



EXECUTIVE SUMMARY

Lao PDR*



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INTRODUCTION

The Lao People's Democratic Republic (Lao PDR) is a land-locked country located in the Greater Mekong Region, with a population of 6.8 million, including 2.8 million under the age of 18.¹ According to the United Nations Population Fund, Laos is one of the 48 Least Developed Countries in the world.² However, despite the high level of poverty, the country is currently showing a 7.4% growth in GDP.³ Economic development, increased mobility of youth, and globalisation can create prime conditions for the sexual exploitation of children (SEC). As a relatively recent danger, there is a lack of data on SEC and exact figures are often unknown.

Lao PDR is principally a source country for **trafficking of children for sexual purposes**.⁴ Increased economic development, combined with income inequality and lack of resources to control border areas are the main causes of the increased risk of trafficking in women and children.⁵ Domestic trafficking is also prevalent in Laos, especially in border areas where there is the highest demand from tourists, but also from migrant workers hired for big construction projects or business men and woman attending events and conferences.⁶ Finally, Laos is a transit country for girls of Vietnamese and Chinese origin to be further trafficked into Thailand.⁷

Exploitation of children in prostitution is one of the worst manifestations of child labour in the Mekong region.⁸ As Thailand is taking measures to tackle the exploitation of children in prostitution, the demand is being fulfilled by girls being brought from neighbouring countries including Lao PDR.⁹ A database analysis specific to Laos showed that girls under 18 represented 47.4% of the 'sex-workers' sample.¹⁰

With Thailand recently initiating measures against the **sexual exploitation of children in travel and tourism (SECTT)**, travellers and tourists seeking sex with children perceive Laos as a 'safe country' to escape criminal pursuit.¹¹ The lack of research, data and awareness on the matter is protecting and encouraging offenders. SECTT is clearly visible in Special Economic Zones (SEZ) established for the benefit of tourists, and on certain websites and chatrooms where tourists can share tips on where to find children to sexually exploit.¹²

In many cases, SECTT involves **child sexual abuse material (CSAM)**. In its 2014 state report to the Committee on the Rights of the Child (CRC), the Laotian government acknowledged that CSAMs exist and are in circulation in Laos.¹³ Children between the ages 12 and 14 have been involved in the production of sexual abuse material inside Lao PDR, and an increasing number of teenagers are taking and sharing explicit images and videos of themselves.¹⁴ Increased access to the Internet makes it difficult to protect children from grooming and sexual extortion.

Reportedly, **women and children in traditional ethnic communities** are the prime targets for sexual exploitation.¹⁵ Customary laws also have an impact on the exposure of ethnic girls to SEC as they establish firm gender roles and therefore cultivate inequalities.¹⁶

Although, the national legislation defines a child as any person below the age of 18,¹⁷ cases of **child marriage** are commonly established as part of traditional customs and practices of the ethnic population in Lao PDR. Indeed, 43% of Laotian girls in minority groups and rural areas are married before the age of 18.

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

The Lao PDR adopted a national plan of action for 2007-2011 that specifically addressed SEC, but it has never been implemented.¹⁸

However, several other national plans are relevant to SEC prevention. In 2012, the Lao government adopted a national anti-human trafficking strategy, followed by the Law on Anti-Trafficking in Persons in December 2015.¹⁹ The 8th Five-Year National Socio-Economic Development Plan for 2016-2020 includes measures to improve the life of victims of trafficking and protect the rights of children.²⁰ SEC is a form of violence against children and is therefore addressed in the first National Plan of Action for the Prevention and Elimination of Violence against Women and Violence against Children 2014-2020.²¹ Finally, mention should be made of the National Strategy on Education System Reform 2006-2015 and the Education Development Framework 2009-2015, which both addressed the situation of poverty and lack of opportunities in Laos that increase vulnerability to SEC.²²

COORDINATION AND COOPERATION

Local and National Levels

Before 2009, the relationship between the Laotian government and non-governmental organisations was complex and no legal provision existed regarding their status. In 2009, the adoption of the Decree on Associations represented a major step toward greater government-NGO collaboration.²³ However, in practice, the procedures for registration are slow and burdensome and the operating guidelines have been tightened by the government.²⁴ In its 2015 concluding observations, the CRC expressed its concerns regarding the obstacles faced by NGOs.²⁵

Lao PDR established the National Commission for Mothers and Children (NCMC) in 1991.²⁶ It monitors and implements activities related to children's rights, including awareness-raising campaigns, research and data collection. However, the CRC considers the NCMC to be a state organisation and, therefore, not an independent review body. Under the Law on the Protection of the Rights and Interests of Children, the Ministry of Labour and Social Welfare is assigned the task of preventing exploitation and violence against children and is charged with the establishment of the Committee for Protection and Assistance to Children.²⁷

Regional and International Levels

Sexual exploitation of children is a transnational problem requiring cross-border cooperation, especially as South-East Asia has become a hot spot for SECTT. International organisations are leading the majority of projects to counter SEC in Lao PDR: the UN Action for Cooperation against

Trafficking in Persons was established in 2000 to facilitate direct action on the issue of trafficking in the region,²⁸ and UNODC works to strengthen law enforcement institutions' responses to trafficking, in collaboration with Interpol. UNODC also cooperated with the Laotian government on the LAOX26 Project: Strengthening Criminal Justice Responses to Human Trafficking in Lao PDR to improve legislative protection from trafficking and the protection of victims.²⁹

In 2015, the Lao PDR was selected for the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (GLO.ACT).³⁰ The project has several objectives, including assistance and support to child victims of trafficking and smuggled migrants, and focuses on assisting governments, civil society organisations and victims.

Lao PDR is a member of the Association of Southeast Asian Nations (ASEAN), and played a meaningful role in the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009.

Laos has signed several Southeast Asian regional agreements, most of them related to trafficking. The regional Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) is particularly notable.³¹

PREVENTION: EDUCATION, INTERVENTION AND RESEARCH

In June 2014, World Vision released a report that revealed the urgent need for **awareness raising and education** among children and adults regarding SEC.³² Although the Laotian government stated the contrary, the CRC expressed concerns in 2015 that it had not taken enough measures to incorporate human rights education in the school curriculum.³³

The government makes an effort to work actively with international organisations. The Lao PDR National Tourism Administration (NTA) collaborated with Child Wise (Australia) to combat SECTT in 2006. World Vision implemented its regional End Trafficking in Persons Programme (ETIP) between October 2011 and September 2016, as part of its Project Childhood, a study to identify child sexual abuse cases.³⁴ It revealed a lack of reported cases and compensation awarded in Lao PDR. The International Organization for Migration (IOM) is also actively raising awareness in several provinces on the risk of human trafficking, particularly for women and children.³⁵ On the other hand, the press is severely restricted by government censorship. As a result, media coverage of SEC is rare in Laos.³⁶

The **private sector** can also play an active role in preventing SEC. Businesses in the tourism and travel industries are encouraged to sign The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code). However, at present, only four businesses in Lao PDR have signed the Code.³⁷

The Laotian Constitution and the Law on the Protection of the Rights and Interests of Children establish several measures to protect children's rights and **reduce vulnerability**.³⁸ The National Directory of Essential Services for Children and Youth in Lao PDR was launched in 2012 to provide information on existing services (medical, psychosocial counselling, etc.) for children and youth.³⁹ Unfortunately, efforts to combat SEC are hindered by corruption, especially among local officials. There is a general lack of data on SEC in Lao PDR and no exhaustive research has been conducted on the matter. The Second Regional Legal Research Group meeting on SECTT in 2016 discussed the need to strengthen regional collaboration in legal research.⁴⁰

International Instruments related to SEC

Lao PDR has ratified a large number of international conventions aimed at protecting children from sexual exploitation. Among the most significant are the Convention on the Rights of the Child (CRC), ratified in 1991; the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) in 2006; and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (UN TIP Protocol) in 2003. However, these conventions are not reflected in national law.

At the regional level, the Lao PDR is also a State Party to several ASEAN Conventions, the most relevant of which is the ASEAN Convention against Trafficking in Persons, Especially Women and Children of 2015.

National Legislation

The Law on the Protection of the Rights and Interests of Children prohibits several forms of SEC. Although Lao law recognises a child as a person under the age of 18, in conformity with international standards, it does not recognise that any sexual relations with children violates the rights of the child. Article 129 of the Penal Law criminalises sexual intercourse with a child under 15, even if no remuneration is offered. Therefore, the law implies that children aged 15 and over are able to consent. Moreover, Article 129 seems to refer only to penetrative intercourse, meaning that other sexual activities, which are not in exchange for some benefit, do not appear to be illegal. Certain social values are reflected in the law and are problematic for the fight against SEC. According to the Penal Law for example, a husband is exempt from rape. These gaps in protection urgently need to be filled.

Article 131 of the Penal Law makes it illegal for any individual to engage in, assist or facilitate **prostitution**.⁴¹ However, there is no mention of minors and no distinction for those who facilitate or assist the prostitution of minors. Moreover, the law does not define 'prostitution' and the kind of sexual activity covered, and criminalises prostitutes themselves, increasing their vulnerability to sexual exploitation. Article 133 penalises 'forcing' a person under 18 years of age to prostitution. Having a separate provision for children who have been forced into prostitution suggests that the law views some children under 18 as having consented to being procured for prostitution, which does not conform to international law.

The law on Anti-Trafficking in Persons, adopted in 2015, contains a definition of **trafficking** that is in compliance with the UN TIP Protocol, specifically Article 3(c). In accordance with article 5 of the UN TIP Protocol, the Anti-Trafficking law criminalises the intentional commission of the act but also the attempt, organisation and participation as an accomplice. The Law on Development and Protection of Women (Women's Law) penalises further instances of involvement and provides additional protections for women and children who have been trafficked.

Under the OPSC, States Parties must prohibit the **sale of children**. Under Lao PDR law, the sale of children is criminalised as part of child trafficking,⁴² which does not conform with the CRC Article 35's requirement that they be criminalised separately. Due to the way the law is written in Laos – the fact that aspects of child trafficking made illegal under Lao PDR law may not occur during the sale of children – in 2015, the CRC questioned whether the sale of children is actually illegal under the law.⁴³ Selling a child for marriage is also criminalised under Article 7 of the Law on Preventing and Combating Violence against Women and Children.

Article 138 of the Lao PDR Penal Law prohibits the production and dissemination of pornographic items and content. This prohibition is not specific to children. However, the Law on the Protection of the Rights and Interests of Children does increase the penalties when ‘**child pornography**’ is concerned. The Law on Prevention and Combating Cyber Crime prohibits the dissemination of pornography, giving it a broad definition that could be interpreted to include simulated representations of children.⁴⁴ Such types of images should indeed be criminalised as they may fuel demand for further exploitation of children. Neither of these laws, however, criminalises the mere possession or receipt of CSAM.⁴⁵ Moreover, Internet Service Providers are not obliged by law to report suspected CSAM cases to appropriate authorities.⁴⁶

The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents requests specific laws to prevent **online child sexual exploitation**.⁴⁷ Lao PDR has no specific legislation recognising the use of the Internet to commit crimes against children or criminalises online grooming, but has enacted laws to help prevent children from accessing dangerous material and falling into grooming traps online.⁴⁸

There is no specific national legislation that explicitly prohibits the **sexual exploitation of children in travel and tourism (SECTT)** in Lao PDR. However, the Law on the Protection of the Rights and Interests of Children does prohibit children from serving in nightclubs, guesthouses or hotels, where they could be exposed to SEC.⁴⁹ The Lao PDR has also ratified the main international instruments establishing obligations in the area of travel and tourism, and is a State Party to the UN World Tourism Organisation, which denounces SEC in its Global Code of Ethics.

The Lao PDR Family Law of 1990 intends, among other things, to prevent **child marriage** and strengthen the position of women within the family unit.⁵⁰ Nonetheless, the law states that the minimum of 18 years of age for marriage may be lowered in special and necessary cases. In 2015, the UN reported that this section of the marriage law had been repealed, although it is not clear when or by what means this was repealed.⁵¹ For a marriage to be enforced, the age of the child must be known, yet 67% of the population in rural areas do not have a birth certificate.⁵²

Laws are binding on any individual who commits an offence within Laotian territory. According to Article 4 of the Penal Law, Laos also has **extraterritorial jurisdiction** over Laotian nationals or residents under the active nationality principle, and can exercise universal jurisdiction in certain cases when this is provided for in international law. However, Lao PDR does not apply the passive nationality principle, except in trafficking cases, in accordance with the Decree on the Implementation of the Law on the Development and Protection of Women.⁵³

Lao PDR does not have a national law on **extradition**. According to the Law on Nationality, however, Lao PDR will not extradite its own citizens to other States.⁵⁴ Although it is party to extradition treaties, it has declared that bilateral agreements will dictate the manner in which it will proceed in cases of transnational criminal offences.⁵⁵ Moreover, it does not consider itself bound by article 5(2) of the OPSC, which states that the OPSC may be considered a legal basis for extradition where there is no existing extradition treaty between states.

Access to Justice

The Lao PDR has a weak national justice system which fails to provide justice for large sections of the population, especially ethnic minorities. Within these communities, sexual offences and violence are often deemed to be best remedied within family circles according to customary laws. As a result, these informal justice processes may not be helpful regarding transnational issues such as child

trafficking or SECTT.⁵⁶ Moreover, 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).⁵⁷ In 2011, the CRC expressed its concerns that certain judges and legal officials were still not fully aware of or familiar with the content of the Convention on the Rights of the Child. Moreover, law enforcement personnel and the judiciary are not well-enough trained to recognise and deal with SEC.⁵⁸

Chapter 3 of the Law on the Protection of the Rights and Interests of Children is dedicated to the protection of children involved in criminal proceedings. The Law on Juvenile Criminal Procedure, adopted by the National Assembly in December 2013, has strengthened the system by integrating more sensitive treatment of children into the justice system.⁵⁹ Recovery and reintegration services are also important for children. Despite the existence of several legal provisions on the matter, the Laotian government reportedly lacks the resources and capabilities to assist in recovery and reintegration, and most services for child victims are provided by NGOs or intergovernmental organisations.⁶⁰

Article 91 of the Law on the Protection of the Rights and Interests of Children, and Article 25(4) of the Law on the Development and Protection of Women allow child victims to seek compensation from the offender in addition to penal sanctions. Compensation and restitution are common remedies within ethnic communities, but are most often awarded to the family rather than the individual victim.⁶¹

CHILD AND YOUTH PARTICIPATION

The Law on the Protection of the Rights and Interests of Children protects the right of children to participate in activities and express their opinions, and obligates the State, society and family to ensure due consideration of these views. The Lao Revolutionary Youth Union (LYU) is the biggest youth organization in Laos and is responsible, under national legislation, for raising public awareness on trafficking in persons.⁶² World Vision Laos has also worked to encourage child participation. In 2013, children were invited to form a World Vision Children's Council within which they were able to voice their concerns to World Vision staff, other intergovernmental organisations and government officials, from the village to the national level.⁶³ At the regional level, the COMMIT Youth Forum is an event which gives five young delegates in each of the Mekong countries the opportunity to discuss their perspective on and experiences of trafficking with international policy experts and government officials of the COMMIT Taskforce.⁶⁴

RECOMMENDATIONS FOR ACTION

National Plans of Action

- ✎ The Lao PDR government should combat all aspects of SEC in one unified approach and adopt a national plan for the concept as a whole.

Coordination and Cooperation

- ✎ Bilateral negotiations with neighbouring countries should be pursued for the improved provision of alternative legal options for emigrating Laotian workers. This would primarily seek to prevent trafficking, but could also decrease other forms of SEC, as legal economic migrants would be able to approach law enforcement for assistance.
- ✎ The Lao PDR should remove the restrictions on NGOs doing vital work to combat SEC in the country.

Prevention

- ✎ Increase the pursuit of criminals and improve the success rate of investigations, especially through increased training and cooperation with international agencies, which have information on known sex offenders.
- ✎ There should be a strong policy against corruption of officials and increased transparency of the judicial system.
- ✎ The private sector should become more involved in the protection of children online, including through filtering and blocking pages, making it harder to exploit children.
- ✎ The government should encourage companies to become members of the Code.

Protection

- ✎ Some harmonisation between national laws and ethnic minorities' customary laws should be encouraged.
- ✎ The law should explicitly make exploitation of children for prostitution illegal, as required by the OPSC.
- ✎ 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.
- ✎ Lao PDR should adopt extraterritoriality laws, heavier penalties for child abusers, and extradition agreements with countries from which abusers traditionally originate.

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