



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**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\***

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\* The present document is being issued without formal editing.

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## Introduction

On 20 September 2006, Lao People's Democratic Republic (Lao PDR) ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. According to Article 8, paragraph 1, of the Protocol on the involvement of children in armed conflict, and Article 12, paragraph 1, of the Protocol on the sale of children, child prostitution and child pornography, Lao PDR should have submitted its first report on the implementation of the provisions of the protocols to the Committee on the Rights of the Child by September 2008. However some difficulties prevented the timely submission of the report.

This report covers the period between 2006 and 2012; it is presented in two parts. Part I contains the report on the implementation of the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LAO/1), while Part II contains the report on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/LAO/1).

### I. General information

1. As mentioned in the Second National Report on the implementation of the Convention on the Rights of the Child (Part III, Section A, paras. 34–39), Lao PDR, while considering and making decisions on any issue concerning children, including judicial issues, has taken the best interests of the child as the basis.
2. Lao PDR has enacted some laws and measures to protect the rights and interests of children, but their implementation still encounters some difficulties, as the country is still underdeveloped. Nevertheless, Lao Government has tried its best efforts to fulfill its international obligations including its obligations to all international conventions which Laos has already been a party.
3. While ratifying the present Protocol, Lao PDR made a reservation stating: “Lao PDR considers that it is not bound by the provisions of Article 5(2), of this Optional Protocol”, and has no plan to withdraw such reservation yet in the near future.
4. The status of this Protocol before domestic laws is similar to other international instruments to which Lao PDR is a party (see the Report on the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LAO/1), para. 2).
5. Child trafficking is a regional phenomenon. The main destination from Lao PDR is Thailand. There may also be trafficking to and from other countries in the sub-region, the magnitude of which needs to be further investigated and understood because of lack of evidence.
6. Lao PDR has taken some measures in order to prevent and combat human trafficking. For instance, Lao PDR has signed a MOU with Thailand on Cooperation to Combat Trafficking in Persons especially Women and Children. Lao PDR has also signed a MOU with Viet Nam on Prevention and against Human Trafficking and Protection of Victims thereof, training in order to strengthen the capacity building of the law enforcement officers on 3 November 2003, in Hanoi and the Agreement on Cooperation and Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking on 3 November 2010. Lao PDR has endorsed the ASEAN Declaration against Human Trafficking, particularly Women and Children, at the 10th ASEAN Summit Meeting, held in Vientiane, Lao PDR, on 29 November 2004, and joined the MOU of the Coordinated

Mekong Ministerial Initiative against Trafficking (COMMIT MOU, 2004); Besides, Lao PDR also signed a MOU to collaborate on a framework in the Asia Pacific region to prevent Human trafficking between Lao Government and Australia, on 3 December 2003 in Vientiane. Lao PDR is also in the process of negotiating MOUs with China, Burma and Cambodia to prevent and combat human trafficking. By this, there are efforts to monitor the implementation progress of these agreements, but the number of official victims remains unchanged. The implementation of these measures remains a challenge:

- Public awareness about human trafficking is still limited;
- Dissemination, implementation and enforcement of laws and regulations with regard to human trafficking is still weak;
- Technical knowledge and expertise of officials dealing directly with human trafficking is still limited; there is also frequent turn-over of staff resulting in lack of continuity;
- The budget allocated to anti-trafficking activities is still limited.

7. With respect to the territorial application of the present Protocol, see the Report on the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LAO/1), paragraph 2.

8. With respect to laws and regulations relating to the obligations under the present Protocol, see Section III, paragraph 28, below.

## II. Data

9. The central mechanism for collecting information about women and children trafficking is the Secretariat of the National Steering Committee on Human Trafficking, established by a Prime Minister's Decision, on 8 September 2008. This Agency coordinates with provincial Anti-Trafficking Divisions (ATD) and district networks (village authorities, Police officers and other organizations concerned, who received information from neighbours and families of the victims, as well as from persons who know of or saw victims of human trafficking). The National Steering Committee also works with international organizations and neighbouring countries to tackle this difficult issue.

### **Sale or transfer of children for the purpose of sexual exploitation**

10. At present there is no official system to record cases involving the sale or transfer of children for the purpose of sexual exploitation. However, anecdotal evidence suggests that there may be some cases.

### **Child trafficking and commercial sexual exploitation**

11. Child trafficking and commercial sexual exploitation of children is a serious issue in the country. Officially recorded number of girl victims (under 18 years) of trafficking was 155 persons in 2009 and 235 persons in 2008. There is no clear data of girls and boys that have been sexually exploited and forced into prostitution. In 2012, up to May, 75 victims, aged less than 18 years, of human trafficking were reported. The Secretariat of the National Committee on Anti-Human Trafficking conducted a survey on human trafficking risk in Vientiane Capital City in 2011. The survey interviewed 105 persons who provide illegal sexual services at different places, such as grills, massage parlors, beer shops, restaurants and entertainment shops. Out of them, 50 percent (52 persons) were children under the age of 18.

12. About 60 percent of trafficked children are girls aged between 12 and 18 years old. Child trafficking victims are from rural areas, but not from the most remote areas or from situations of severe poverty. They are predominately from Lao-Thai ethnic group and from lowland regions of the country. The number of trafficking victims from villages that have been resettled or relocated is disproportionately high. Based on reports from trafficking victims and their families, most victims are forced into prostitution (35 %), followed by domestic labour (32 %), factory work (17 %) and work on fishing boats (4 %).

13. Between 2006 and 2010, the number of female victims of human trafficking within Lao PDR was 375, and received medical care, rehabilitation, vocational training and were sent back to their families. Annual data on victims of human trafficking is shown below:

<i>Year</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Girls (under the age of 18)	6	14	44	57	59	16	20
Women (over the age of 18)	4	8	26	43	33	24	8

14. The number of persons who were sent to a neighbouring country (and have been sent back) from 2006 to 2012 is 1,419 (1,355 females, and 1,072 were 18 years old or below). Annual data on victims of human trafficking is shown below:

<i>Year</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Girls (under the age of 18)	181	195	184	130	101	126	112
Boys (under the age of 18)	9	7	1	3	6	8	9
Women (over the age of 18)	68	60	50	18	37	59	29

15. The four following provinces stand out, showing high rates of human trafficking victims: Savannakhet (672), Saravane (249), Champasak (278), Vientiane-Capital (247); The types of exploitation for which these persons were trafficked were: working in factories, housemaids or domestic cleaners, restaurant servers, retailer shop assistants, sex exploitation or forced prostitution, and some of them are unemployed.

16. Overall, taking into account the annual number of human trafficking victims sent back from Thailand through official channels, it seems that there is no downward trend.

<i>Year</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Women (over the age of 18)	68	60	50	18	37	59	29
Girls (under the age of 18)	181	195	184	130	101	126	112
Men (over the age of 18)	0	2	0	4	1	2	17
Boys (under the age of 18)	9	7	1	3	6	8	9
<b>Total</b>	<b>258</b>	<b>264</b>	<b>235</b>	<b>155</b>	<b>145</b>	<b>195</b>	<b>167</b>

#### **Transfer of organs of children for profit**

17. There are currently no reported cases involving the transfer of organs of children for profit.

#### **Engagement of children in forced labour**

18. The National University of Laos (NUOL) conducted a field survey on child labour in the service sector in December 2004. The survey covered four provinces, 70 villages and four different types of establishments (28 night clubs, 11 hotels, 11 guest houses and 23

restaurants) in the service sector. The survey had two target groups: children less than 18 years old and women between 18 and 24 years. All together, 173 respondents (28 children, 72 women and 73 employers) were interviewed

19. According to the survey findings, an estimated total of 4,235 people were identified as working in the service sector in the four provinces. Of this, 81.86 percent were women, 15.40 percent were girls and only 2.74 percent were boys. The majority of women (54.1 %) were working in night clubs, followed by restaurants (30.2 %) and hotels (10.55 %); a majority of children surveyed were working in night clubs (80.3 %) and hotels (13.3 %).

20. A majority of children and women in the service sector (72.2 %) did not observe any minors being brought to the hotel or guest house. Similarly, 96.1 percent were not aware of any trafficking of women and children. However, 7.9 percent of children reported that they were victims of trafficking in Vientiane.

**Children adopted through intermediaries using methods incompatible with the Convention**

21. There is no official data on the number of children adopted through the efforts of intermediaries using methods incompatible with the Convention or other applicable international standards, including the Hague Convention on Intercountry Adoption. There is currently a moratorium on inter-country adoptions. The Ministry of Justice has established an Inter-ministerial Committee to draft a new Decree on Adoption. This decree will strengthen the legal framework for both national and inter-country adoption in line with international standards. The data on child adoption by foreigners are as follows:

<i>Year</i>	<i>Total</i>	<i>Girl</i>	
2008	7	5	3 French, 4 American
2009	14	7	10 French, 2 American, 1 Canadian, 1 English
2010	23	11	14 French, 6 American, 1 Canadian, 1 Australian, 1 Norwegian
2011	31	9	24 French, 6 Canadian, 1 German

22. At present, there is an official notice to suspend all international adoption and there are about 14 cases suspended on the processing of approval (see also Second National Report on the Implementation of the Convention, paras. 81–83).

**Other forms of sale of children, including traditional practices involving the transfer of a child by any person or group of persons to another for any form of consideration**

23. There is no evidence of other forms of sale of children, including traditional practices causing harm to children.

**Child prostitution**

24. There is no official system to collect information on child prostitution. The most common venue for prostitution is in bars that have proliferated across the country. These small-scale shops employ between two and ten (or more) girls, depending on size and demand from customers. These girls, known as *sao bolikam*, are technically employed to serve beer and drinks to clients. While it is widely understood that children under age 18 are prohibited from entering and working in these establishments, there are numerous ways to circumvent such restrictions. The age of girls employed in beer bars generally range from early teens to mid-20s, as confirmed by policy and health outreach workers from provincial and district level committees to control AIDS. According to a database analysis study conducted by AFESIP, girls under age 18 represent almost half of the sample of 47.4

percent. 18-year old girls were the largest group in the study, representing one-fifth of the sample or 22.4 percent.

### Child pornography

25. Child pornography exists and is in circulation in Lao PDR but there is no reliable information on whether or not this material is produced in the country or abroad. Child pornography appears to be available for download to mobile phones and memory sticks from CD shops in many locations in Lao PDR. Lao Women's Union has provided legal assistance to prosecute two cases of child pornography and a seven-step legal process has been developed to address child pornography cases by the Lao Women's Union.

26. In recent years, concerned authorities have detected, seized and destroyed some imported pornographic productions, such as videos, photographs, calendars.

### Prosecutions and convictions

27. With regard to the prosecution of offenders of human trafficking, Lao PDR has the following information:

	2007	2008	2009	2010	2011
Human trafficking	11 cases	11 cases	12 cases	22 cases	18 cases
Child rape	5 cases	8 cases	18 cases	14 cases	23 cases
Prostitution		3 cases	2 cases	2 cases	
Pornography		3 cases		3 cases	3 cases

## III. General measures of implementation

### A. Laws and regulations

28. At present, Lao PDR has a number of laws and regulations to implement its obligations under this Optional Protocol.

(a) Some provisions in the **Law on the Development and Protection of Women**, of 22 October 2004, refer to prevention of women and children trafficking, the rights of the victims, the obligations of the society, the prosecution of offenders, and the assistance to the victims;

(b) The **Law on the Protection of the Rights and Interests of the Child**, of 17 January 2007, states that dissemination of child pornography, child labour, having sex with a child, and sale of children, constitute penal offences;

(c) In the **Penal Law**, Article 129 punishes seduction of minor; Article 133 punishes persons who force others into commercial sex industry; Article 134 punishes human trafficking; Article 136 punishes pornography; Article 137 punishes obscene acts, and Article 138 punishes dissemination of pornography and things contrary to the fine national culture;

(d) Under the **Penal Law**, Article 120 on child rape, punishment for having sexual relations with a male or female child below the age of 15 is imprisonment of between one to five years. In addition to this, Article 122 of the Penal Law protects minors from being exploited in commercial sex industry. In addition, any person who engages in commercial sexual relations as a form of income, or any person who assist another person

in engaging in commercial sex industry, are punishable by law with sentencing ranging from three months to one year;

(e) The **Law on the People's Revolutionary Youth**, of 26 November 2009, which, in Article 35, forbids persons and other organizations to:

- Disseminate narcotic and intoxicating products, and pornographic things, provide wrong information to youth and children in order to induce, encourage and intoxicate them, so as to behave contrary to the fine ethnic and national customs and traditions, as well as to the laws;
- Remain indifferent to what youth and children are about to commit offence;
- Involve in human trafficking, labour or sex exploitation, particularly of youth and children;

(f) The **Prime Minister Decree No. 26/PM**, of 6 February 2006, on the implementation of the Law on the Development and Protection of Women, which enters into details of the application of this law;

(g) The **Prime Minister Decree No. 156/PM**, of 8 September 2008, on the Organization and Activities of the National Committee against Human Trafficking;

(h) The **Prime Minister Decision No. 86/PM**, of 8 September 2008, on the Establishment of the National Committee against Human Trafficking;

(i) In addition to the Law on the Protection of Rights and Interests of Children, the Family Law No. 97/PM (1990) and Law No. 08/NA on Development and Protection of Women (2004) also address child and family welfare issues. The Law on Development and Protection of Women includes provisions aimed at preventing and responding to trafficking in women and children, as well as domestic violence against women and children. UNICEF, UNIAP and other international NGOs have provided support for policy development and related guidelines on trafficking, including the National Plan of Action on Commercial Sexual Exploitation (CSEC) 2007-2011, as well as guidelines on the protection of child victims of trafficking;

(j) A new Law on Violence against Women and Children is being drafted.

## B. Jurisprudence

29. For the time being, Lao PDR has no significant jurisprudence to serve as basis for consideration of cases concerning sale of children, child prostitution and child pornography.

30. Nevertheless, Lao PDR has the Child Court Chamber and relevant laws; At the moment, the Child Court Chamber, People's Supreme Court is developing the new Law on Juvenile Procedures which covers children in contact with and in conflict with the law.

## C. Government departments and bodies with primary responsibility for the implementation of this Protocol

31. The National Commission for Mothers and Children, the Secretariat of which is located in the Government Office and the National Steering Committee on Human Trafficking, the Secretariat of which is located in the Ministry of Public Security, are the focal points for implementing and coordinating activities on the Convention on the Rights of the Child and the Optional Protocols. Some provinces have established provincial Steering Committee on Human Trafficking. Furthermore, there are also Anti-Trafficking

Divisions in 17 provinces throughout the country (see Section II above), Ministry of Labour and Social Welfare has established the Child Protection Networks at the district and village levels and the Lao Women's Union has improved and expanded the Advisory and Protection Networks for women and children around the country.

#### **D. Dissemination of and training on the Protocol**

32. The National Steering Committee on Human Trafficking Secretariat has disseminated the Protocol through the media, such as newspapers, radio, TV, posters, meetings and workshops; and organized training for 725 law enforcement officers, so as to raise their awareness about harmful consequences of human trafficking. Training on the provisions of the Convention on the Rights of the Child and the Optional Protocols has also been provided by the National Commission on Mothers and Children at the national and provincial level, with support from UNICEF and Save the Children International. More training is needed for judges, border police, social workers, teachers and legislators. The awareness of the general public on these issues also needs to be raised.

33. Child Sex Tourism prevention activities (training for frontline tourism staff and advocacy initiatives) in Lao PDR are also being supported through the Australian Government-funded Child Wise Tourism programme. Training of trainers has been provided to the Lao PDR National Administration of Tourism by an informal network of international agencies and NGOs (including UNICEF, Friends International, UNODC, UNIAP, and Oxfam Quebec). Under an initiative entitled "Project Childhood", Australian AID is supporting a regional project to prevent child sexual exploitation committed by traveling child-sex offenders in Thailand, Lao PDR, Cambodia and Viet Nam, in coordination with UNODC.

#### **E. Mechanisms and procedures used to collect and evaluate data**

34. There are Child Protection Networks (CPN) that operate at provincial, district and village levels, monitoring the situation and reporting regularly to the central level. There are also ad-hoc units against human trafficking to collect information regularly and evaluate the situation of children and women trafficking.

35. The first CPNs in Lao PDR were set up in 2004 following research conducted by the Ministry of Labour and Social Welfare (MoLSW). There are now over 400 CPNs in the provinces of Oudomxay, Vientiane, Vientiane-Capital, Savannakhet and Champasack, established by the MoLSW with support from UNICEF and Save the Children International. CPNs provide a social safety net for children by linking together different actors in a community. The networks identify children in need of assistance, and help ensure they get the appropriate services and assistance from within or outside the community. The CPNs also raise awareness among villagers about child protection and child rights in rural areas.

36. The CPNs have gained increased attention in Lao PDR with their inclusion in the MoLSW Master Plan for 2006-2020 as well as the MoLSW Strategy on Social Welfare up to 2010. CPNs are also referred to in the Law on the Protection of the Rights and Interests of Children (2007). In this law, the Lao Government has indicated plans to expand CPNs to all villages in the country, numbering between 10,000 and 11,000.

**F. Budget allocated to the various activities**

37. Activities on assistance and protection of children implemented between 2006 and 2010 include assistance to orphans and street children; assistance to and protection of girls victims of human trafficking; and child protection network projects. The Government had a total budget of 18 million US dollars, including around 100,000 US dollars from the Government contribution. Contributions from UNICEF, Save the Children International, Friends International and Lao Women's Union were also received. The remaining amount came from international assistance.

**G. Overall strategy to eliminate the sale of children, child prostitution and child pornography, and protection of victims**

38. In order to gradually reduce and eliminate the sale of women and children, the Government is planning to expand Child Protection Networks to all target provinces, districts and villages throughout the country, increase the number of Centres for assistance to women and children victims, and at risk of human trafficking (at present, there are five Centres), so as to receive and assist them by the means of vocational training, support to income creating, including regular follow up after their reintegration into family and society. Continuous activities on prevention against human trafficking risks through media in target areas around the country was also implemented, including production and distribution of brochures, posters, hoardings, video, community trainings under the title "Harmful consequences of human trafficking". In addition, the CPNs also disseminated information to villagers in the communities on violence against children and the Convention through village loud speaker/public address announcements.

**H. Contributions by civil society**

39. At present, there are some civil society organizations and mass organizations (such as the Lao National Front for Reconstruction, the Lao Women Union and the Lao People's Revolutionary Youth), which have actively contributed to the efforts to eliminate human trafficking in coordination with some international NGOs, such as Village Focus International, World Vision, AFESIP, Norwegian Church Aid, and Save the Children, Friends International, and with UNICEF, UNIAP, UNODC and foreign government support for technical training (e.g. Australia and USA).

**I. Role of ombudspersons for children or similar autonomous public institutions for the rights of children**

40. At present, there is no statutory ombudsperson or autonomous public institution for the rights of children. But, according to Article 29 of the Constitution and Article 26 of the Law on the Development and Protection of Women, the State, society and family, including individual, mass and social organizations, shall strive to protect the rights and interests of women and children. Concerning the monitoring of the implementation of these rights, article 79 of the Law on the Protection of the Rights and Interests of Children entrusts the government organizations to be responsible for the administration and inspection of the protection of the rights and interests of children. The Ministry of Justice is assigned to act as the focal point for coordinating with relevant sectors.

#### IV. Prevention (art. 9 (1 and 2))

41. The Government's efforts have already been mentioned in Section III, sub-sections D and G, above. The Law on Development and Protection of Women includes provisions aimed at preventing and responding to trafficking in women and children, as well as domestic violence against women and children. UNICEF, UNIAP and other international NGOs have provided support for policy development and related guidelines on trafficking, including the National Plan of Action on Commercial Sexual Exploitation (CSEC), as well as guidelines on the protection of child victims of trafficking. Coordinated response to trafficking of children and women has been made possible through the initiation of coordinated planning, implementation and monitoring of programmes against trafficking. Active participation of many government agencies and international NGOs through the United Nations Working Group on Trafficking has made this coordinated response possible.

42. With respect to campaigns and other measures taken to promote awareness of the harmful consequences of the human trafficking, see also Section III, sub-section G, above.

(a) Resources and sources of assistance allocated to prevent children from falling victims of human trafficking, has been mentioned in Section III, sub-section F, above. Certainly, in the years to come, assistance from the international community is still needed;

(b) Project Childhood, which seeks to combat child sexual abuse in the travel and tourism sector, is raising awareness in the tourism industry (see Section III, sub-section D, above);

(c) A number of hotlines and help lines have been established to provide assistance to children and young people, victims of many cases, such as:

- 1361 - pleasant counselling on HIV/AIDs and sexual health for women
- 137 – for men by the Ministry of Health
- 191 - Police
- 195 - Ambulance
- 1362 - Consoling Centre for women and children

In addition, there are also several centres established to provide assistance and services to women and children, such as the Cultural Centre for Children to support and raise awareness on cultural and education for children and young people after class; the Rehabilitation Centre for disabilities; Drugs Rehabilitation Centre; centres providing support and assistances to the victims of trafficking and violence; Street Children Centre; Centre providing legal assistance and human rights; Centre on Counseling and Treatment of Sexual Transmitted Diseases (STDs) and HIV; Vocational Training Centres through the whole country;

(d) Under its current strategic plan (2006-2010), the Lao Youth Union (LYU) has 86 project activities across the country, many of which are linked to the flagship scheme known as the "Pioneers". Approximately 86 percent of Lao PDR children are involved with LYU initiatives in some way. Through the different Pioneers programmes, cultural and social events are organised to inform young people about social concerns and to inspire national unity. Through its Division of Promotion and Protection of Children, the LYU is increasingly partnering with international NGOs and the MoLSW on cross-border trafficking programmes and initiatives to raise awareness on exploitation;

(e) The Lao Women's Union (LWU) and various international NGOs provide basic counseling services at the temporary shelter for victims of abuse and exploitation. At

the LWU shelter in Vientiane, all counsellors have been trained, many through a programme implemented by the Centre for the Protection of Children's Rights Foundation (CPCR), a leading Thai child rights agency. The LWU is now piloting a programme of counseling teams in 32 villages across the country. In Oudomxay province, the LWU has a dedicated a Counselling Unit for victims of trafficking and domestic violence. If the ATU requests its support, the team may provide counseling and legal advice;

(f) Victims of internal trafficking are predominately from the Northern provinces, such as Houaphan and Xiengkhuang. Many fall victim to trafficking as they migrate from rural to urban areas in search of work in Vientiane or Savannakhet. Growing trade and infrastructure development in numerous urban locations may lead to a shift from cross-border to internal trafficking, as human exploitation tends to rise in areas experiencing economic boom.

## V. Prohibition and related matters (arts. 3, 4 (2 and 3), 5–7)

43. Laws covering offences under the Protocol are:

(a) The Law on the Development and Protection of Women, of which, Article 1 defines the sale of women and children and provides that such activity is a criminal offence;

(b) The Law on the Protection of the Rights and Interests of the Child, of which Article 86 (dissemination of child pornography), Article 89 (having sex with a minor), and Article 90 (sale of children), provide that these activities constitute criminal offences;

(c) The Penal Law, which punishes the following offences:

### *Article 128: Rape*

- The rape of a girl of 15 to 18 years old, who is under one's guardianship or medical care, shall be liable to 5 to 10 years' imprisonment and to a fine of 2 to 5 million Kip;
- If the rape is done in turn by several persons with violence, hurting the girl, or making her disabled for life, offenders shall be liable to 7 to 15 years' imprisonment and to a fine of 5 to 15 million Kip;
- In case of rape followed by murder of the victim, offender shall be liable to 15 to 20 years' imprisonment and to a fine of 10 to 20 million Kip, or to life imprisonment or the death penalty;

### *Article 129: Child seduction*

- The seduction of a child under 15 years old, girl or boy, shall be liable to 1 to 5 years' imprisonment and to a fine of 2 to 5 million Kip;

### *Article 132: Prostitution of others*

- Whoever engages others in commercial sex industry, or uses a minor girl as a sex worker, or forces a woman who is under one's guardianship to be a sex worker shall be liable to 3 to 5 years' imprisonment and to a fine of 10 to 50 million Kip;

### *Article 133: Forced prostitution*

- Forcing another person to be a sex worker shall be liable to 5 to 10 years' imprisonment and to a fine of 10 to 20 million Kip;

- Forcing a child under 18 years old to be a sex worker shall be liable to 10 to 20 years imprisonment and to a fine of 20 to 50 million Kip;

*Article 134: Human trafficking*

- Whoever commits an offence qualified as human trafficking shall be liable to 5 to 15 years' imprisonment and to a fine of 10 to 100 million Kip, and to seizure of property;
- In case the offence is carried out as a profession, or by an organized gang, or the victim is a child, or more than two victims, or the victim is a close relative with the offender, the victim is seriously hurt, becomes disabled or mad, the offender shall be liable to 15 to 20 years' imprisonment and to a fine of 100 to 500 hundred million Kip, and to seizure of property;
- In case the offence has made the victim disabled for life, infected by HIV/AIDS or dead, the offender shall be liable to life imprisonment and to a fine of 1 billion Kip, and to seizure of property;

According to *Article 90 on the sale of children of the Law on the Protection of the Rights and Interests of the Child*, the offender shall be liable to 5 to 15 years' imprisonment and to a fine of 10 to 100 million Kip, and to seizure of property;

*Article 136: Pornography*

- Whoever shows one's genitals in front of a crowd, or in public, shall be liable to 3 months to 1 year's imprisonment or to reform school without loss of liberty, and to a fine of 50,000 to 300,000 Kip;

*Article 137: Indecent Assault*

- Whoever acts in such a way that affects the sexual decency of another person and against her will shall be liable to 6 months to 3 years' imprisonment and to a fine of 100,000 to 500,000 Kip;

*Article 138: Showing Pornography and matters that clash with the fine National Culture*

- Whoever produces or distributes extensively or in depth, letters, photographs, video films and other pornographic matters that conflict with the fine national culture, shall be liable to 3 months to 1 year's imprisonment and to a fine of 200,000 to 500,000 Kip;

According to *Article 86 on child pronography of the Law on the Protection of the Rights and Interests of the Child*, Whoever produces, distributes, disseminates, imports, exports, shows or sell letters, photographs, video films, VCD, DVD and other matters on child pornography, shall be liable to 1 to 3 years' imprisonment and to a fine of 2 to 6 million Kip.

44. The National Plan of Action on the Commercial Sexual Exploitation of Children 2007-2011 addresses child sexual abuse, commercial exploitation of children, trafficking, child pornography, and child sex tourism, though the definitions provided generally do not conform to international standards. It calls for inter-agency collaboration under the leadership of the National Commission for Mothers and Children (NMC) for implementation of five projects to address commercial sexual exploitation of children: (a) prevention; (b) protection; (c) recovery and reintegration; (d) cooperation and coordination; and (e) youth participation. A detailed action plan outlining activities, responsible agencies, resources and indicators has also been developed.

45. NCMC is responsible for formulating new policy directives in collaboration with line-ministries such as the MOJ, MoLSW, MOE, and MOH, and plans to review progress the National Plan of Action against Commercial Sexual Exploitation of Children (CSEC) for 2007-2011, conduct the study on Violence Against Children in 2013, if necessary to, develop a new National Plan of Action against Commercial Sexual Exploitation of Children (CSEC) to address challenges.

(a) The material elements of all offences are provided in Article 7 of the Penal Law, and an offender over 15 years old is considered as having penal responsibility. But an offender under 18 years old may be subject to attenuating circumstances and the court may fix a penalty lower than the one prescribed by the law, taking into account the degree and character of the offence when committing it;

(b) The above-mentioned articles of the Penal Law prescribe the maximum and minimum penalties that can be imposed for each offence;

(c) The causes leading to attenuating circumstances are provided by Article 40, and those leading to aggravating circumstances are provided by Article 41 of the Penal Law;

(d) The statute of limitations for each of these offences, depend on the character and degree of risk on society, and the personality of the offender, which the court shall consider appropriately (Article 37 of the Penal Law);

(e) Pursuant to the Penal Law, attempts to commit offences (Article 14) and complicity or participation in the offences (Article 17) shall be punished according to the relevant article prescribing the penalty for the offence.

46. There is no other law in force that Lao PDR considers an obstacle to implementation of the present Protocol.

47. In the present situation, the Penal Law punishes only individuals or groups of individuals for offences to the provisions of the Protocol, and does not mention criminal liability of legal persons. In the view of the Government, only individuals or human beings are capable of committing criminal offences; a legal person or legal entity is created by individuals and controlled by them (see also CRC/C/OPAC/LAO/1, para. 2).

48. Lao PDR is not a party to any bilateral or multilateral agreements on adoption (see Second National Report on the implementation of the Convention, paras. 82 and 83); but the Family Law contains some provisions on adoption.

(a) In order to prevent illegal adoptions, adoption requires the consent from the adoptive parents and the biological parents and must be registered in the Family Registry Office at the Justice Section of the biological parents or guardians' residence (Article 38 of the Family Law and Article 24 of the Law on the Family Register). Besides, the adoptive parents must be over 18 years old; must be older than the adopted child at least over 18 years; they must not be deprived of parental authority and must have appropriate living standards (Article 38 of the Family Law);

(b) At present, there are no legal or other measures to prevent intermediaries from attempting to persuade mothers or pregnant women to give their children for adoption, and to prevent unauthorized persons or agencies from advertising services concerning adoption;

(c) There are no agencies and individuals that have been, so far, granted licensing to act as intermediaries in adoptions;

(d) There are no specific legal and administrative measures to prevent the theft of young children and to prevent fraudulent registration of births. If such a case happens, the

offender may be accused of kidnapping, under Article 100 of the Penal Law, and liable to 5 to 15 years' imprisonment and to 5 to a fine of 50 million Kip. Fraudulent registration of births may be difficult to do in practice as the registration process requires several steps. For example, for births that take place at home, in a health centre or hospital, the head of the family or the family representative must bring the birth certificate issued by the health centre or hospital to the village chief in his residence as evidence. For a child born in another place, the father or mother or a family representative must inform the village chief of the birth place (Article 17 of the Law on the Family Register). After receiving the birth certificate from the village chief, the applicant must go the district or municipality Registry Office to register the birth within 30 working days from the day the certificate is issued;

(e) Circumstances in which the consent of a parent for adoption can be waived: According to Article 42 of the Family Law, the biological parents, the adoptive parents or other persons who have related interests are entitled to demand the annulment of the adoption by the court, if the adoption does not meet the interests of the child or the adoptive parents or has been done in violation of the adoption conditions (see also sub-para. (a) above);

(f) Measures to regulate and limit the fees charged in connection with adoption: According to Article 10 of the Prime Minister Decree of 13 March 1993, the fees charged by the Registry Office to register adoption is 1,500 Kip (about 2 US dollars). The violator is liable to reformatory or disciplinary action or fine or legal prosecution, depending on the degree of the case (Article 57 of the Family Register Law). For private agencies or individuals, see sub-paragraph (c) above; if they commit such an offence, they will be prosecuted in accordance with the Penal Law for fraud (Article 120).

49. At present, Lao PDR is studying conditions for being able to join the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

50. Regarding offences described in the Protocol:

(a) Concerning the laws in force prohibiting the production and dissemination of material advertising any of the offences described in the Protocol, see paragraph 43, above;

(b) Applicable sanctions: With regard to offences against children, in addition to penal sanctions prescribed in the relevant articles, the offender has also to pay compensation for damages, such as: cost of physical and moral cares, loss of income, travel, subsistence allowances, and other damages (Article 91 of the Law on Protection of the Rights and Interests of the Child; and Article 52 of the Law on Development and Protection of Women);

(c) Available information concerning the number of convictions for human trafficking, child rape, child prostitution and child pornography from 2007 to 2011, see paragraph 27 above;

(d) Effectiveness of laws in preventing advertising for the sale of children, child prostitution and child pornography: An assessment of the implementation of laws relating to human trafficking is now being jointly prepared by the National Steering Committee on Human Trafficking Secretariat and the LWU. A new Anti-Trafficking Law is currently being drafted by the National Committee on Human Trafficking with support from UNODC and other international organizations.

51. Legal provisions establishing jurisdiction: According to Article 3 of the Penal Law, which is applicable throughout the country, whoever commits criminal offence in Lao territory shall be liable to penalty prescribed in the Penal Law or in other Lao laws.

52. Legal provisions establishing extraterritorial jurisdiction: According to Article 4 of the Penal Law, any Lao citizen committing criminal offences outside Lao territory shall be criminally liable, if such offence is prescribed in the Penal Law or in other Lao laws. Alien and stateless person living in the Lao PDR and committing criminal offence outside Lao territory shall also be criminally liable. A foreigner committing criminal offence outside Lao territory shall be liable to Lao Law, in case the offence is provided in international agreement.

53. Lao PDR has no law, policy and practice concerning the extradition of persons accused of having committed the offences referred to by article 3 of the Protocol:

(a) Extradition should be based on extradition treaties signed with other countries;

(b) As mentioned in Section I, paragraph 3, above, Lao PDR considers that it is not bound by the provisions of Article 5(2) of this Optional Protocol; nevertheless, if there is extradition request, it will consider case by case on the basis of principles established in extradition treaties;

(c) Lao PDR has signed extradition treaties with the some neighbouring countries, such as: Thailand on 5 March 1999; Cambodia on 21 October 1999; China on 4 February 2002. It also signed a Treaty on judicial assistance in penal and civil matters that include provisions on extradition with Viet Nam, on 19/2/2000. These treaties mention criminal offences that are extraditable. For Lao PDR, offences to the provisions of the Protocol are considered as criminal offences that can be extraditable;

(d) Since the entry into force of the Protocol, Lao PDR has not signed any extradition treaty and received no request for extradition of anybody accused of the offences referred to in the present Protocol;

(e) During that period, Lao PDR has never requested extradition of anybody accused of the offences of the provisions of the Protocol;

(f) At present, a law on extradition has used the following Presidential Decree No. 233/PPT of 01/08/2012.

54. Concerning cooperation with other States with regard to investigations of the offences referred to by the Protocol, the Law on the Penal Procedure provides as follows:

- Article 118: International cooperation in the penal proceeding shall be in conformity with agreement signed by Lao PDR with Foreign country or with international treaty to which Lao PDR is a party and with the Lao laws;
- In case Lao PDR has not signed any agreement or is not a party to international treaty relating to penal proceeding, we shall proceed according to the principles of mutual assistance and cooperation, provided that it is not contrary to Lao laws;
- Article 119: In implementing judicial assistance, the competent body in penal proceeding of Lao PDR shall operate in accordance with the agreement signed with foreign country or with international treaty to which Lao PDR is a party, and with the present law;
- Judicial assistance may aim at extradition, exchange of prisoners, seizure of accused person's assets, execution of court sentences, cooperation against transnational organized crimes along the borders.

55. The laws of Lao PDR only mention the sale of children, and trafficking of women and children (Article 90 of the Law on Protection of the Rights and Interests of the Child and Article 49 of the Development and Protection of Women), which shall be liable to criminal penalty and to seizure of property (see. para. 43 above). For certain cases,

revenues or benefits from the offences may be subject to seizure, but the court shall clearly indicate the assets to be seized (Article 34 (3) of the Penal Law).

56. The Penal Law is silent about the closure of premises used to commit such offences, because this comes under the competence of the administrative authority. Nevertheless, Article 84 of the Law on Protection of the Rights and Interests of the Child provides that “whoever disseminates child pornography and is engaged in the sale of children, will be ordered to stop his activity or his license will be withdrawn”. In case there is a request from another State party and in the spirit of judicial assistance as provided by Article 119 of the Law on Penal Procedure, Lao PDR may seize proceeds from such offences.

## **VI. Protection of the rights of victims (arts. 8 and 9 (3 and 4))**

57. Throughout the proceeding concerning children who have been the victims of human trafficking, the rights and best interests of children are protected at all stages of investigations. When a child is called to give evidence, he must be assisted by his defender, his teacher, his parents, his guardian or another representative (Article 44 of the Law on Penal Procedure); as a witness, the child is entitled to:

- (a) Receive respect for his dignity and human value;
- (b) Express opinions that must be taken into consideration based on the assessment of the level of age and ability to tell right from wrong;
- (c) Receive assistance from parents, guardian or legal defender in all stages of the proceeding, in order to protect his equitable rights and interests;
- (d) Be kept confidential;
- (e) Be protected from all forms of coercion, threat or danger, including from members of his family;
- (f) Receive other rights as provided in the Law on the Development and Protection of Women and the Law on Penal Procedure (Article 44 of the Law on the Protection of the Rights and Interests of the Child). The interview with a child must be done by officers from the Investigation Service and the Prosecutor’s Office, who have received specific training for that purpose, in coordination with a social assistance worker.

58. In the interview:

- (a) The interviewers shall be kind and friendly towards the child as victim or witness;
- (b) The attendance of parents, guardian or defender is required all time of the interview;
- (c) The interview must take place in a special room without disturbance;
- (d) Questions must be easily understandable and appropriate to the age and ability of the child to tell the right from the wrong;
- (e) The interview must proceed methodically in order to prevent the child from being in contact with the accused person or defendant during the interview (Article 45 of the Law on the Protection of the Rights and Interests of the Child).

59. Investigations of offences in cases in which the victim appears to be below the age of 18 but his or her actual age is unknown: Practically, this could be difficult, because among the population, some children are taller and some adults smaller than their actual

age. Perhaps using the method provided in Article 45 (4) of the Law on the Protection of the Rights and Interests of the Child would help to determine the victim's actual age.

60. In the present situation of the Lao PDR, the provisions of the Law on Penal Procedure, the Law on the Protection of the Rights and Interests of the Child, the Law on the Development and Protection of Women and the Law on the Public Prosecutor (as a control organ of legal implementation by other State's agencies), in principle, protect the rights and best interests of children.

61. As a matter of fact, officials (such as investigating officers, law enforcement officers, public prosecutors, social assistance workers, and personnel in assistance and advisory centres for children who have problems) dealing with children in conflict with the law or children victims, have received specific legal, psychological and other trainings, although their number is still insufficient to meet the needs of the country, and the qualifications of some of them are still limited.

62. Measures enabling organizations and individuals to carry out their work without fear of interference or reprisals: At present, Article 34 of the Law on the Development and Protection of Women provides that: "An individual or organization giving assistance in good faith to victim shall be duly protected according to the law".

63. Rights of accused persons to a fair and impartial trial: The Law on Penal Procedure guarantees the following rights to the accused person in the proceeding: equality of citizen before the law and the court without discrimination; assurance of a just, objective and realistic proceeding; presumption of innocence; be assisted by lawyer or defender.

64. Public and private programmes that provide child victims with assistance in social reintegration: In the existing reception and assistance centres for children victims of human trafficking, assistance that can be provided is medical (physical and moral) care, varied vocational trainings, legal advices and support to revenue-creating for some of them, with regular follow-up after their reintegration into family and society.

- The LWU opened a shelter in Vientiane-Capital for women and girls who are victims of trafficking, sexual abuse, and domestic violence. Since that time, over 70 girls have been referred for temporary shelter at the Lao Women's Union Counseling and Protection Centre for Women and Children. The MoLSW has also established a shelter for victims of trafficking in Savannakhet province providing shelter and vocational training for trafficking victims (see para. 42 above).

65. Measures taken to help the child recover his or her identity: We have no report about such a case; if the case occurs, the authorities concerned will try to help the victim within all possible limits.

66. Assistance to national and non-national children: As far as we know, the existing centres receive only children who are Lao nationals. In case there are children who are not nationals, or whose nationality is unknown, they will also receive assistance like Lao child victims; according to Article 4 of the Law on Medical Care, of 9 September 2005, all citizens, regardless as of sex, age, ethnicity, origin, religion, economic and social status, have equal right to receive medical care in case of illness.

67. Remedies and procedures that child victims may use to seek compensation for damages: According to Article 29 of the Law on Penal Procedure, the person suffering from health or life, material or moral damages caused by the wrong doing of another person, is entitled to receive compensation for the damages caused. Besides, the Law on the Development and Protection of Women, and the Law on the Protection of the rights and Interests of the Child provides also compensation to the victims (see para. 50 (b) above).

## VII. International assistance and cooperation (art. 10)

68. Multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for offences under the Protocol: Up to now, with respect to multilateral arrangements, Lao PDR has endorsed the ASEAN Declaration on Human Trafficking, particularly Women and Children, at the 10th ASEAN Summit Meeting, held in Vientiane, Lao PDR, on 29 November 2004, and joined the MOU of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT MOU, 2004). With regard to bilateral arrangements, Lao PDR has signed a MOU with Viet Nam on Prevention Human Trafficking and Protection of Victims thereof, on 3 November 2003, in Hanoi (see also para. 6 above).

69. Steps taken to promote international cooperation and coordination concerning the prevention, detection, investigation, prosecution and punishment of offences under the Protocol: Lao PDR cooperates and coordinates with INTERPOL and the ASEAN Police Organization concerning the suppression of transnational crimes, including human trafficking; but we have no details concerning, in particular, the prevention, detection, investigation, prosecution and punishment of the offences referred to by this Protocol.

70. Project Childhood is a \$7.5 million Australian AID (AusAID)-funded initiative to combat the sexual exploitation of children, mainly in the travel and tourism sectors, in the Greater Mekong sub-region. The project focuses on Cambodia, Lao PDR, Thailand and Viet Nam and builds on Australia's long-term support for programmes that better protect children and prevent their abuse. It is being implemented on the ground by UNODC, INTERPOL and World Vision in two complementary pillars: the Protection Pillar (UNODC/INTERPOL) and the Prevention Pillar (World Vision).<sup>1</sup>

71. Steps taken to support international cooperation to assist the physical and psychological recovery, social reintegration and repatriation of the victims of the offences referred to in this Protocol: At present, we are striving to create necessary conditions conducive to a good international cooperation, in order to promote bilateral aid and technical assistance to help the repatriation of the victims of human trafficking, their physical and psychological recovery and their social reintegration. But regrettably, we are not yet in a position to contribute to international assistance to other countries.

72. Repatriation of children from Thailand appears to be well organized with approximately 16 to 20 girls returned each month. This is supported by a positive working relationship between Thailand and the Lao PDR government (MLSW) to facilitate this process at the national level, with bilateral meetings held every three months in alternating countries.

73. Lao PDR is focusing on addressing the root causes that contribute to children's vulnerability to sale, sex work, pornography and sex tourism by eradicating poverty and exit the country from the status of underdevelopment, improving gradually the living standards of the people, particularly by improving and expanding the education. For that purpose, in February 2011, the Ministry of Labour and Social Welfare, in cooperation with UNICEF, UNIAP, Save the Children and World Vision, commissioned a Research Study on the Commercial Sexual Exploitation of Children (CSEC) in the country to better understand these root causes.

74. In the current context of globalization and rapid economic and social development, dominated by scientific and technologic advances, especially in the field of information technology and communication, and the expansion of the consumer society, children and

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<sup>1</sup> Source: <http://www.unodc.org/eastasiaandpacific/en/2012/01/childhood-lao-pdr/story.html>.

young people face new vulnerabilities and risks. Special emphasis should be placed on advocacy and raising public awareness on safe migration; regional cooperation and integration through the ASEAN community and; strengthening institutions, human resources, legal/regulatory frameworks and enforcement.

75. It goes without saying that we still need international cooperation in order to cope with such a complex situation.

## **VIII. Other legal provisions (art. 11)**

76. The domestic laws mentioned in this report seem to meet the requirements of this Protocol, although not fully. Outside these laws, there are no others that we consider more conducive to the realization of the rights of the child than the provisions of the Protocol.

77. Furthermore, among international conventions concerning the rights of the child (other than the Convention on the Rights of the Child) to which Lao PDR is a party, we do not see any other one that seems to be more conducive to the realization of such rights than the provisions of the Protocol.

78. At present, in addition to the Convention on the Rights of the Child and its two Optional Protocols and the references in paragraphs 6 and 68 above, Lao PDR is also a party to:

- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 14 April 1978;
- The United Nations Convention against Transnational Organized Crime, 26 September 2003;
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 26 September 2003;
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 26 September 2003

## **IX. Key challenges**

### **Legal protection**

79. Laws criminalizing sex work in Lao PDR may also have increased the vulnerability of sex workers. The Penal Law describes sex work as a criminal offence, with penalties ranging from short prison sentences to re-education and small fines. Many women and children victims of trafficking and forced into sex work in Thailand are not identified as such and returned to Lao PDR as illegal migrants. They receive no protection as victims of trafficking.

### **Stigma**

80. The stigma and marginalization experienced by this group contributes to their poor self-image and lack of confidence in the legal system, also influencing whether or not they seek medical help. A sexual behaviour study conducted in Vientiane revealed that sex workers did not access the general health care services out of fear of discrimination and social stigma. The sex workers were also reluctant to approach the relevant authorities and health care facilities even if they are abused.

**Next steps**

81. The National Commission for Mothers and Children will monitor the progress of implementation of the National Plan of Action to follow up on the recommendations of the Committee on the Rights of the Child and collect data for drafting the next report on the implementation of the Convention.

82. The National Commission for Mothers and Children Secretariat in collaboration with Lao Statistics Bureau will conduct National Study on Violence against Children (VAC) with financial and technical support from UNICEF and CDC.

**X. Conclusion**

83. What is reported in this document reflects the efforts of the Lao Government in implementing its international obligations under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Should the Committee on the Rights of the Child require additional information, the Lao Government is prepared to provide it to the extent possible.

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