child's Right to an Effective Remedy

In Laotian society, the shame associated with sexual violence for both the victim and his/her family may result in a failure to pursue justice against the perpetrator/s.³⁸³ Furthermore, as engaging in prostitution is a punishable offence in Lao PDR, those who are sexually exploited for commercial gain risk being punished as offenders or being labelled as 'illegal' immigrants if they have been a victim of transnational trafficking.

Article 36 of the Law on Anti-Trafficking in Persons gives the victim right for civil compensation during the time of criminal proceeding. However, difficulties arise for victims of SEC in the context of ethnic minorities' laws of custom. Such communities extol the benefits of community discussion and reaching agreement within the community in order to solve disputes, even acts usually treated as serious crimes. Sexual offences and violence are often deemed a private affair to be kept within family circles, and rape for example may be believed to be remedied with the victim being forced to marry the offender. It is very rare for people within these communities to reach out to state judicial systems which are little understood, far from remote locations, require resources to participate, and where any fines asked of the offender largely go into the state system rather than to the victim. According to a United Nations Development Programme (UNDP) and Lao PDR Bar Association survey in 2009, citizens were twice as likely to use informal justice processes due to confidence, cost and geography, than the Village Mediation Unit, and five times more likely than the formal state legal system.³⁸⁴ There is evidence to suggest that in the past this has even been encouraged by national law enforcement. For example, two girls who escaped a situation where they had been trafficked for prostitution went to the police and were told that such a matter should be settled at the village level. In fact, in this case the village chief not only knew about the girls' situation but had himself certified the contract for the sale of the two girls.³⁸⁵

Additionally, as local communities cannot extend their customary laws to resolve external issues, disputes with 'outsiders' or hold national governments to account, these informal justice processes may not be helpful regarding human rights violations and transnational issues³⁸⁶ such as child trafficking and other manifestations of SEC. Additional worries concern a lack of rule of law, as disparity between communities implies disparity in compliance with international standards. Ultimately, that means that a child's access to justice is dependent on which community they're from or in.

The Laotian government confirmed to the Committee on the Rights of the Child in 2014 that there was "no significant jurisprudence to serve as a basis for consideration of cases concerning

383 UNICEF (2014), "Violence Against Children in Lao PDR", 23 May 2014, 3, accessed 14 December 2016, http://www.unicef.org/laos/VAC_factsheet_-_23_May_2014_final_Eng.pdf.

384 UNDP (2011), "Customary Law and Practice", July 2011, 2 and 78, accessed 14 December 2016, http://www.la.undp.org/content/dam/laopdr/docs/Reports%20and%20publications/Customary_Law_Laos2011_english_master1.pdf?download.

385 UNICEF, "Broken Promises, Shattered Dreams", 2005, 36-7.

386 UNDP, "Customary Law and Practice", 2011, 97 and 102.

the sale of children, child prostitution and child pornography.”³⁸⁷ In order for victims to trust in the criminal justice system, law enforcement personnel and the judiciary must be trained to recognise and deal with sexual exploitation, specifically with respect to children. In 2006, in a display of international cooperation, French police shared their counter-trafficking knowledge with 32 superiors of the Laotian, Vietnamese, Thai and Cambodian police forces through a seminar at the *Maison du droit Vietnamo-Française* in Hanoi, Vietnam, with the aim of addressing trafficking for sexual exploitation in the region.³⁸⁸ It dealt with legislative provisions, investigation techniques and strategies of action in the Mekong countries. The Committee on the Rights of the Child noted in its August 2014 report that Vietnamese-Laotian cooperative capacity-building training had already taken place in Hà Nội in November 2003.³⁸⁹

The UNODC, with support from the AusAid Initiative Project Childhood, is developing a national curriculum on Investigating Sexual Exploitation of Children for use in national police training academies. It also began the R76 Project in 2006, with the aim of strengthening the criminal law, criminal justice institutions, judiciary, law enforcement and other officials in order to improve implementation of the Trafficking in Persons Protocol.³⁹⁰ The project ended in 2009, after establishing a Core Training Group which conducted seven workshops³⁹¹ Recommendations upon completion of the project included the establishment of a data base containing all training and awareness activities and related personnel.³⁹² The abovementioned LAOX26 Project is a continuation of this project.

The Asia Regional Trafficking in Persons (ARTIP) Project, the second phase of the Asia Regional Cooperation to Prevent People Trafficking, is another long-term capacity building programme, funded by AusAid, which aims to improve criminal justice response to trafficking in persons in Lao PDR and other South-east Asian Nations,³⁹³ by attempting to remedy the fact that many judges, prosecutors and police are not able to distinguish between brokers and traffickers.³⁹⁴ The Australian government supports collaboration among countries in order to improve their ability to detect cases of trafficking, improve their capacity to investigate and prosecute traffickers, and to protect trafficked persons with the aim of securing more effective prosecutions.³⁹⁵

387 Committee on the Rights of the Child, “Reports of States parties due in 2008 under the OPSC”, 2014, para. 29.

388 UNICEF Innocenti Research Centre, Child Trafficking Research Hub (2006), “Pour Mieux Lutter Contre le Trafic des Êtres Humains”, 14 June 2006. Link to original article no longer valid, but abstract (in French) accessed 14 December 2016, http://www.childtrafficking.org/cgi-bin/ct/main.sql?file=view_document.sql&TITLE=-1&AUTHOR=-1&THESAURO=-1&ORGANIZATION=-1&TOPIC=-1&GEOG=-1&YEAR=-1&LISTA=No&COUNTRY=-1&FULL_DETAIL=Yes&ID=2573.

389 Committee on the Rights of the Child, Reports of States parties due in 2008 under the OPSC, 2014, para. 6.

390 UNODC (2009), “Terminal Evaluation Report of UNODC R76 Project”, 6-7, December 2009, accessed 9 December 2016, https://www.unodc.org/documents/evaluation/ProEvals-2009/final_version_evaluation_report_lao_r76_18may2011_rev.pdf.

391 *Ibid*,

392 *Ibid.*, 8.

393 ASEAN (2011), “ASEAN Progress Report on the Criminal Justice Response to Trafficking in Persons”, *ASEAN Secretariat News*, Singapore, 28 July 2011, accessed 14 December 2016, <http://asean.org/asean-progress-report-on-the-criminal-justice-response-to-trafficking-in-persons/>.

394 Child Frontiers, “Report on the Commercial Sexual Exploitation of Children in Lao PDR”, 2011, 41.

395 Global Alliance Against Traffic in Women (2007), “Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights Around the World”, Bangkok: Global Alliance Against Traffic in Women, 31, accessed 14 December 2016, https://www.iam.int/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/ensuring_protection_070909/collateral_damage_gaatw_2007.pdf.

World Vision also aims to improve the capacity of law enforcement agencies and multi-disciplinary partners to identify victims and therefore allow criminal justice to proceed.³⁹⁶ During the second periodic review of Lao PDR under the Committee on the Rights of the Child, however, the Committee voiced its concerns that certain judges and legal officials were still not even fully aware of the existence or acquainted with the content of the Convention on the Rights of the Child, and requested the State to take measures to remedy this, by translating the text into more languages, for example.³⁹⁷

Sengsavang (formerly Agir pour les Femmes en Situations Precaires), a French NGO established in Lao in 2006, run a rehabilitation centre which provides legal support with a human rights orientated lawyer. The lawyer assists the organisation in filing complaints against perpetrators and works to ensure compensation for the victims. The organisation also aims to advocate for the rights of victims to information about their legal status, the services available to them and how they will be affected by decisions, and provides classes to this end.³⁹⁸

2015 figures report 41 individuals investigated, nine prosecuted and 13 convicted for trafficking in Lao PDR, a decrease from 31 prosecutions and 21 convictions in the previous year previous.³⁹⁹ It is a substantial decrease from the 2012 figures provided by World Vision of 75 cases investigated and the identification of 114 traffickers.⁴⁰⁰ However, it is not clear whether (and may be unlikely that) ‘identification’ is equal to prosecution or conviction. In any case, these figures pale in significance when compared to the investigation and prosecution figures reported by neighbours Cambodia, China, Myanmar and Vietnam.⁴⁰¹ World Vision also provided the 2012 figure that 195 victims were repatriated from Thailand, of whom 86% were female and 69% were children.⁴⁰² The Thai figures are also of interest considering that, of the 538 victims of trafficking provided with interim care in nine government shelters within the period in question, 21.6% were Lao PDR nationals – the third largest group after Myanmar nationals (33%) and Thai victims of internal trafficking (31%).⁴⁰³

In 2011, the Secretary-General of ASEAN has said that the ASEAN Progress Reports on the Criminal Justice Response to Trafficking in Persons confirms that in this region traffickers are rarely identified, prosecuted and convicted and victims do not have access to effective remedies: “National criminal justice systems are not yet fully up to the task of investigating, prosecuting and adjudicating this crime and the incidence of cross-border cooperation remains much too low.”⁴⁰⁴

396 World Vision (2013), “Tackling Human Trafficking in the Greater Mekong Sub-Region”, 4, accessed 14 December 2016, <http://www.wvi.org/cambodia/publication/tackling-human-trafficking-greater-mekong-sub-region>.

397 NGO Group for the CRC, “State Party Examination of Lao PDR’s Second Periodic Report”, 2011, 3.

398 Sengsavang (n.d.), “What We Do”, *Our Work*, accessed 15 December 2016, <http://sengsavang.org/what-we-do/>.

399 U.S. Department of State (2016), “Trafficking in Persons Report”, 238, accessed 16 November 2016, <https://www.state.gov/documents/organization/258876.pdf>.

400 World Vision (2013), “Tackling Human Trafficking in the Greater Mekong Sub-Region”, 2-3.

401 *Ibid*: Vietnam reported the investigation of 500 cases and the arrest of 800 traffickers; Cambodia reported 148 arrests; Myanmar 215 arrests of 325 identified traffickers; China, in the extreme, reported having investigated and solved 6628 trafficking cases, the identification of 1240 criminal organisations, and detention of 17,000 traffickers.

402 *Ibid*.

403 *Ibid*.

404 ASEAN Progress Report on the Criminal Justice Response to Trafficking in Persons, Singapore, 28 July 2011, <http://asean.org/asean-progress-report-on-the-criminal-justice-response-to-trafficking-in-persons/>.

Trafficking seems to attract most of the attention and resources, though other SEC manifestations are also beginning to be addressed. The prosecution of two cases related to child sexual abuse materials by the Lao Women's Union (LWU) were reported in 2011 as being vital to establishing legal precedents and developing the LWU's seven-step legal process.⁴⁰⁵ One of the cases involved a Thai businessman selling a video of sex with a seventeen-year-old student who approached the LWU for assistance. The legal process developed put an emphasis on collecting forensic evidence, in order to proceed with investigation, submission of evidence, consideration by the different court levels, conviction and punishment. The offender was convicted but only imprisoned for several months and removing the video from circulation proved very difficult.⁴⁰⁶ The second case involved a girl of only thirteen years who engaged in sex with a man of twenty-one who had been pursuing her for several months and who proceeded to sell a video of the act for 50,000 kip (USD 6.26). The offender was sentenced under the Penal Code but was punished with restrictions on his liberty which did not amount to prison and law enforcement has not been successful in containing the material.⁴⁰⁷

Unlike Thailand, Lao PDR does not have a national human rights institution which could potentially assist in monitoring violations of children's rights.⁴⁰⁸ The CRC has recommended Lao PDR establish an independent mechanism to remedy this gap.⁴⁰⁹

Criminal Justice: Child-Sensitive Procedures

The former Special Rapporteur on Trafficking in Persons, Ms. Joy Ngozi Ezeilo, dedicated a report to the right to an effective remedy for trafficking victims. She emphasised that child participation in criminal proceedings may not always be in the best interests of the child, for example if the child is interviewed repeatedly or if he/she is required to testify in the presence of his/her trafficker.⁴¹⁰ The Legislative Guide to the UN TIP Protocol specifies that direct contact between the victim and offender should be avoided and specific training of law enforcement personnel in child-sensitive procedures may be necessary.⁴¹¹

Article 48 of the Law on Anti-Trafficking gives a child who has been a victim of trafficking or accompanied a victim of trafficking the right to safely continuing studies. An additional safeguard for those who cannot continue further studies requires the consideration of professional and vocational training (Article 48).

405 Child Frontiers (2011), "Report on the Commercial Sexual Exploitation of Children in Lao PDR", pp. 24-6.

406 *Ibid.*

407 *Ibid.*

408 UNICEF (2016), "Child protection in the digital age", 23, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf.

409 CRC/C/OPAC/LAO/CO/1 para 8-9

410 Human Rights Council, "Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo", UN Doc. A/HRC/17/35, 13 April 2011, paras. 53-59, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-35.pdf>.

411 UNODC, Legislative Guides for the Implementation of the UN Convention Against Organized Crime and the Protocol Thereto, 290, accessed 5 January 2017, http://www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf.

Chapter 3 of the Law on the Protection of the Rights and Interests of Children is dedicated to “interviewing children who are victims and witnesses”, in other words the protection of children involved in criminal proceedings.⁴¹² Child victims and witnesses have the right to express their views, to support from parents and carers, and to privacy and protection from danger, coercion and contact with the accused. Interviews must be conducted by specially trained investigators and prosecutors who work in tandem with social workers, using simple language suitable for their age and understanding and child-friendly methods. The Law on Juvenile Criminal Procedure adopted by the National Assembly in December 2013 and enacted in April 2014 has strengthened the systems in place for the sensitive treatment of children within the justice system, whether as offenders, victims or witnesses.⁴¹³ It is recognised, however, that at present there are few actors in the criminal justice system – investigators, prosecutors and judges - who are experts in child-friendly mechanisms. To address this, UNICEF is supported an initiative from the Ministry of Labour and Social Welfare together with the National University of Laos to create a social work profession, establishing a Bachelor of Arts Degree in Social Work as well as developing manuals for social work training courses.⁴¹⁴

Contrarily, under Article 30 of the Law of Civil Procedure children are included in “(t)he following persons may testify but are not considered as witnesses...”⁴¹⁵ This law is from 2004 and may have been updated since, without an English translation available. Based on this law, and its presumed continued applicability, it must be asked why children are not entitled to the rights of witnesses outlined in the article including to view the testimony they have given, propose modifications and complain against actions of the judge believed to be wrong.

Access to Recovery and Reintegration: Support Services for Children

A 2013 COMMIT study on post-trafficking reintegration in the Mekong Region highlighted that recovery and reintegration services are particularly important for children who often come to view their exploitation or abuse as normal, as many do not have a reference for healthy relationships, behaviours or experiences and often do not have a safe home or family to which to return.⁴¹⁶ Often their original family situation was abusive or family members were directly involved in their trafficking. Beyond the risk of sexually transmitted diseases and sexual violence, there is the chance that they suffer malnutrition, have been given drugs and alcohol and have had no access to medicine during their time being exploited, affecting growth and development.⁴¹⁷

412 Lao People’s Democratic Republic (2006), “Law on the Protection on the Rights of the Child”, No. 05/NA; CRIN (2015), “Access to Justice for Children: Lao People’s Democratic Republic”, accessed 6 December 2016, https://www.crin.org/sites/default/files/laos_access_to_justice.pdf.

413 Contribution by the United Nations in the Lao People’s Democratic Republic for the 21st Session of the Universal Periodic Review, 2015, para. 35.

414 UNICEF (2016), “Child protection in the digital age”, 52, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf.

415 Lao People’s Democratic Republic (2004), “Law on Civil Procedure”, No.02/NA, 17 May 2004.

416 Surtees, R. (2013), “After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region”, Bangkok: UNIAP/NEXUS Institute, pp. 215-217, <http://un-act.org/publication/view/trafficking-experiences-challenges-reintegration-trafficked-persons-greater-mekong-sub-region/>.

417 *Ibid.*

Article 2 of the Law on the Protection of the Rights and Interests of Children provides that child victims of trafficking are in need of ‘special protection’, which means that the Committee for Protection and Assistance to Children must identify them and use emergency measures to protect them, provide assistance to their families and monitor assistance given through data collection (Article 36), providing counselling, (Article 38) and inspecting the location of the child (Article 40), among other things.

The Law on the Development and Protection of Women also refers to children in the trafficking context, and sets out extensive rights of victims more specifically, including the right to be protected from prosecution and not be detained under any trafficking, prostitution or illegal immigration charge (article 25(6)). Other rights include assistance from individuals, to report to the police, to testify and present evidence, to request compensation, and importantly for this section, to have access to recovery services and be reintegrated into society (article 25(1-4)). During this process, victims also have the right to protection, to not be photographed, to receive suitable shelter, sustenance and medical services (article 25(5, 7-8)).

Article 52 of the Anti-Trafficking Law requires the government to cooperate with relevant foreign organisations to enable the assistance of victims of trafficking; to assist Lao victims abroad to be returned to Lao; and to assist foreigners victimised in Lao to return to their homes.

Despite these legal provisions, the Laotian government reportedly lacks the resources and capabilities to assist in recovery and reintegration, and often cannot prevent vulnerable trafficking victims from being cycled back into the system by traffickers.⁴¹⁸ This suggests the situation has changed little since 2009 when IOM reported that, despite inroads being made in recovery and reintegration networks in five provinces, inter-organisational referral was limited.⁴¹⁹ The Lao UNIAP representative has stated that most services for victims are provided by NGOs or intergovernmental organisations, with limited government funding and bureaucratic requirements which interfere with the work of civil society.⁴²⁰ The Lao PDR government admitted its reliance on NGOs and international organisations for funding trafficking victim services to the Committee on the Rights of the Child in April 2015 during its first OPSC review.⁴²¹ Yet this reliance is marred by reports of authorities requiring governmental approval of counter-trafficking activities, thus impeding NGO progress.⁴²² One woman interviewed for the COMMIT report accepted assistance but was forced to wait three months before being admitted to the programme as there was not enough space.⁴²³ A more positive example of a Laotian woman returned from a situation of sexual exploitation in Thailand was also given. She was provided with accommodation, training to become a beautician and a small grant to start her own business which now allows her to support herself and send money to her

418 “Sex Trafficking Victims Go Unnoticed in Laos”, *The Diplomat*, 26 March 2014, accessed 16 November 2016, <http://thediplomat.com/2014/03/trafficking-victims-go-unnoticed-in-laos/>.

419 IOM (2010), “IOM Training Manual on Psychosocial Assistance for Trafficked Victims”, Bangkok: IOM, <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/health/mental-health/IOM-Training-Manual-Psychosocial-Assistance-for-Trafficked-Persons.pdf>.

420 *Ibid.*

421 Committee on the Rights of the Child, “Replies of Lao People’s Democratic Republic to the List of Issues”, 2015, para. 39.

422 U.S. Department of State (2016), “Trafficking in Persons Report”, 239 ETC.

423 Commit (2013), “After Trafficking”, p. 69.

family,⁴²⁴ though there is no information as to the source of the funding. UNICEF reports that because many cases concerning children are diverted away from the formal justice system and delegated to Village Mediation Units, many children cannot access rehabilitation and reintegration services due to a lack of community-based institutions.⁴²⁵

In 2012, there were 105 Laotian victims of trafficking identified in the Kredtrakarn shelter, the largest shelter in Thailand, out of 186 women and girl victims of trafficking.⁴²⁶ Criticism from the Special Rapporteur on trafficking in persons targeted the language barriers during rescue operations, detention and interviews noting that the operators' inability to communicate with the victims of trafficking often led them unaware of their human rights.⁴²⁷ Improved bilateral plans of action on return and recovery could potentially address this problem. World Vision is active in Lao PDR and in its 2013 annual report on child protection it reported assisting with the reintegration of 66 young men and women by way of technical assistance counselling and vocational training in running a small business.⁴²⁸

In 2006, a shelter for women and girls abused from trafficking opened in Vientiane; the first shelter of its kind in the city. It is sanctioned by the Law on the Development and Protection of Women, opened by the **Lao Women's Union** with a governmental land grant and the support of the Asia Foundation, the Japanese Embassy and UNICEF.⁴²⁹ It aims to provide counselling and support to women and child victims of physical, sexual and other forms of violence.⁴³⁰ It provides temporary shelter for up to 50 women and children, and its services also include legal counselling and vocational training.⁴³¹ The government indicated to the Committee on the Rights of the Child in 2015 that this counselling network had been recently expanded to cover 32 villages in 25 districts and it hoped to eventually provide complete national coverage.⁴³²

Sengsavang conducts prevention and awareness raising activities, advocacy and campaigning. The organisation also receives girl and women victims of trafficking at a rehabilitation centre located in Savannakhet. The centre is estimated to have supported over 400 girls since its beginning.⁴³³ At the end of 2015, Sengsavang presented that 53 girls had been supported by the organisation with 29 of them completing a vocational training course in beauty training, sewing or cooking; Sengsavang also assists girls who wish to found their own micro-businesses. Additionally, the organisation reported that 31 of these girls were successfully reintegrated

424 *Ibid.*, p. 45.

425 UNICEF (2016), "Child protection in the digital age", 52, accessed 21 November 2016, https://www.unicef.org/eapro/Child_Protection_in_the_Digital_Age.pdf.

426 Human Rights Council, "Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo", UN Doc. A/HRC/20/18/Add.2, 2 May 2012, para. 43, <http://www.refworld.org/docid/501648522.html>. It is not clear how many of these were child victims.

427 *Ibid.*, para. 40.

428 World Vision, "Annual Report: Child Protection", 2013.

429 UNICEF (2006), "Lao PDR opens first shelter for women, children", *News Note*, 16 January 2006, accessed 14 December 2016, https://www.unicef.org/media/media_30709.html; Lao PDR, Law on the Development and Protection of Women and Children, Article 45.

430 *Ibid.*

431 The Asia Foundation (n.d.), "Lao Women's Union", *Projects*, accessed 14 December 2016, <http://asiafoundation.org/projects/lao-womens-union-2/>.

432 Committee on the Rights of the Child, "Replies of Lao People's Democratic Republic to the List of Issues", 2015, para. 40.

433 Sengsavang (n.d.), "Who We Are", *About Us*, accessed 15 December 2016, <http://sengsavang.org/who-we-are/>.

into employment and society.⁴³⁴ In 2016, the French government granted the Sengsavang Association €50,000, supporting a project to improve living conditions of girl victims of trafficking as well as those girls in the risk zone.⁴³⁵

Access to Compensation

In addition to any penal sanctions, Laotian law provides that a child victim may seek compensation from the offender under Article 91 (Civil Measures) of the Law on the Protection of the Rights and Interests of Children, in particular for damage “such as medical treatment, moral injury, sick leave, travel, food and accommodation and other damages.” The 2004 Law on the Development and Protection of Women, Article 25(4) also provides women and child trafficking victims with the right to request compensation, and Article 27 elaborates that the courts may choose to award compensation for “the damage suffered by the victims including [compensation for] moral rehabilitation and loss of income”.

It is to be noted that in ethnic minorities’ traditions compensation or other restitution is a much more common form of remedy. Law enforcement and the national court and prison system are not usually involved. This is more likely to involve exchange of livestock, food or money between families rather than to the individual victim in order to restore the family honour.⁴³⁶

However, it must be added that the Law on Preventing and Combating Violence against Women and Children has a provision that allows for re-education, compromise or mediation instead of judicial proceedings if the violence “does not cause much harm” (Article 47). While the precise criteria for such a mitigation remain unclear, particularly considering the unofficial translation of the law, it is of concern that potential settlements may be referred to a family member, close relative or village elder (Article 49). Considering the isolation of certain societies, the inherent cultural perceptions of children’s rights, gender equality and sexuality, it may not be in the interest of the child to forego an objective judicial proceeding.

434 Sengsavang (n.d), “2015 in Numbers”, accessed 15 December 2016, <http://sengsavang.org/2015-in-numbers>.

435 Ambassade de France au Laos (2016), “Press Release – 29 June 2016. France grants 380,000 euros to 9 Lao associations”, accessed 6 December 2016, http://www.ambafrance-laos.org/IMG/pdf/communiqu_e_de_presse_-_signature_des_conventions_pisca_-_290616_-_anglais.pdf?4819/03e21a03ad8bad2d583564202f1e77f7a87cb3ca.

436 UNDP, “Customary Law and Practice”, 2011.

CHILD AND YOUTH PARTICIPATION

According to the CRC, children have a right to express their views in all matters affecting them and to have those views taken into consideration.⁴³⁷ The general right of children in Lao PDR to participate in activities and express their opinions and the concurrent obligation of the State, society and family to ensure the necessary conditions and due consideration of these views are protected within the Law on the Protection of the Rights and Interests of Children.⁴³⁸ This is reinforced by the right to “express their opinions in decision-making, especially on issues relating to their futures.”⁴³⁹

During Lao PDR’s second periodic review by the Committee on the Rights of the Child, when questioned as to youth participation, the government confirmed that children and youth had been involved in the preparation of the report for the Committee, and that they hoped to increase this involvement for the reports regarding the Optional Protocols.⁴⁴⁰ Youth participation was also reported to be one of the features of the National Plan of Action on CSEC 2007-2011 in the OPSC state party report of 2013, where it was discussed in the present tense, indicating that it was still operational as of 2013.⁴⁴¹

The **Lao Revolutionary Youth Union** (LYU) is responsible by legislation for raising public awareness on trafficking in persons.⁴⁴² The LYU is the country’s biggest youth organisation and, according to themselves, function rather like a Ministry of Youth.⁴⁴³

The **COMMIT Youth Forum** (CYF, formerly known as the Mekong Youth Forum)⁴⁴⁴ resulted from an ILO-Mekong Sub-Regional Project to Combat Trafficking in Women and Children and Save the Children UK initiative called Voices of Children, which now also involves UNIAP

437 Article 12(1), CRC: “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

438 See: Article 7, “Participation of Children”: “The State, society and family shall create conditions for children to participate in various activities and to express their views in all matters affecting them. Those views shall be given due and balanced consideration based on the age and discernment of the child.”

439 See: Article 34, “Child Participation in Decision Making”: “All children have the right to study and express their opinions in decision-making, especially on issues relating to their futures and fates. Individuals and concerned organisations shall facilitate them in such expressions of opinion, and shall consider such opinions, based on the balancing of the age and the discernment of the child.”

440 UN Office of the High Commissioner on Human Rights (2011), “Committee on the Rights of the Child Reviews Report of the Lao People’s Democratic Republic”, News Archive, 27 January 2011, accessed 9 December 2016, <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10684&LangID=E>.

441 Committee on the Rights of the Child, “Reports of States parties due in 2008 under the OPSC”, 2014, para. 44.

442 Article 70, Law on Anti-Trafficking, 2015.

443 Youth Policy (n.d.), “Laos”, accessed 24 November 2016, <http://www.youthpolicy.org/factsheets/country/laos/>.

444 Save the Children – Thailand (2015), “Regional COMMIT Youth Forum 2015”, News, 27 April 2015, accessed 16 November 2016, <https://thailand.savethechildren.net/news/regional-commit-youth-forum-2015>: “The transition from the Mekong Youth Forum to the COMMIT Youth Forum reflects the increasing integration of youth participation in national and regional anti-trafficking efforts.”

and World Vision.⁴⁴⁵ It is a regional event which gives five young delegates, selected through preliminary national children's forums in each of the six Mekong countries (including China), the opportunity to discuss their perspectives and experiences of trafficking and migration with international policy experts as well as national government COMMIT Taskforce officials.⁴⁴⁶ As adolescents are the group most vulnerable to trafficking, the CYF aims to include youth age 19 and under. The Thailand COMMIT Youth Forum was held in October 2014; lessons were learned from the first sub-regional committee so that government officials could return from the CYF in time for preparations of the national COMMIT task force with recommendations.⁴⁴⁷ In 2015 the CYF was held in Phnom Penh in Cambodia, which focused on the youth support of government implementation of the fourth Sub-regional Plan of Action.⁴⁴⁸ The 2016 CYF was held in Lao PDR, Vientiane, 21-24 November with participants selected from a competition.⁴⁴⁹ The **ASEAN Youth Forum** is a platform for youths to meet and create strategies for the improvement of the countries of ASEAN. In 2016, the forum was held in Cambodia as to coincide with the ASEAN Senior Officials Meeting on Youth. Prior issues discussed by the forum include migration.⁴⁵⁰

World Vision Laos has worked to encourage child participation and reportedly reached 15,722 children in 2013, including 50 who were invited to participate in the District Integrated Management Committee meetings.⁴⁵¹ On the occasion of the organisation's Children's Day celebrations, 12 of the 200 participants were selected to form a World Vision Children's Council which was able to voice its concerns not only to World Vision staff but also to other intergovernmental organisations and government officials from the village to the national levels.⁴⁵² World Vision has been assisting youth from Luang Prabang, Savannakhet and Saravane to attend the Regional Youth Forum in Thailand and they reportedly formed regional networks and developed community tools to prevent trafficking.⁴⁵³

445 ILO, Mekong Sub-Region (n.d.), "Meeting the Challenge: Proven Practices for Human Trafficking Prevention in the Greater Mekong Sub-Region – How the Views of Young People Can Impact Government Policy", accessed 14 December 2016, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099892.pdf.

446 Save the Children (n.d.), "Children's participation: Mekong Youth Forum and COMMIT", accessed 14 December 2016, <http://resourcecentre.savethechildren.se/sites/default/files/documents/6747.pdf>.

447 *Ibid.*

448 Save the Children – Thailand (2015), "Regional COMMIT Youth Forum 2015", News, 27 April 2015, accessed 16 November 2016, <https://thailand.savethechildren.net/news/regional-commit-youth-forum-2015>.

449 UN-ACT, "Quarter 3 2016 Newsletter", accessed 18 November 2016, <http://un-act.org/publication/view/un-act-quarter-3-2016-newsletter/>

450 Pemberani, Muda, "Call for Participants: ASEAN Youth Forum 2016", Portal Aktivis Muda Indonesia, 19 July 2016, accessed 23 November 2016, <http://www.mudapemberani.com/2016/07/asean-youth-forum-2016.html>.

451 World Vision Laos (2013), "Child Protection Annual Report 2013", Vientiane: World Vision Lao PDR, 2, accessed 14 December 2016, <http://www.wvi.org/laos/publication/child-protection-annual-report-2013-0>.

452 *Ibid.*

453 World Vision, "Annual Report 2013: Child Protection", 2013, 2.



RECOMMENDATIONS

National Plans of Action

- As SEC incorporates different overlapping and related acts and crimes, it would be preferable to strategise to combat all aspects in one unified approach and to pursue a national action plan for the concept as a whole such as that reportedly initiated for 2007-2011.

Coordination and Cooperation

- There needs to be recognition of the desires that fuel migration. Further bilateral negotiations should be pursued for the improved provision of alternative legal options for outward international migration of Laotian workers, to Thailand in particular, which promotes mutual benefits for each country. This would primarily seek to avoid trafficking, but could also decrease other forms of SEC as legal economic migrants would be able to approach law enforcement for assistance;
- It is recommended that the Lao PDR government remove the restrictions on NGOs doing vital work to combat SEC in the country.

Prevention

- Lao PDR law enforcement should work to counter the idea that Lao PDR is a “safe haven” for travelling child sex offenders by increasing the pursuit of criminals and improving the success of investigations. Increased training would be helpful and cooperation with international agencies which have information on known sex offenders would allow increased efficiency of investigations;
- Lao PDR does not appear to have a sex offender registry. It is recommended that one be implemented;
- There should be a strong policy against corruption of officials arbitrarily enforcing migration laws, in order to keep track of individuals who may be at risk. Although the current situation is less clear, it was previously reported that corrupt local officials would extort money from those they knew had illegally migrated;⁴⁵⁴
- The media should be encouraged to publicise cases of the arrest, prosecution and punishment of child sex offenders in order to communicate widely that Laotian children are not without protection, and to deter potential offenders. This requires more information being shared by the authorities in press releases and the potential for the development of relationships between the press and NGOs, as demonstrated in Cambodia;

⁴⁵⁴ Houghton, James (2006), “Situational Analysis of Human Trafficking in the Lao PDR, With Emphasis on Savannakhet: A Literature based Study Undertaken for World Vision Lao PDR”, World Vision,. 13.

- Additionally, censorship of internet and newspapers should be alleviated as to ensure that media feels unencumbered when reporting on SEC, no matter if the abuser has governmental ties;
- In a similar vein there should be increased transparency of the judicial system and court cases in the country, particularly to reassure the community that any corruption which may once have existed is no longer present;
- Research shows that many informants are taxi or tuk tuk drivers, so programmes could be established to educate those who are most likely to become aware of offenders, including hotel staff, on how and why to report suspicious behaviour;
- Scholarship programmes that cover tuition and related fees, as have been successful in Thailand, could be established and made available to children deemed most at risk of SEC. This could help keep children in school and provide alternative life opportunities;⁴⁵⁵
- The boom in the tourism industry should be harnessed to provide youth with access to safe employment rather than falling victim to the increased risk that comes with the growing travel and tourism sector (namely, an increase in travelling child sex offenders). So long as this does not interfere with their access to education, they could be channelled into the growing tourism industry in constructive ways by way of programmes such as the Youth Career Initiative in Thailand. The private hotel sector began this project offering young people immersive training and experience in the hotel industry;⁴⁵⁶
- There ought to be stronger procedures in place for vetting foreign nationals who arrive in Lao PDR to work as teachers, social workers, in orphanages, volunteering and otherwise in positions of trust and authority with children;
- The private sector, such as Internet Service Providers, credit card companies and the telecommunications industry could become more involved in the protection of children online, including through filtering and blocking pages, making it harder to exploit children. In Thailand, Internet Service Providers are required to keep data of CSAM sites and their users for 90 days;⁴⁵⁷
- The private sector is largely absent from this report, and yet there is great potential for the impact that particularly the tourism sector can have on the prevention of sexual exploitation of children. The sector is involved on the front lines and hotel, bar or casino staff and transportation services, even if not directly involved, are well-positioned to observe and intervene. The Lao Department of Tourism should engage directly with the private sector, sign agreements establishing training requirements for hospitality staff and survey compliance. Additionally, the government should encourage companies to become members of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;

455 The Sold Project (n.d), “Scholarship Program”, accessed 25 November 2016, <https://www.thesoldproject.com/prevent-child-trafficking-slavery/child-trafficking-scholarship-program-sold-project/>,

456 Youth Career Initiative (n.d.), “Thailand – YCI Country Information”, *Country Overview*, accessed 14 December 2016, <http://www.youthcareerinitiative.org/country/thailand/>: The Youth Career Initiative was established in Thailand in 1995, and operates in several other countries and could be extended to Laos.

457 Human Rights Council, “Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M’jid Maalla”, 2009, para. 63.

- Advocacy and social programmes should be designed and implemented to alter the social pressures on young women and girls to provide income for the family, and to increase in parallel the status and perceived value of studying for longer;
- Considering the reported rates of literacy, care should be taken to ensure that awareness raising activities features a verbal component to guarantee access to all vulnerable children;
- The government should take the impact of development projects on ethnic communities very seriously and, if families absolutely must be relocated, a strong compensation system should be ensured to counter the risk of CSEC arising in response to a need to survive;
- In the past, World Vision has recommended the introduction of low-cost mobile phones through micro-credit financing to increase communication networks, to counter the disappearances observed in Savannakhet and the vulnerability to trafficking due to individuals simply ‘falling off the radar’.⁴⁵⁸ This could be particularly helpful in northern ethnic rural areas today where technological exposure is still less pronounced.

Protection

- The inconsistencies between national and ethnic minorities’ customary law need to be resolved in a way that will respect the human rights of children to be free from sexual exploitation. Harmonisation of these laws could be encouraged. As customary law is still strong and local communities’ pluralist traditions ought to be respected as much as possible, national law needs to recognise areas reserved for this method of resolution. Serious crimes should be regulated in courts under the national law in order to allow the state to comply with its international legal obligations. In any case, the relationship must be clarified;
- Educating women who are most often denied a voice in the customary forum about their rights under national law may empower women to reach out and use these alternative options that exist;
- The law expressly exempting children from punishment for prostitution-related offences should be extended to non-trafficking related cases of sexual exploitation of children. Furthermore, this exemption in law should be properly implemented in trafficking cases;
- Rather than making ‘engagement in prostitution’ illegal, it would be preferable to make the use of prostitution illegal. This would allow victims to report SEC rather than fearing punishment if they seek help from the authorities;
- The law should explicitly make exploitation of children for prostitution illegal, as is required by the OPSC. The terminology “recourse to” exploitation of children for prostitution as it is written in the Lanzarote Convention should be used in this legislation, which means the use of the sexual services of a child exploited through prostitution. It should explicitly include all “sexual services” and not only sexual intercourse.

458 Haughton, “Situational Analysis of Human Trafficking in the Lao PDR, 2006, 5.

- Labour recruitment agencies should be held responsible for follow up and supervision of their clients, so that employees do not become lost in the system and therefore more easily fall into sexual exploitation. A complaints mechanism for migrant workers could also be established. A similar system has been put in place by *prakas* (ministerial orders) in Cambodia which have empowered migrant workers through the creation of a regulatory system for recruitment agencies. The training model of Vietnamese recruitment agencies in labour laws and self-regulation could also be adopted;⁴⁵⁹
- A comprehensive law explicitly criminalising all acts related to child sexual abuse material from production and distribution to consumption is urgently needed in Lao PDR. A provision specific to child sexual abuse material should be indicated in the Penal Code;
- Where parents are involved or acquiesce in the participation of their children in online sexual exploitation/child sexual abuse materials, harsh penalties should be provided;
- The law should require credit card companies, banks and Internet Service Providers to report those who purchase or provide child sexual abuse material;
- Additionally, Lao law should ensure jurisdiction over child sexual abuse material offences abroad where the victim is of Lao nationality;
- If Lao PDR is increasingly attractive as a destination for sexual exploitation of children in travel and tourism due to the increased measures taken in Thailand and the Philippines, Lao PDR should follow in their stead with: the adoption of extraterritoriality laws, heavier penalties for child abusers, and extradition agreements with traditional countries of origin of abusers, which makes it harder to visit Lao PDR, abuse Laotian children and escape with impunity;⁴⁶⁰
- The advertising of all offences related to SEC should be made an offence as in article 8(2) of the Lanzarote Convention. This is particularly important with respect to SECTT;
- The legal age for marriage should be clarified and promoted throughout the population. Greater efforts to enforce the laws abolishing child marriage should then be taken and the recommendations from the UPR session to penalise this practice should be brought into force;⁴⁶¹
- With respect to the verification of the age of child, the suggestion by the Committee on the Rights of the Child in its concluding observations to the Optional Protocol on the Involvement of Children in Armed Conflict is equally relevant to the prevention of child marriage. Mobile units which would visit rural minority villages and record all births in a computerised system could be established with the support of UNODC and UNICEF;⁴⁶²

459 ILO (n.d), “GMS Triangle Project: The Nexus of Trafficking in Persons and Labour Migration”, accessed 14 December 2016, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_223304.pdf.

460 Commission on Human Rights 55th session, “Mission to the Lao People’s Democratic Republic” 1999, para. 63(e).

461 Report of the Working Group on the Universal Periodic Review, Lao PDR, Recommendations of Chile and Sierra Leone, UN Doc. A/HRC/29/7, 23 March 2015, paras. 109-110 and 121, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/061/51/PDF/G1506151.pdf?OpenElement>.

462 Committee on the Rights of the Child (2015), “Concluding Observations on the Report Submitted by Lao on the Optional Protocol on the Involvement of Children in Armed Conflict”, UN Doc. CRC/C/OPAC/LAO/CO/1, 3 June 2015, para. 15(a), accessed 14 December 2016, http://tbinternet.ohchr.org/Treaties/CRC-OP-AC/Shared%20Documents/LAO/INT_CRC-OP-AC_COC_LAO_20810_E.pdf.

- To ensure the access of justice for children, Lao PDR should ratify the Optional Protocol to the CRC on a Communications Procedure;
- It was reported in 2014 that the Laotian government was considering the conditions to be able to join the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry adoption,⁴⁶³ it is recommended that if the moratorium on international adoption is lifted, Lao PDR has ratified this Convention. Even if this moratorium is not lifted, by ratifying the convention Lao PDR is effectively emphasising their commitment to preventing child trafficking.

Access to Justice

- Lao PDR should follow the example of Cambodia, which with Project Childhood support has been training greater numbers of female police officers and ensuring they are trained to the same level as their male colleagues, as children can sometimes feel more comfortable with female police officers during investigations. There have been specific training sessions on the investigation of SEC, trafficking and child protection for both provincial and national female officers;⁴⁶⁴
- As victims often turn to monks and local spiritual healers for help and/or guidance, these figures could be trained to recognise criminal behaviour and to offer what World Vision termed ‘psychological first aid’;⁴⁶⁵
- The rules on statutory limitations should ensure that the time starts running only once the child has turned 18, in order to allow for the development of the child’s maturity and understanding of his or her experience;
- Parents who have been involved or acquiesced in the exploitation of their own children should not be able to profit or otherwise benefit from any compensation given to their children. This may involve setting up a trust system under national law which may direct the funding into the child’s education or hold the money until the child turns 18.

463 Committee on the Rights of the Child (2014), “Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Reports of States parties due in 2008: Lao People’s Democratic Republic”, UN Doc. CRC/C/OPSC/LAO/1, 21 August 2014, para. 49, accessed 14 December 2016, <http://www.refworld.org/docid/555de0e74.html>

464 UNODC (2012), “Cambodia Fights Sexual Exploitation of Children with More Female Police and by Training all Police on Gender-Based Violence”, Southeast Asia and Pacific, 12 November 2012, accessed 14 December 2016, <http://www.unodc.org/southeastasiaandpacific/en/cambodia/2012/11/child-sex-tourism-crimes/story.html>.

465 Houghton, “Situational Analysis of Human Trafficking in the Lao PDR”, 2006, 5.

ANNEX

The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*

Note: This is a condensed version. The full Rio Declaration and Call to Action also contains: Preamble; A. Review of progress and outstanding challenges; and B. Declaration.

C. Call for Action

We call on all States, with the support of international organizations and civil society, including NGOs, the private sector, adolescents and young people to establish and implement robust frameworks for the protection of children and adolescents from all forms of sexual exploitation, and we call upon them to:

I - International and Regional Instruments

- (1) Continue working towards ratification of relevant international instruments, including as appropriate the United Nations Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention on the Elimination of All Forms of Discrimination against Women.
- (2) Continue working towards ratification of relevant regional instruments, including as appropriate the African Charter on the Rights and Welfare of the Child, the ASEAN Charter, the Inter-American Conventions on International Traffic in Minors and on the Prevention, Punishment and Eradication of Violence against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Council of Europe Conventions on Action against Trafficking in Human Beings, on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse, conventions which can be ratified by States that are non-members of the Council of Europe.
- (3) State Parties should take all necessary measures to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, taking into due accounts the conclusions and the recommendations of the Committee on the Rights of the Child in the context of its review of State Parties' reports. All countries are encouraged to use this as an important reference.

* The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008), full text available at: http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf

II – Forms of Sexual Exploitation and its New Scenarios

Child pornography/child abuse images

- (4) Criminalize the intentional production, distribution, receipt and possession of child pornography, including virtual images and the sexually exploitative representation of children, as well as the intentional consumption, access and viewing of such materials where there has been no physical contact with a child; legal liability should be extended to entities such as corporations and companies in case the responsibility for or involvement in the production and/or dissemination of materials.
- (5) Undertake specific and targeted actions to prevent and stop child pornography and the use of the Internet and new technologies for the grooming of children into online and off-line abuse and for the production and dissemination of child pornography and other materials. Victim identification, support and care by specialized staff should be made a high priority.
- (6) Conduct educational and awareness-raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children with a view to improve their understanding of the risks of sexually exploitative use of the Internet, mobile telephones and other new technologies, including information for children on how to protect themselves, how to get help and to report incidences of child pornography and online sexual exploitation.
- (7) Take the necessary legislative measures to require Internet service providers, mobile phone companies, search engines and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results and enhance efforts.
- (8) Call upon Internet service providers, mobile phone companies, Internet cafes and other relevant actors to develop and implement voluntary Codes of Conduct and other corporate social responsibility mechanisms together with the development of legal tools for enabling the adoption of child protection measures in these businesses.
- (9) Call upon financial institutions to undertake actions to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child pornography.
- (10) Set up a common list of websites, under the auspices of Interpol, containing sexual abuse images, based on uniform standards, whose access will be blocked; the list has to be continuously updated, exchanged on international level, and be used by the provider to perform the access blocking.
- (11) Undertake research and development, in the realm of the private sector, of robust technologies to identify images taken with electronic digital devices and trace and retract them to help identify the perpetrators.
- (12) Promote public/private partnerships to enhance the research and development of robust technologies to investigate and to trace the victims with a view to immediately stop their exploitation and provide them with all the necessary support for full recovery.
- (13) Make technologies easily available, affordable and usable for parents and other caregivers, including to assist with the use of filters to block inappropriate and harmful images of children.

Sexual exploitation of children and adolescents in prostitution

- (14) Address the demand that leads to children being prostituted by making the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child's age.

- (15) Provide specialized and appropriate health care for children who have been exploited in prostitution, and support child centered local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.

Sexual exploitation of children and adolescents in travel and tourism.

- (16) Encourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, for example by joining and implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism; encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; and/or provide other incentives for those participating.
- (17) Ensure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents.
- (18) Cooperate in the establishment of an international travel notification system, such as the Interpol 'green notice' system, in accordance with applicable law and human rights standards.
- (19) Ensure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State's nationals who are reported or alleged to have sexually exploited a child in a foreign country.
- (20) Prohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children.
- (21) Monitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development.

Trafficking and the sexual exploitation of children and adolescents

- (22) Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they participate, where appropriate, in the planning, implementation and monitoring of such programmes.
- (23) Pilot and adapt or replicate successful models of community-based prevention and rehabilitation and reintegration programmes for child victims of trafficking.
- (24) Establish policies and programmes that address not only cross-border but also internal trafficking of children and that include, among other elements, a standard operating procedure for the safe repatriation and return of children based on the child's view and on a careful assessment of the needs and risks to the child of returning to her/his place of origin to ensure that the best interests of the child are taken into account.
- (25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.

- (26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF *Guidelines on the Protection of Child Victims of Trafficking* and UNHCR *Guidelines on Formal Determination of the Best Interests of the Child*).
- (27) Undertake and/or support, with the involvement of civil society and children, the regular evaluation of programmes and policies to prevent and stop the trafficking of children and of legislation that may have a conducive impact on trafficking, for example laws on marriage, free education, adoption and migration, birth registration, accordance of citizenship, refugee or other status.

III – Legal Frameworks and Enforcement of the Law

- (28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.
- (29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.
- (30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.
- (31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.
- (32) Establish special gender sensitive units/children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.
- (33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.
- (34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions as appropriate), safe reintegration of convicted offenders and the collection and sharing of good practices and establish where appropriate sex offenders registers.

IV – Integrated Cross-Sectoral Policies and National Plans of Action General

General

- (35) Develop and implement comprehensive National Plans of Action on the sexual exploitation of children and adolescents, or include these in existing relevant planning frameworks, such as National Development Plans and ensure that these Plans are based in a cross-

sectoral approach which brings all stakeholders together in a coherent and comprehensive framework for action. These Plans should incorporate gender-sensitive strategies, social protection measures and operational plans, with adequate monitoring and evaluation targeted resources and designated responsible actors, including civil society organizations for implementation of initiatives to prevent and stop the sexual exploitation of children and adolescents and provide support for child victims of sexual exploitation.

- (36) Promote and support multi-sectoral policies and programmes, including community-based programmes, within the framework of a comprehensive national child protection system to address phenomena that contribute to the sexual exploitation of children and adolescents including, for example, discrimination (including on the basis of sex), harmful traditional practices, child marriage and social norms that condone sexual exploitation.
- (37) Promote and fund meaningful child and youth participation at all levels in the design, monitoring and evaluation of policies and programmes, in campaigns and through peer-to-peer youth programmes, aimed at raising awareness and preventing the sexual exploitation and trafficking of children and adolescents.
- (38) Initiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.

Prevention

- (39) Ensure that all children born on their territory are registered immediately and for free after their birth and pay special attention to not yet registered children and children at risk and in marginalized situations.
- (40) Strengthen the role of educational institutions and staff to detect, denounce and help address sexual abuse and exploitation of children in all forms and sources.
- (41) Emphasize prevention of sexual exploitation of children and adolescents, through e.g. awareness raising and educational campaigns, support for parents and eradication of poverty while reinforcing or establishing multi-sectoral referral mechanisms to provide comprehensive support and services to children who have been victimized in sexual exploitation.
- (42) Support children to gain deeper knowledge of their own rights to be free from sexual exploitation, and the options available to help them to address abuse, so that they are empowered, with the partnership of adults, to end sexual exploitation.
- (43) Engage children in meaningful and critical examination of changing contemporary values and norms and their potential to increase vulnerability to sexual exploitation; and promote education to enhance children's understanding of these issues in relation to sexual exploitation.
- (44) Undertake research on contemporary patterns of socialization of boys and men across different contexts to identify factors that promote and strengthen boys' and men's respect for the rights of girls and women and engage them in action initiatives that inhibit and discourage them from engaging in sexual exploitation of children and adolescents.

Protection of the child

- (45) Increase efforts to address the sexual exploitation of children and adolescents through the development of comprehensive and integrated national child protection systems, including the necessary budget allocations and based on identifications of settings where children are most at risk that aim to protect children from all forms of violence and abuse.

- (46) Establish by 2013 an effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation, for example by instituting mandatory reporting for people in positions of responsibility for the welfare of children.
- (47) Develop or enhance accessibility of existing telephone or web-based help lines, in particular for children in care and justice institutions, to encourage children and require care givers to confidentially report sexual exploitation and seek referral to appropriate services, and ensure that the operators of such reporting mechanisms are adequately trained and supervised.
- (48) Strengthen existing national child protection services or establish new ones in order to provide all child victims of sexual exploitation, girls and boys, without discrimination, with the necessary economic and psycho-social support for their full physical and psychological recovery and social reintegration, and when appropriate, family reunification and interventions that support and strengthen families to mitigate the risk of further exploitation; such services to be provided by well trained multi-disciplinary teams of professionals.
- (49) Ensure that these services are accessible, appropriately resourced, comprehensive, child- and gender-sensitive, and reach all children without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex (or orientation), and social origin and including children with disabilities, from ethnic minorities, indigenous or Aboriginal children, refugee or asylum-seeking and children in domestic service or living on the streets and children displaced by conflict or emergency situations.
- (50) Develop programs that provide children of sex workers and children living in brothels with support and protection.
- (51) Promote and defend the privacy of the child victims and child perpetrators of sexual exploitation, taking into account relevant national laws and procedures, to protect their identity in investigatory or court proceedings or from disclosure by the media and ensure that these proceedings are child friendly and allow the child to participate in a meaningful way in the process of bringing the perpetrator to justice.
- (52) Ensure that children and adolescents exhibiting acts of sexual violence harmful to others receive appropriate care and attention as a first option through gender-sensitive and child-focused measures and programmes that balance their best interest with due regard for the safety of others, and ensure compliance with the principle that depriving children of liberty should be pursued only as a measure of last resort, and ensure that those responsible for the care of such children are equipped with relevant and culturally appropriate training and skills.

V – International Cooperation

- (53) Take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts of sexual exploitation of children and adolescents; and for the assistance of child victims in their physical and psychological recovery, social reintegration and, as appropriate, repatriation.
- (54) Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.

- (55) Strengthen and improve the effectiveness of existing regional mechanisms for exchange, coordination and monitoring of progress on child protection including against sexual exploitation in order to review progress and strengthen follow-up on the implementation of the recommendations made.
- (56) Provide, when in a position to do so, financial, technical and other assistance through existing multilateral, regional, bilateral and other programmes for addressing the sexual exploitation of children and adolescents; and explore the potential of a fund for child and youth initiatives in this area.
- (57) Develop, where appropriate with the support of UN agencies, NGOs, civil society organizations and the private sector, workers' and employers' organizations, policies and programmes to promote and support corporate social responsibility of enterprises operating *inter alia* in tourism, travel, transport and financial services, and of communication, media, Internet services, advertising and entertainment sectors; so that child-rights focused policies, standards and codes of conduct are implemented throughout the supply chain and include an independent monitoring mechanism.
- (58) Support and contribute to the Interpol international child abuse images database and nominate a responsible national focal point person or unit to collect and update promptly national data on sexual exploitation of children and adolescents, and systematically share this information with Interpol in order to support cross-border (international) law enforcement action and strengthen its effectiveness, and adopt multilateral agreements especially for police investigation work.
- (59) Undertake national and international coordinated measures to curb and stop the involvement of organized crime in commercial sexual exploitation of children and bring persons and/or legal entities responsible for this form of organized crime to justice.

VI – Social Responsibility Initiatives

We encourage the private sector, employers' and workers' organizations, to proactively engage in all efforts to prevent and stop the sexual exploitation of children and adolescents, and to use their knowhow, human and financial resources, networks, structures and leveraging power to:

- (60) Integrate child protection, including the prevention of sexual exploitation of children, into new or existing corporate social responsibility policies of enterprises operating *inter alia* in tourism, travel, transport, agriculture and financial services, and of communication, media, Internet services, advertising and entertainment sectors, and ensure appropriate implementation of such policies and widespread public awareness.
- (61) Incorporate the prevention and protection of children from sexual exploitation in human resources policies, such as Codes of Conduct and other corporate social responsibility mechanisms throughout the supply chain.
- (62) Join efforts with Governments, UN agencies, national and international NGOs, and other stakeholders to prevent the production and dissemination of child pornography, including virtual images and the sexually exploitative representation of children, and stop the use of the Internet and new technologies for the grooming of children into online and off-line abuse; undertake actions to trace and stop the flow of financial transactions for sexual exploitation of children through the services of financial institutions; support efforts to address the demand for sexual exploitation of children in prostitution and the strengthening of services for children victims and their families, including the establishment of accessible telephone or web-based help lines; and provide support for educational and awareness-raising campaigns targeting children, parents, teachers, youth organizations and others working with and for children, on the risks of sexual exploitation of children, sexually exploitative use of the Internet, mobile phones and other new technologies as well as on protective measures.

VII – Monitoring

- (63) Establish by 2013 independent children's rights institutions such as children's ombudspersons or equivalents or focal points on children's rights in existing human rights institutions or general ombudsperson offices, highlighting the importance for States Parties to the Convention on the Rights of the Child of General Comment No 2 of the Committee on the Rights of the Child; these bodies should play a key role in the independent monitoring of actions taken for the prevention of sexual exploitation of children and adolescents, protection of children from such exploitation and the restoration of the rights of sexually exploited children, in advocating for effective legal frameworks and enforcement and in ensuring, where necessary, that child victims have effective remedies and redress, including the possibility of filing complaints before these institutions. We encourage the Committee on the Rights of the Child to:
- (64) Persevere with reviewing progress of States Parties' fulfilment of their obligations to uphold the right of children to protection from sexual exploitation and pay special attention to the recommendations in the Rio Call for Action in its examination of reports under the Convention on the Rights of the Child and its Optional Protocols.
- (65) Adopt as a matter of priority a General Comment on the right of the child to protection from sexual exploitation, trafficking for sexual purposes, and the abduction and sale of children, including detailed guidance to States on the development, implementation and enforcement of national legislation and policies in this regard.
- (66) Continue to work with the Office of the High Commissioner for Human Rights in protecting child rights, and raising awareness of relevant international and regional human rights mechanisms.

We encourage other United Nations human rights treaty bodies, special procedures of the Human Rights Council and special representatives of the United Nations Secretary-General, as well as regional human rights mechanisms, to:

- (67) Pay particular attention to combating the sexual exploitation of children and adolescents, within their respective mandates and during their examination of State Parties' reports, country visits, in their thematic work and/or other activities.

We urge the Human Rights Council to:

- (68) Ensure that the Universal Periodic Review process includes rigorous examination of States' fulfilment of their obligations to children, including preventing and stopping the sexual exploitation of children and adolescents and to respectfully the rights of child victims of such exploitation.

We urge the yet-to-be-appointed Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children, together with other appropriate mandate holders and in collaboration with the Committee on the Rights of the Child, to:

- (69) Work together to avoid duplication and to maximise their impact in preventing and stopping the sexual exploitation of children and adolescents and, through their work, map experiences in the area of prevention and response to sexual exploitation of children and assess their effectiveness.

We encourage UN agencies, NGOs and human rights institutions to:

- (70) Support and provide information on the extent of and responses to sexual exploitation of children and adolescents to these bodies.
- (71) Work with the media to enhance their role in education and empowerment, and in protecting children from sexual exploitation, and to mitigate the harmful potential of the media, including through the sexualization of children in advertising.

We call on international financial institutions such as the World Bank and the International Monetary Fund to:

- (72) Review their current macro-economic and poverty reduction strategies with a view to counteracting any negative social impact on children and their families, including loan conditionality which essentially limits social services and access to rights and minimizing the risk for children to sexual exploitation.

We call on religious communities to:

- (73) Reject, in the light of their consensus about the inherent dignity of every person, including children, all forms of violence against children including sexual exploitation of children and adolescents and establish, in that regard, multi-religious cooperation and partnership with other key stakeholders such as governments, children's organizations, UN agencies, NGOs, media and the private sector using their moral authority, social influence and leadership to guide communities in ending sexual exploitation of children and adolescents.

D. Follow-up

- (1) We commit ourselves to the most effective follow-up to this Call for Action:
 - At the national level, *inter alia*, by biennial public reporting on the measures taken for the implementation of the Rio Declaration and Call for Action and promoting/initiating discussions on the progress made and the remaining challenges to named responsible mechanisms for monitoring implementation while also integrating such requirements into State reporting to the Committee on the Rights of the Child.
 - At the international level, by encouraging and supporting coordinated actions by the relevant human rights treaty bodies, special procedures of the Human Rights Council and Special Representatives of the Secretary-General of the United Nations with a view to maintaining awareness of the Rio Declaration and Call for Action and promoting its implementation.
- (2) Encourage the private sector to join the United Nations Global Compact and communicate their implementation progress with regard to addressing the sexual exploitation of children and adolescents and supporting the realization of this platform for coordinated corporate efforts and sharing of best practices.

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