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Human Rights Committee

Information received from the Lao People's Democratic Republic on follow-up to the concluding observations on its initial report*

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Replies of the Lao People's Democratic Republic to the recommendations in paragraph 42 of the Concluding Observations (CCPR/C/LAO/CO/1) made by the Human Rights Committee

1. The Government of the Lao People's Democratic Republic presents its compliments to the Human Rights Committee and has the honour to provide information and clarification on the implementation of the three recommendations (enforced disappearances, participation in public affairs and the right to vote, and the rights of minority groups) mentioned in paragraph 42 of the Concluding Observations (CCPR/C/LAO/CO/1) as follows.

Paragraph 20: Enforced disappearances

(a) Effectively criminalize enforced disappearance, in accordance with international standards, and ensure that such criminal provisions are enforced in practice;

2. The Lao PDR acknowledges, respects, promotes, protects, and guarantees the fundamental rights and obligations of citizens as prescribed in Chapter V (Articles 34–45) of the Constitution of the Lao PDR. The Fundamental rights including political, economic, social, and cultural rights of the citizens are defined in the Constitution and elaborated in the relevant laws and legislations dealing with 04 major areas, namely political-administrative, economic, social and cultural rights.

3. In this regard, the Government of the Lao PDR does not allow any individual or legal entity to violate the rights of citizens or force them to disappear. In order to ensure the protection and respect for the rights of citizens, the Government has regulated some articles related to offenses against freedom of citizens in Part II (Specific Part) of the 2017 Penal Code, such as physical harm against the interest of national security (Article 114), murder (Article 188), battery (Article 194), taking of hostages (Article 211), torture (Article 212), abduction (Article 216), unlawful arrest, custody or detention (Article 217), duress (Article 218) and others.

(b) Step up efforts to conduct a thorough, credible, impartial, and transparent investigation into the enforced disappearance of Sombath Somphone, and into all other cases of alleged enforced disappearances, including of the aforementioned persons, in order to clarify their fates and whereabouts and identify those responsible;

4. The Government of the Lao PDR has never stopped trying to find the truth about the disappearance of Mr. Sombath Somphone as he is a Lao citizen, in order to bring the offender(s) to justice in accordance with relevant laws. A Task Force was established to investigate this case. Furthermore, coordination was made among central and local authorities of the Lao PDR, as well as with the INTERPOL and ASEANAPOL to find useful investigative information linking to his disappearance.

5. The Government of the Lao PDR ensures that the investigation of the Task Force is carried out on the basis of transparency, impartiality and accountability, including the use of modern investigative techniques in consistence with international standards by the capable inquiry officials. Until now, there is no additional solid evidence relating to his disappearance that has been found.

6. There are many disappearance cases of persons occurring in different regions around the world. Among them, some cases were solved quickly, some cases took years to solve, and many cases have not yet been solved even though they have taken a long time with modern investigative techniques being used. Therefore, the case of Mr. Sombath Somphone also needs more time for investigation.

7. Currently, the Task Force is still active in the investigation and has not yet closed the case. In this regard, the issuance of the disappearance declaration of Mr. Sombath Somphone is not yet in compliance with relevant laws. When the inquiry officials reach the prescription for investigation and close the case, Mr. Sombath's family members can request relevant

sectors for issuing the disappearance declaration in compliance with the Civil Code, no. 55/NA, dated 14 June 2018, Article 92 on Disappearance and Article 94 on Registration of Disappearance.

(c) Ensure that victims and their families are regularly informed of the progress and results of investigations and receive the official administrative documents required by international standards; and that they are provided with full reparation, including rehabilitation, adequate compensation, and guarantees of non-repetition;

8. The Lao PDR gives rights to the injured party or victim(s) or his/her representative(s) to inquire about the progress of the case and the outcome of the investigation; to ask for any documents in the case files; to make a copy of required documents or to take notes of necessary information contained in the case files; as well as to inform about the investigation outcome and progress of the case from relevant organizations after the investigation has been completed. Furthermore, the injured party or victims will be fully granted compensation from the offender(s) or civil accountable party in accordance with the law, including appropriate physical and mental rehabilitation (Articles 16, 25, and 67 of the 2017 Law on Criminal Procedure). Moreover, victims and their legitimate families shall be protected from coercion, intimidation, and discrimination, as well as all forms of harm as stipulated in Article 21 of the 2013 Law on Juvenile Criminal Procedure.

9. In order to know the progress or outcome of the investigation, his/her family members or relatives can directly or regularly inquire or get informed about the investigation's outcome or progress from relevant authorities. In compensation, the restoration of accountability of the violator or offender, the court will take into account on deciding the involved persons who are liable to compensate for civil damages and subject to criminal penalties. The Government or police officers are not guarantors or are not directly responsible for any unknowing disappearance case of a person. The 2018 Civil Code, Article 14 stipulates that civil responsibility that parties to civil relationships shall be responsible for damages resulting from his/her acts or illegal acts. The 2017 Penal Code, Article 4 stipulates that criminal liability that a person or legal person can be charged with criminal liability and be subject to criminal punishment only when the person or legal person has committed acts deemed dangerous for society as prescribed in the Penal Code and in other relevant laws that prescribed criminal offenses and punishment and when a final decision is rendered by the court.

(d) Ensure that perpetrators are prosecuted and, if convicted, punished with penalties that are commensurate with the gravity of the crime;

10. Investigation organizations, public prosecutors, the people's courts and other parties participating in the criminal process search out wrongful acts urgently, completely, and thoroughly in order to subject offenders to proceedings, to ensure the correct application of the laws, to ensure justice, to not shield offenders from punishments, and to avoid punishing those who are innocent (Article 2, para". 2 of the 2017 Law on Criminal Procedure). The investigation organizations carry out the investigation and then submit the case files to the Office of the Public Prosecutor for making a declaration to prosecute the offenders. The Office of the Public Prosecutor has duties to monitor and inspect compliance with the laws and bring in the accused persons before the court. The court prescribes penalties in accordance with the legal provisions on the punishment of offenses. In the prescription of penalties, the court must consider the nature and degree of the social threat posed by the offense, the personality of the offender, and circumstances conducive to the reduction or the increase of criminal liability, as defined in Article 61 of the 2017 Penal Code.

(e) Provide appropriate specialized training on the effective investigation and handling of enforced disappearances to security forces, and judicial and other law enforcement officials, including on the provisions of relevant international standards;

11. Each year, the organizations that are responsible for criminal proceedings (investigation organizations, the Office of the Public Prosecutor and People's Court), have organized specialized training on various topics related to cases' investigation for their respective officials in order to strengthen their capacities and their unified implementation

on the investigation, such as topics related to crimes on human trafficking, drug trafficking, aquatic animals and wildlife trafficking, money laundering, cyber-crime, crime against children and others, including transnational organized crime in the country and have also attended training courses in related topics abroad. Each training institutes also provide training courses related to their rights and duties on criminal proceedings with governmental funds and international grants, such as the public security academy, the training institute for public prosecutors, and the training institute for judges.

12. The Government of the Lao PDR, especially the Ministry of Public Security, has improved the quality of building, enhancing and upgrading knowledge on their profession and laws for their respective officials at the level of non-commissioned, cadet, bachelor's degree, master's degree and doctorate degree in line with the direction of turning theory into actual behaviour in order to ensure higher quality and quantity of those officers. Currently, Lao police officials are systematically educated from the undergraduate to doctoral level and are also dispatched to upgrade their knowledge, study and research both domestically and abroad in order to ensure their effective, firm and modern performance on their specific profession, including enhancing communication and cooperation, information exchange and participation in meetings and trainings in the field of investigation and law enforcement domestically, regionally and internationally.

13. On 14-18 March 2023, the Investigation Police Department organized a training on investigation and laws in the field of justice for investigation officials nationwide with the title “Training for Officials on Transparent, Fair and Professional Investigation”

(f) Act upon its commitment to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which the State party accepted in the context of the universal periodic review of the Human Rights Council, in 2010 and 2015.

14. The Lao PDR needs to deepen its awareness and understanding of the Convention on the Protection of All Persons from Enforced Disappearance in which the Lao PDR has already signed. Currently, relevant line ministries are planning to discuss, study, and research the contents of the Convention and relevant Lao legislation, as well as build capacity for relevant officials to have deep awareness and understanding of those contents prior to consideration of ratification. However, the Lao PDR is currently focusing on the implementation of 07 core human rights conventions and 02 optional protocols to the Convention on the Rights of the Child to which the Lao PDR is party. The Lao PDR is still facing challenges and difficulties, especially in terms of budget constraints and has limited national capacity with delayed and overdue submissions of the national reports under the human rights conventions to which the Lao PDR is party. Therefore, the Lao PDR is not yet ready to ratify the said Convention in the near future.

Paragraph 38: Participation in public affairs and the right to vote:

The State party should take all measures necessary to give full effect to the right of citizens to genuinely take part in the conduct of public affairs, to vote and to be elected, in accordance with article 25 of the Covenant. It should also ensure that electoral legislation does not discriminate against persons with intellectual or psychosocial disabilities by denying them the right to vote on a basis that is disproportionate or that has no reasonable or objective relation to their ability to vote, and revise legislation denying all convicted prisoners the right to vote.

15. Lao citizens aged eighteen years and above, with no discrimination of gender, ethnicity, belief, social status, geographic location or profession, have the right to vote, and those aged twenty-one years and above have the right to be elected as prescribed in Article 36 of the Constitution. The State regulates that all Lao citizens, regardless of gender, ethnicity, social and economic status, belief, religion or geographic location, have the right to vote and the right to be elected (Article 6, paragraph 1 of the Law on Election of National Assembly and Provincial People's Council Members), as well as sets the election principles

which has equality principle regulating equal rights among Lao citizens to elect and to be elected (Article 5, Clause 2 of the above-mentioned Law).

16. Furthermore, the State ensures that persons with disabilities have political equality, such as election, being a candidate for election, participating, consulting, agreeing on significant national issues and being appointed to hold any position according to the criteria and conditions as prescribed in Article 5, paragraph 3 of the 2018 Law on Persons with Disabilities, as well as persons with intellectual disabilities (persons with slower brain development than normal, with limitations in spending daily life or participation in social activities) and memory disabilities (persons with incomplete consciousness, such as learning, recognizable and emotional changes) that are considered as a category of persons with disabilities (Article 9, paragraphs 4 and 5). However, those who are insane, persons with mental disorders, convicted persons by the court and are deprived of liberty, deprived of the right to vote and the right to be elected, are not eligible to vote and to be elected as members of parliament (Article 7 of the Law on Election of National Assembly and Provincial People's Council Members).

17. Furthermore, the Lao PDR also has the Lao Front for National Construction which is a political related organization, a union of political organizations, socio-political organizations, and social organizations and individuals representing all social strata, ethnic groups, religions, gender, age, including Lao overseas on the basis of voluntary (Article 2 of the 2018 Law on Lao Front for National Construction). The relationship between the people and the Lao Front for National Construction at each level is to enhance solidarity and harmony; mobilize all Lao multi-ethnic people of all strata, religions, gender and age to exercise their rights and obligations as prescribed in the Constitution and Laws; to protect national culture and customs of all Lao multi-ethnic people (Article 56 of the 2018 Law on Lao Front for National Construction).

18. The Lao Front for National Construction plays the roles on propagating, educating, mobilizing and fostering the mastery rights of all Lao multi-ethnic people in implementing the Constitution, laws, directions, policies and national socio-economic development plan as set forth in each period; being close to, gathering opinions, reflecting spirits and aspirations of all Lao multi-ethnic people; monitoring and inspecting the activities of the National Assembly, the Provincial People's Council and their members, administrative organisations, the people's courts, the office of the people's prosecutor and civil servants according to the petitions of all Lao multi-ethnic people of all strata, religions, gender and age in order to propose to relevant sectors for consideration and resolution; and protecting legitimate rights and interests of the Lao Front for National Construction, all Lao multi-ethnic people and participating in conflict resolution according to its roles (Articles 8 and 9 of the 2018 Law on Lao Front for National Construction).

19. The Lao Front for National Construction monitors the implementation of the Constitution, laws, directions, policies and national socio-economic development plans in each period through opinions, petitions, reflecting aspirations of all Lao multi-ethnic people (Article 26 of the 2018 Law on Lao Front for National Construction). The monitoring contents by the Lao Front for National Construction are composed of: (1) implementation of the roles, rights and duties of the National Assembly, the Provincial People's Assemblies and their members; (2) implementation of laws by the relevant administrative organizations related to the fundamental rights and duties of citizens; (3) duties' performance of the judiciary organization and the office of the people's prosecutor; (4) exercise of rights, obligations and duties of civil servants; (5) implement work performance of the Lao Front for National Construction; (6) complaints and aspirations of all Lao multi-ethnic people; (7) dispute settlement according to its roles, rights and duties (Article 28 of the 2018 Law on Lao Front for National Construction).

Paragraph 40: The rights of minority groups:

(a) **Take all steps necessary to ensure that meaningful consultations are held with communities with a view to obtaining their free, prior and informed consent for development projects with an impact on their livelihood, lifestyle and culture;**

20. The Lao PDR has adopted a number of legislations to set legal measures, to ensure the policy implementation on natural resources and environment management and people's participation in development. According to the laws of the Lao PDR, before carrying out any important development projects, relevant companies shall have full responsibilities for social and natural environment impact assessment and shall conduct participatory consultations with the people who may be affected by the investment projects to have their understanding and agreement with the development project plans.

21. The resettlement management in development projects shall have compensation for affected people in the forms of land, material, or money substitutions for those land, agricultural products, livestock and incomes that are affected by development projects based on the compensation values. The resettlement management shall ensure the protection of their legitimate rights and interests, equality, compliance, transparency, disclosure and fairness for affected people, together with ensuring coordination, consultation and participation between the project owner, affected people, state agencies and other relevant stakeholders. At the same time, the resettlement management shall ensure their stable occupations, improve their living conditions to be better or at least the same level as they were before, as well as ensuring that the projects can contribute to the national socio-economic development in a sustainable manner. The resettlement management in development projects shall carry out the environmental, social and natural impact assessment, set people's allocation plans, as well as compensation plans and livelihood rehabilitation plans to contribute in the management and monitoring of environmental, social and natural impacts of the development projects as stipulated in the 2018 Law on Resettlement and Vocation and the Decree on Compensation and Resettlement Management in Development Projects, no. 84, dated 05 April 2016.

22. In the environmental impact assessment, owners of projects or activities shall periodically set plans of social participation as well as research papers on social participation especially those related to ethnic groups, gender equality, vulnerable groups and disadvantaged people who are affected by investment projects and various activities as stipulated in Article 39 of the Decree on Environmental Impact Assessment, no. 389, dated 20 October 2022.

23. Regarding the compensation caused by re-acquisition of the rights to land use for the purpose of projects and investment activities, a committee shall be established to assess the cost of property on the land surface and the land appraisal, comprising relevant sectors, sector responsible for the projects, projects' owners, land owners and relevant local administrative authorities. The payment of compensation for damage caused by the re-acquisition of the rights to land use shall be carried out before that re-acquisition has taken place based on the assessment of land and asset appraisal as prescribed in Articles 153, 154, and 155 of the 2019 Land Law. Currently, the land appraisal areas in 148 Districts across the country have been approved by the Provincial People's Councils. The land re-appraisal must be conducted every three years. If deemed necessary, the re-appraisal can be conducted earlier than the timeframe as prescribed in Articles 109 and 110 of the 2019 Land Law.

24. The State recognizes the customary rights to land use acquired by the possession and use of Lao citizens through clearance, development, protection and regular use of the land for more than twenty years before the entry into force of the 2019 Land Law without any certifying document of the land acquisition but subject to the certification from the village administrative authorities and the owner of the adjacent land regarding the occupation and continuous use of the land without any conflict or with conflict but has been resolved. While land registration has not yet been conducted for the issuance of individual land titles, the State recognizes and protects the customary rights to land use of the person and proceeds with the land title registration in consistence with the laws. In addition to the recognition of the customary rights to land use of Lao citizens by the State, the State also grants the rights to state land use to Lao citizens including legal entities and organizations of Lao citizens to

use the land for specific purpose in accordance with the Land Allocation Master Plan and the land use plans of the state by using the forms of definite assignment for individuals or indefinite assignment for a specific purpose as defined in Article 127 of the 2019 Land Law.

(b) **Ensure that communities participate in any process concerning their relocation, that such relocation is carried out in accordance with relevant international standards, in particular the principle of non-discrimination, the rights to be informed and consulted, to an effective remedy and to the provision of adequate relocation sites that take due account of their traditional lifestyle and, where applicable, their right to ancestral land; and provide adequate compensation when relocation is not possible;**

25. In practice, the committee responsible for project is established and composed of members from relevant sectors. The committee conducts environmental and social impact surveys, asking for opinions and consulting with people who may be affected through meetings with administrative authorities at village, district and provincial levels, as well as the central level, in order to ensure transparency, collect opinions and views from the people. In case there is a need for resettlement of people from the development projects sites, the State allocates new housing and carries out compensation policies according to the Decree on Compensation and Resettlement Management in Development Projects, no. 84, dated 5 April 2016, in order to improve their better living conditions, such as being able to access to electricity, clean water, schools, health facilities, stable occupations and so on. The said committee also monitors the implementation of the project periodically.

26. The State recognizes and protects the possession of customary rights to land use by the people, as well as provides compensation and land expropriation to affected people according to the Decree on Compensation and Resettlement Management in Development Projects, no. 84, dated 05 April 2016 and the 2018 Law on Resettlement and Vocation. The 2019 Land Law has revised the provisions on compensation for rights to land use in various cases, including the compensation for damages caused by violation of laws, compensation for damages caused by land re-acquisition, compensation for damages caused by public purpose projects and compensation for losses caused by State investment projects. Compensation shall be in the forms of land, material or money substitutions for those land, agricultural products, livestock and incomes that are affected by development projects based on the compensation values. Resettlement management is the resettlement and moving of people including rehabilitation of living conditions of the people affected by development projects from their original living areas to be resettled in new living areas allocated by the development projects based on the majority of votes by the affected people.

(c) **Cease the persecution of members of the Hmong ethnic minority, including their arbitrary arrest, detention and enforced disappearance, and effectively investigate such as acts, bring perpetrators to justice, and provide full reparation to victims or their families; and take robust measures to ensure effective access for members of the Hmong community to adequate food and health care, without discrimination.**

27. The Lao PDR does not allow illegal arrest and detention of any Lao multi-ethnic groups. All arrest and detention shall be complied with an order from the public prosecutor or from the people's court, except in the case of an on-the-spot arrest or in the case of emergency, and only the investigating organizations have the right to arrest in such cases. All investigations, the use of investigative methods and preventive measures shall be carried out in a complete, comprehensive, objective and lawful manner in order to find evidence to prosecute the offender and evidence to prove the innocence of the alleged people, to protect legitimate rights and interests of the violated citizens, as well as to ensure that the offender shall adequately compensate for victims as stipulated in Article 12 of the 2017 Law on Criminal Procedure.

28. Article 1 of the Constitution manifests the strong will of the State of the Lao PDR in promoting ethnic equality without discrimination. The Lao PDR is a State having no majority ethnic groups nor minority ethnic groups. All ethnic groups living in the Lao PDR have equal rights before the law. According to Article 8 of the Constitution, the Lao PDR pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the right to protect, preserve and promote the fine customs and cultures of their own tribes and

of the nation. All acts creating division and discrimination among ethnic groups are prohibited. The State implements every measure to gradually develop and upgrade the socio-economic levels of all multi-ethnic groups. Furthermore, the Lao PDR has issued the 2020 Decree on Ethnic Groups Affairs to define various principles to ensure equality among ethnic groups, to create unity, harmony, equality and mutual assistance, and to ensure participation of all multi-ethnic groups in the national protection and development. In addition, the 2020 Decree on Ethnic Groups Affairs also has been disseminated for Lao multi-ethnic people to have a clear awareness and understanding of their legitimate rights and interests.

29. Moreover, in order to punish offenders committed against ethnic groups affairs, the Lao PDR has set out penalties in the 2017 Penal Code for any individual or group of people who divides the national solidarity among ethnic groups (Article 118); intentionally commits national, racial, ethnic or religious destruction for the purpose of racial destruction (Article 210), and discriminates against or divides, obstructs or restricts another person from participating in any activity on the basis of their ethnicity (Article 227).
