



Lao People's Democratic Republic
Joint Submission to the UN Universal Periodic Review
35th Session of the UPR Working Group

18 July 2019

**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC**

And

Manushya Foundation

And

**The Asian Forum for Human Rights and Development (FORUM-ASIA)
(ECOSOC)**

**CIVICUS: World Alliance for Citizen
Participation**

CIVICUS UPR Lead, Josef Benedict

Email: josef.benedict@civicus.org

Susan Wilding,

Email: susan.wilding@civicus.org

Tel: +41 22 733 3435

Web: www.civicus.org

Manushya Foundation

Manushya Lead, Emilie Pradichit

Email: emilie@manushyafoundation.org

Tel: +66 2 055 9159

Web: www.manushyafoundation.org

FORUM ASIA

FORUM-ASIA Lead, Ahmed Adam

Email: adam@forum-asia.org

Tel: +66 2 1082643 45

Web: <https://www.forum-asia.org>

1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.
- 1.2 Manushya Foundation is an Asia regional non-governmental organization founded in 2017 with the aim of empowering communities and advancing social justice. We strengthen and connect diverse community and grassroots groups to place them at the centre of human rights and sustainable development responses of their countries.
- 1.3 The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 81 members in 21 countries that works to promote and protect human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia and beyond.
- 1.4 In this document, the authors examine the Government of Lao PDR's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyze Lao PDR's fulfillment of the rights to freedom of association, peaceful assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in 2015. To this end, we assess Lao PDR's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.5 During the 2nd UPR cycle, the Government of Lao PDR received 33 recommendations relating to civic space. Of these recommendations, 13 were accepted and 20 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Lao PDR has partially implemented only three recommendations and not implemented 30 others relating to civil society space. While the government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination, acute implementation gaps were found with regard to the rights to freedom of association and issues relating to freedom of expression and the protection of human rights defenders.
- 1.6 We are deeply concerned by the strict controls and restrictions faced by civil society organisations, the ongoing failure to investigate the fate and whereabouts of human rights defender Sombath Somphone and the continued criminalisation of government critics.

1.7 We are further alarmed by the absolute control of the authorities over the media including TV, radio and printed publications, restrictions on online criticism and the extensive surveillance of society which has created a chilling effect.

1.8 As a result of these concerns, civic space in Lao PDR is currently rated as ‘closed’ by the CIVICUS Monitor, indicating the severe restrictions to civic space in the country.¹

- Section 2 examines Lao PDR’s implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines Lao PDR’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.
- Section 4 examines Lao PDR’s implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- Section 5 examines Lao PDR’s implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- Section 6 contains a number of recommendations to address the concerns to address the concerns raised and to advance implementation of recommendations under the 2nd cycle.
- An annex of implementation of 2nd cycle UPR recommendations related to civic space can be found in Section 7.

2. Freedom of association

2.1 During Lao PDR’s examination under the 2nd UPR cycle, the government received 10 recommendations on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). Among other recommendations, the government committed to ensuring that they “reconsider decrees and guidelines that are overly burdensome on domestic and international civil society organizations through lengthy and opaque registration requirements” and “facilitate an environment for local and international civil society organizations to fulfil their role”. Of the recommendations received, the government accepted three and noted seven. However, as evidenced below, the government has failed to take adequate measures to realize many of these recommendations. Of the ten recommendations on freedom of association, the government has only partially implemented three recommendations.

¹ CIVICUS Monitor: Laos, <https://monitor.civicus.org/country/laos/>.

2.2 Article 44 of the Lao PDR Constitution guarantees citizens the right to “set up associations [...] which are not contrary to the laws”.² Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Lao PDR is a state party, also guarantees freedom of association. However, despite these commitments, Lao PDR is a one-party state in which the ruling Lao People’s Revolutionary Party (LPRP) dominates all aspects of political life and maintains strict controls on civic space.³ Political groups other than the LPRP-backed mass organisations are banned. While CSOs - known locally as Non-Profit Associations (NPA) - exist in the country, they are severely restricted, forced to maintain close relations with the state and focus primarily on socio-economic projects. Independent human rights CSOs are virtually non-existent.

2.3 Decree No.115 on Associations that was enacted in November 2009, provides the rules and regulations governing the establishment, operation and management of NPAs at the district, provincial, or national level.⁴ However, it only allows the existence of economic, social welfare, professional, technical, and creative associations.⁵

2.4 In 2017, a new Decree No. 238 on Associations came into effect in November 2017 to replace the 2009 decree and imposes further pervasive controls and restrictions on CSOs. This includes the power to unreasonably control and/or prohibit the formation of associations; broad powers to inspect, monitor and curtail the activities and finances of associations; the power to order the dissolution of associations on arbitrary grounds and without right of appeal; and powers to discipline associations and individual members on arbitrary grounds. The Decree also includes measures to criminalise unregistered associations and allow for prosecution of their members.⁶ According to reports, the onerous requirements in the decree have led to funding delays and some CSOs have been forced to shut down.⁷ Other CSOs have been forced to adhere to the decree as failing to do would jeopardise their opportunity to obtain a Memorandum of Understanding with the Lao government, necessary to implement

² Lao PDR Constitution, https://www.constituteproject.org/constitution/Laos_2003.pdf?lang=en

³ ‘Freedom in the World 2018: Laos profile’, <https://freedomhouse.org/report/freedom-world/2018/laos>

⁴ ‘Human Rights Committee: Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure, Lao People’s Democratic Republic’. 27 April 2017, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fLAO%2f1&Lang=en.

⁵ ‘Lao Movement for Human Rights (LMHR) & FIDH – International Federation for Human Rights shadow report submission to the UN Human Rights Committee (CCPR) on LAO PDR’, June 2018, https://www.fidh.org/IMG/pdf/fidh-lmhr_joint_shadow_report_ccpr_123_lao_pdr_june_2018.pdf

⁶ See ‘New Decree on Associations is the last nail in the coffin for civil society’ FIDH, 21 November 2017, <https://www.fidh.org/en/region/asia/laos/new-decree-on-associations-is-the-last-nail-in-the-coffin-for-civil>. and ‘Joint Letter to the Lao Government Re: Decree on Associations’ 13 December 2017, Human Rights Watch, 13 December 2017, <https://www.hrw.org/news/2017/12/17/joint-letter-lao-government-re-decree-associations>.

⁷ ‘Civil Society Groups in Laos Delayed Funding, Forced to Disband Under New Law’ Radio Free Asia (RFA), 24 January 2018, <https://www.rfa.org/english/news/laos/csos-01242018122715.html>.

projects on the ground.⁸ In 2018, the UN Human Rights Committee raised concerns about the decree and called for it to be revised to bring it in compliance with the ICCPR.⁹

2.5 International CSOs (ICSOs) also face challenges in operating in the country. Decree No. 13 was passed in 2010 to provide an efficient framework for ICSO registration and operation.¹⁰ However, the decree and related guidelines (No. 1064/MFA.IOD.3), restricts the activities of ICSOs solely to those that are in line with government goals and policies.¹¹

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Lao PDR's previous UPR examination, the government received 13 recommendations on the protection of human rights defenders, journalists and civil society representatives. The government committed to several relevant recommendations including to "undertake a thorough investigation, consistent with international practices and standards, into the disappearance of Sombath Somphone", a prominent sustainable development practitioner and human rights defender, and "submit the results of the investigation in a transparent manner". Of the recommendations received, four were accepted and nine were noted. However, as examined in this section, the government has failed to effectively operationalize these recommendations. Of the 13 of recommendations on protection of HRDs, the government has not implemented any of the recommendations.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections HRDs and activists face threats, intimidation and

⁸ 'Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019', Manushya Foundation, March 2019, <https://www.manushyafoundation.org/unsr-extreme-poverty-hr-laopdr>.

⁹ Human Rights Committee: Concluding observations on the initial report of the Lao People's Democratic Republic, 23 November 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/LAO/CO/1&Lang=En

¹⁰ 'Civil Society Briefs: Lao People's Democratic Republic 2011', Asian Development, Bank, September 2011, <https://www.adb.org/sites/default/files/publication/28968/csb-lao.pdf> and 'Guidelines for the implementation of the Prime Minister's Decree on International Non-Governmental Organizations', Department of International Organizations Ministry of Foreign Affairs 2014, https://www.jica.go.jp/laos/office/about/ngodesk/ku57pq00001uucpw-att/guideline_eng.pdf

¹¹ Human Rights Committee: Concluding observations on the initial report of the Lao People's Democratic Republic, 23 November 2018, op cit.

criminalisation especially those working on land issues and sustainable development.¹²

3.3 Several laws have been used to prosecute and jail activists in Lao PDR. Article 56 criminalises “Lao citizens who, in relation or in cooperation with foreigners or foreign organizations, lead activities to undermine the independence, sovereignty, territorial integrity or basic political, defence, security, economic or sociocultural interests of the Lao People’s Democratic Republic will be punished by the deprivation of liberty from 10 to 20 years and will be fined from 10,000,000 kip [USD 1,135] to 500,000,000 kip [USD 56,771] or shall be punished by a seizure of properties and confined to home custody or sentenced to life imprisonment or the death penalty”. Further, Article 65 criminalises, “any individual who uses propaganda to slander the Lao People’s Democratic Republic, or who use false news to spread disorder through oral communications, writings, publications, newspapers, films, videos, photographs, documents or other means against the State will be punished by one to five years of imprisonment and shall be fined from 500,000 kip [USD 57] to 10,000,000 kip [USD 1,135]”. Article 72 criminalises, “any individual who organizes or participates in a group organization for the purpose of demonstrations, protest marches or other, in view of causing turmoil likely to generate social damage, will be punished by one to five years of imprisonment and shall be fined from 200,000 kip [USD 23] to 50,000,000 kip [USD 5,667]”.

3.4 The enforced disappearance of HRD and land rights advocate Sombath Somphone in 2012 highlights the risk activists face. In December 2012, he was stopped at a police checkpoint in a busy street in the capital, Vientiane. CCTV footage show unknown individuals forcing him into another vehicle in the presence of police officers. For the last seven years, the Lao PDR government has failed to provide any credible answers with regard to his disappearance. During the review of Laos’ initial report by the UN Human Rights Committee in July 2018, the Lao PDR government said it had been “trying very hard” to investigate Sombath’s fate and whereabouts. However, this statement has been contradicted by the government’s refusal to accept independent international assistance in conducting the investigation and to provide any details about the progress of its investigation. Lao PDR authorities have failed to disclose any new findings from their investigation to the public since 8 June 2013.¹³ Sombath’s disappearance has created a chilling effect on activists in the country, who now avoid using ‘human rights’ language in their work, and live in fear of being constantly monitored by Lao authorities.

¹² ‘Lao Movement for Human Rights (LMHR) & FIDH – International Federation for Human Rights shadow report submission to the UN Human Rights Committee (CCPR) on LAO PDR’, op cit.

¹³ ‘Six years on, groups demand effective investigation into disappearance of activist Sombath Somphone’, CIVICUS Monitor, 17 January 2019, <https://monitor.civicus.org/newsfeed/2019/01/17/six-years-groups-demand-effective-investigation-disappearance-activist-sombath-somphone/>

- 3.5** In March 2017, three activists, Lodkham Thammavong, Soukane Chaithad and Somphone Phimmasone were detained for publishing a post on Facebook, drawing attention to the lack of democracy in Laos. They were arrested¹⁴ in March 2016 and detained incommunicado for over two months and tried in secret.¹⁵ They were then forced to admit to their crimes on national television. In May 2017, they were convicted for ‘acts of betrayal towards the nation’ (article 56 of the Penal Code), ‘propaganda against the state’ (article 65 of the Penal Code) and ‘gatherings aimed at causing social disorder’ (article 72 of the Penal Code) and given lengthy prisons sentences of 12 years, 18 years, and 20 years in prison, respectively.¹⁶ In September 2017, the UN Working Group on Arbitrary Detention declared their detention to be arbitrary.¹⁷
- 3.6** Pro-democracy activist Bounthanh Thammavong, a Laos-born Polish citizen, served a four-year-and-nine-month prison sentence for a Facebook post in which he criticised the government’s policies and actions. He was convicted in October 2015 for “propaganda against the state” (article 65 of the Penal Code).¹⁸
- 3.7** In 2017, activist Joseph Akaravong documented on Facebook the concerns of communities who had been forcibly relocated in three villages – Baan Hua Xoi, Baan Xe Namnoy, Baan Nam Leng – due to the construction of the Xe-Pian Xe-Namnoy Hydroelectric Power Project in Champasak province in Southeastern Laos.¹⁹ The reports went viral after the collapse of a dam in July 2018 that led to widespread flooding, deaths and destruction in villages in neighbouring Attapeu province.²⁰

¹⁴ The three activists had been working in Thailand before returning to Laos in February 2016 to renew their documentation when they were arrested. Prior to their return, they had participated in a peaceful demonstration of around 30 people outside the Lao PDR embassy in Bangkok on 2 December 2015, Lao national day, and had posted a number of messages on Facebook criticising the government for corruption, deforestation and human rights violations.

¹⁵ Urgent Action: Three activists sentenced to prison in secret trial, Amnesty International, 17 May 2017, <https://www.amnesty.org/download/Documents/ASA2662702017ENGLISH.pdf>

¹⁶ ‘Decree on Associations imposes severe restrictions on civil society’, CIVICUS Monitor, 14 March 2018, <https://monitor.civicus.org/newsfeed/2018/03/14/decreed-associations-imposes-severe-restrictions-civil-society/>

¹⁷ ‘Human Rights Council Working Group on Arbitrary Detention: Opinion No. 61/2017 concerning Lodkham Thammavong, Somphone Phimmasone and Soukan Chaithad (Lao People’s Democratic Republic)’ 15 September 2017,

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_61.pdf

¹⁸ ‘Lao Prisoner Pardons Leave Political Detainees Behind Bars’ RFA, 7 December 2018, <https://www.rfa.org/english/news/laos/pardons-12072018153003.html> and ‘Lao Court Jails Polish Activist Following Online Criticism of Government’ RFA, 1 October 2015, <https://www.rfa.org/english/news/laos/activist-10012015134330.html>

¹⁹ Joseph Akaravong Facebook Page, Public post sharing the voices and concerns of affected communities of three villages in the face of the Xe Pian-Xe Namnoy dam, 23 February 2017,

https://m.facebook.com/story.php?story_fbid=1850076008604657&id=100008068268130. See also

‘Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019’ p. 10, op cit.

²⁰ Joseph Akaravong Facebook Page, Public post voicing his concerns on the Lao government’ corruption and responsibility with regards to the Lao dam collapse, (2018), 27 July 2018,

Joseph Akaravong subsequently has been forced to live in hiding due to the fear of state reprisal.

4. Freedom of expression, independence of the media and access to information

- 4.1** Under the 2nd UPR cycle, the government received 12 recommendations relating to freedom of expression and access to information. For example, the government pledged to “fully implement its obligations under ICCPR to respect and ensure the right to freedom of expression” and “re-examine recent legislation that limits dissemination of certain information via the Internet, including through social media”. Of the recommendations received, six were accepted and six were noted. However, as discussed below, the government did not take effective measures to implement these recommendations. Of the 12 recommendations pertaining to these issues, the government has not implemented any of the recommendations.
- 4.2** Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 44 of the Lao PDR Constitution also guarantees the citizens the right and freedom of speech and press. However, in policy and practice an array of restrictive laws continue to exist to muzzle freedom of expression and the media is severely curtailed.
- 4.3** Civil society groups as well as the UN Human Right Committee have raised concerns around a number of legal provisions that curb freedom of expression and that contains vague and broadly formulated offences. These include provisions on ‘propaganda against the state’ (article 65 of the Penal Code) and criminal defamation, libel and insult (articles 94 and 95 of the Penal Code). Article 94 stipulates that any person that defames and libels in causing severe damage to the dignity of other persons through oral, written or other means shall be punished and fined according to the law while Article 95 stipulates that any person that slanders other persons through oral or other means resulting in severe damage to the other persons’ dignity shall be punished by three months to one year of imprisonment or by re-education without deprivation of liberty and shall be fined according to the law.
- 4.4** The authorities’ efforts to stifle dissent has meant that citizens and local civil society are too afraid to criticise massive development projects that have a negative impact

https://m.facebook.com/story.php?story_fbid=2156374344641487&id=100008068268130. See also ‘The sad story of the Lao Dam’ (in Thai), 26 July 2018, Khaosad, https://www.khaosod.co.th/monitor-news/news_1377824; ‘Must listen’ (in Lao), Youtube, 28 July 2018, <https://www.youtube.com/watch?v=TxFJM-OfieU> and ‘Sub-standard construction blamed for Laos dam disaster’, The Nation, 30 May 2019, <https://www.nationmultimedia.com/detail/national/30370233>

on the environment and livelihood of communities such as logging, agribusiness, mining and dams.²¹

4.5 The ruling Lao People’s Revolutionary Party (LPRP) also exercises absolute control over the media including TV, radio and printed publications through the Ministry of Information, Culture and Tourism of the Government of Lao PDR. Legal restrictions on the media aimed at ensuring strict adherence to and promotion of government policies were introduced by the 2016 amendments to the Media Act of 2008 and by the Decree No. 377 of 24 November 2015 on Press Activities of Foreign Media Agencies, Diplomatic Missions, and International Organizations of November 2015 which requires the submission of materials for governmental approval before publication.²² These laws and the strict government controls have led to high levels of self-censorship by journalists in the country. Adding to this, foreign journalists wanting to cover events in Lao PDR are required under Decree No. 377 of 24 November 2015, to submit their content to the Ministry of Foreign Affairs for approvals and seek permission from the Ministry, 15 days before coming into Laos. This includes reporters accompanying a foreign delegation on a visit the country.²³ Lao PDR is ranked 171 out of 180 countries in the 2019 World Press Freedom Index.²⁴

4.6 Due to the strict media controls, many Laotians often seek access to information online. For example, during the collapse of a dam under the Xe-Pian Xe-Namnoy Hydroelectric Power Project province in July 2018, social media quickly reported the number of deaths while official media was restricted from covering it.²⁵ The Prime Minister’s office issued a notification letter that temporarily blocked access to individuals and entities to the dam area unless authorised. He also warned the population to only follow state-owned media and disregard misinformation on social and foreign media.²⁶

²¹ [‘Repressive climate for civil society silences criticism of dam projects’](#) op cit.

²² ‘UN Human Rights Committee slams Laos record on civil and political rights’, CIVICUS Monitor, 23 August 2018, <https://monitor.civicus.org/newsfeed/2018/08/23/un-human-rights-committee-slams-laos-record-civil-and-political-rights/> and Communication from the mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders to the Lao PDR, OHCHR, 6 May 2016, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=19899>

²³ ‘Laos: Critical cyberspace shrinks, mainstream press further muted’, SEAPA, 3 May 2017

<https://www.seapa.org/wpfd2017-critical-cyberspace-shrinks-mainstream-press-further-muted/>

²⁴ ‘Reporters Without Borders, Laos country page’, <https://rsf.org/en/laos>

²⁵ ‘Lao Citizens Turn More to Internet, Social Media For Their News’ RFA, 24 April 2019,

<https://www.rfa.org/english/news/laos/news-04242019173907.html>

²⁶ ‘Laos: Undertake a transparent and independent investigation to ensure effective remedies for the victims of the dam collapse’, Manushya Foundation, 20 August 2018, <https://www.manushyafoundation.org/laos-dam-statement>. See also ‘Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019’ p. 7, op cit.

- 4.7** Online criticism of the government and the Lao People's Revolutionary Party or circulating 'false information online' is criminalised, in Decree No. 327 on Internet-Based Information Control/Management of 16 September 2014. The Law on Prevention and Combating of Cyber Crime, 2015 also criminalises vaguely defined web content, and provides powers to the government to silence critics arbitrarily.²⁷ Further, the Ministry of Post, Telecommunication and Communication is responsible for online surveillance to sanitise political criticism or malicious comments against the Party and government leadership.²⁸
- 4.8** Besides the prosecution of activists (as noted in the section above), government critics have also been swiftly silenced for speaking up online. In May 2015, local police took a 26-year old woman, Phout Mitane of Nabouam village in Xayaburi province's Phiang district into custody without a warrant after she posted photos on Facebook allegedly showing police officers extorting money from her brother over a traffic violation.²⁹ Another woman, Chanthaphone, a provincial government staffer was also detained in June 2015 for posting a "confidential document" on her Facebook account about a controversial land concession granted by the local government in Luang Prabang province to Chinese investors, which prompted a storm of criticisms online. She was interrogated and subsequently released in August 2015.³⁰
- 4.9** In September 2018, Phijika Boonkwang, the president of the Vientiane Football United Club, was questioned by police after she criticised the condition of the road leading up to the Lao PDR's football federation headquarters in a live Facebook video on 25 August 2018.³¹ She was accused of 'harming the reputation of Laos' and 'conducting inappropriate activities on Facebook'.³²

²⁷ 'Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019' p. 4, op cit.

²⁸ To improve its efficiency in combating cyber activities, the Laotian government has received technical support from its Vietnamese counterparts to help set up a modern telecommunication system to efficiently file, distribute, control, and screen information through joint cooperation between the Vietnam News Agency and the Lao National News Agency, Khaosan Pathet Lao (KPL). The agreement was signed during the official visit to Laos of Vietnamese President Nguyen Phu Trong in February 2019. See 'Laos: Screws on Online Discourse Get Even Tighter', SEAPA, 3 May 2019, <https://www.seapa.org/laos-screws-on-online-discourse-get-even-tighter/>

²⁹ 'Lao Woman Detained After Posting Police Extortion Photos to Facebook' RFA, 28 May 2015, <https://www.rfa.org/english/news/laos/detention-05282015140757.html>

³⁰ 'Laos Frees Woman Detained For Publishing Concession Document Online' RFA, 6 August 2018, <https://www.rfa.org/english/news/laos/release-08062015165031.html>

³¹ 'Repressive climate for civil society silences criticism of dam projects', CIVICUS Monitor, 23 October 2018, <https://monitor.civicus.org/newsfeed/2018/10/23/repressive-climate-civil-society-silences-criticism-dam-projects/>

³² 'Overcoming a government crackdown on social media in Laos', Al Jazeera, 3 October 2018, <https://www.aljazeera.com/indepth/features/overcoming-government-crackdown-social-media-laos-181002214905884.html>

4.10 There is also extensive surveillance of society in Lao PDR all the way to the village level, creating a chilling effect. The UN Special Rapporteur on extreme poverty and human rights said in March 2019 after his visit to Lao PDR that he “received countless reports from people inside the country and who have recently fled Lao PDR about the extent to which people feel they are not able to speak freely and fear reprisal for expressing criticism of government policies”.³³

5. Freedom of peaceful assembly

- 5.1** During Lao PDR’s examination under the 2nd UPR cycle, the government received three recommendations on the right to freedom of peaceful assembly. Among other recommendations, the government committed to ensuring that “freedom of assembly [...] in accordance with the International Covenant on Civil and Political Rights”. Of the recommendations received, Lao PDR accepted one and noted two. However, as evidenced below, the government has failed to adequately realize these recommendations. Of the three recommendations on freedom of assembly, the government has not implemented any of these recommendations.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 44 of the Lao PDR Constitution also guarantees its citizens the right to freedom of assembly. However, in policy and practice peaceful protests are denied.
- 5.3** Article 72 of the Penal Code criminalises ‘gatherings aimed at causing social disorder’. As noted above, the three activists Lodkham Thammavong, Soukane Chaithad and Somphone Phimmason were also charged under this law. In December 2015, the three activists took part in a demonstration outside the Lao Embassy in Thailand to express concerns over the government’s human rights record.³⁴
- 5.4** In July 2017, 14 residents of Yeub village in Thateng district in Sekong province were arrested by police for protesting against the cutting down of trees on land granted by the government to a Vietnamese rubber company. The residents had been in a dispute with the government over land rights since 2006.³⁵ Several of the detainees were allegedly beaten or subjected to electric shocks while in custody, in

³³ ‘Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Lao PDR, 18-28 March 2019’, [28 March 2019,
https://srpovertyorg.files.wordpress.com/2019/03/lao-pdr-end-of-mission-statement.pdf](https://srpovertyorg.files.wordpress.com/2019/03/lao-pdr-end-of-mission-statement.pdf)

³⁴ ‘Lao Movement for Human Rights (LMHR) & FIDH – International Federation for Human Rights shadow report submission to the UN Human Rights Committee (CCPR) on LAO PDR’, op cit. and ‘UN Human Rights Office concerned by the harsh sentencing of three activists in Lao’, OHCHR, 23 June 2017, <https://bangkok.ohchr.org/news/press/Activists%20in%20Lao%20PDR.aspx>

³⁵ ‘Six years on, groups demand effective investigation into disappearance of activist Sombath Somphone’ op cit.

the days following their arrest. In January 2018, one of the 14 villagers, Somsavanh, died under mysterious circumstance in police custody while two are seriously ill.³⁶

- 5.5 In another case, Sy Phong, a protest leader held in jail without trial since 2011 died in custody in April 2019. Sy Phong from Dane Nhai village in Salavan province was arrested with 25 others after a protest calling for return of their land given by the government to a Vietnamese company to grow eucalyptus trees. He was one of two men kept in jail after the other villagers had been released. While officials cited natural causes for his death, villagers fear he may have been tortured while in detention.³⁷
- 5.6 On 14 October 2018, a concert held to raise funds for a local school in Savannakhet province in southern Laos was shut down by police, unhappy with the t-shirts for sale at the venue with the wording - “No bribes for jobs”.³⁸

6. Recommendations to the Government of Lao PDR

CIVICUS, Manushya Foundation and FORUM-ASIA call on the Government of Lao PDR to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state’s duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding freedom of association

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- Relevant laws and regulations should be revised - in particular, Decree No. 238 on Associations and Decree No. 13 of 2010 on INGOs - to guarantee that undue restrictions on freedom of association are removed and to bring them into compliance with 22 of the ICCPR.

³⁶ ‘UN Human Rights Committee slams Laos record on civil and political rights’ op cit.

³⁷ ‘Lao Villager Dies After 8 Years in Jail Over Land Grab Protest. RFA, 20 May 2019, <https://www.rfa.org/english/news/laos/villager-05202019154307.html>

³⁸ ‘[Repressive climate for civil society silences criticism of dam projects](#)’ op cit.

- Remove all undue restrictions on the ability of civil society organizations to receive international and national funding in line with best practices articulated by the UN Special Rapporteur on the rights to peaceful assembly and of association.

6.2 Regarding the protection of human rights defenders

- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Establish a new commission tasked with carrying out a prompt, thorough, independent, and impartial investigation aimed at determining the fate or whereabouts of human rights defender Sombath Somphone.
- Initiate a consolidated process of repeal or amendment of legalisation and decrees which unwarrantedly restrict the legitimate work of human rights defenders in line with the UN Declaration Human Rights Defenders.
- Repeal or revise article 56 of the Penal Code on ‘acts of betrayal towards the nation’ and article 65 of the Penal Code on ‘propaganda against the state’ law in accordance with the ICCPR and the UN Declaration on Human Rights Defenders.
- Release immediately and unconditionally all human rights defenders including, pro-democracy activist Bounthanh Thammavong and activists, Lodkham Thammavong, Soukane Chaithad and Somphone Phimmasone detained for exercising their right to fundamental rights to freedom of expression and assembly.

6.3 Regarding freedom of expression, independence of the media and access to information

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Review all laws and regulations that restrict freedom of expression, in particular Article 65 the Penal Code (propaganda against the state), the Media Act of 2008 and Decree No. 327 on Internet-Based Information Control/Management, in order to ensure that national legislation are in line with the best practices and international standards in the area of freedom of expression.

- Reform criminal defamation legislation in conformity with article 19 of the International Covenant on Civil and Political Rights (ICCPR).
- Halt the of harassment and intimidation of individuals who speak up on the negative impact of development projects or expose acts of corruption
- Ensure that journalists may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Review all regulations in particular Decree No.377 of 24 November 2015 on the Press Activities of Foreign Media Agencies, Diplomatic Missions, and International Organizations in Lao PDR, that restricts access to foreign journalists and media outlets from accessing and reporting on issues in the country
- Guarantee unfettered access for all persons in Lao PDR to domestic and foreign media information, both offline and online
- Adopt a law on access to information in order to fully promote the exercise of the right to freedom of expression and freedom of opinion.

6.4 Regarding freedom of assembly

- Adopt best practices on freedom of peaceful assembly as put forward by the UN Special Rapporteur on the rights to peaceful assembly and of association.
- Revise article 72 of the Penal Code that criminalises ‘gatherings aimed at causing social disorder’ in order to fully guarantee the right to freedom of assembly.
- Release unconditionally and immediately all demonstrators detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Provide recourse for judicial review and effective remedy including compensation in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

6.5 Regarding access to UN Special Procedures mandate holders

- Extend a standing invitation to all UN Special Procedures mandate holders and prioritize official visits with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association;

6.6 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations and community groups on all issues mentioned above and enable more effective involvement of those organizations and groups in the preparation of law and policy.
- Include civil society organizations and community groups in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society and community groups on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors and communities.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and community groups and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

7. (E) Annex: Assessment of implementation of civic space recommendations under the 2nd cycle

Theme: D45 Freedom of association			
<p>121.146. Guarantee the effective exercise of freedom of expression, assembly and association by reforming its legislation particularly in order not to undermine the legitimate work of NGOs and human rights defenders (Luxembourg);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>

<p>121.147. Reverse the approval of the Prime Minister's Decree on International Non-Governmental Organizations and implement the mechanisms necessary to accelerate the process of legalizing NGOs (Spain);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs - trade unions 	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.148. Refrain from undue restrictions, such as the prohibition to engage in the promotion and protection of human rights, in the elaboration of legislation on civil society organizations, and facilitate the registration of international NGOs (Germany);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs - trade unions 	<p>Status: Partially implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.149. Enable independent local and international NGOs, including international human rights organizations, to freely register and to operate in accordance with international law and standards (Norway);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs 	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.150. Remove all restrictions in law and practice which infringe upon the work of civil societies and to ensure that all legal provisions on the rights to freedom of expression, association and peaceful assembly are in line with international human rights standards (Poland);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs 	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>

<p>121.151. Fully implement its international obligations to ensure the protection of human rights defenders and other civil society actors while exercising their human rights, including the freedom of expression, association and assembly, and remove all restrictions in law and practice which infringe on their work. The Government of the Lao People’s Democratic Republic should establish without delay a new independent commission to undertake an impartial and thorough investigation into the enforced disappearance of Sombath Somphone (Finland);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.152. Reconsider decrees and guidelines that are overly burdensome on domestic and international civil society organizations through lengthy and opaque registration requirements, taxation and other means (United States of America);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.153. Facilitate an environment for local and international civil society organizations to fulfil their role (Australia);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: Partially implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.154. Fully enable civil society and NGO groups to conduct their activities (New Zealand);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: Partially implemented</p> <p>Source: Paragraph 2.1-2.5</p>
<p>121.155. Create a framework where civil society, including active human rights NGOs, can be included in the follow-up to the UPR without any fear of retaliation (Belgium);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D45 Freedom of association</p> <p>Affected persons:</p> <p>- CSOs</p>	<p>Status: XX</p> <p>Source: Paragraph 2.1-2.5</p>
<p>Theme: H1 Human rights defenders</p>			

<p>121.94. Carry out without further delay an independent, credible investigation into the unexplained disappearance of a human rights defender, Sombath Somphone, which occurred on 15 December 2012 in Vientiane (Luxembourg);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>H1 Human rights defenders</p> <p>Affected persons:</p> <p>- HRDs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 3.3</p>
<p>121.95. Carry out a prompt, independent and impartial investigation aimed at determining the fate or whereabouts of Sombath Somphone (Poland);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>H1 Human rights defenders</p> <p>Affected persons:</p> <p>- HRDs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 3.3</p>
<p>121.96. Undertake a thorough investigation, consistent with international practices and standards, into the disappearance of Sombath Somphone (Portugal);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>H1 Human rights defenders</p> <p>Affected persons:</p> <p>- HRDs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 3.3</p>
<p>121.97. Intensify the investigation into the disappearance of Sombath Somphone and accept external assistance in the investigation and make the results publicly known, and investigate in a transparent and credible manner all cases of enforced disappearances (Sweden);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>H1 Human rights defenders</p> <p>Affected persons:</p> <p>- HRDs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 3.3</p>
<p>121.98. Launch an impartial, efficient and in-depth investigation on the case of Sombath Somphone in accordance with the international obligations of the Lao People's Democratic Republic, and submit the results of the investigation in a transparent manner (Switzerland);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>H1 Human rights defenders</p> <p>Affected persons:</p> <p>- HRDs</p>	<p>Status: Not implemented</p> <p>Source: Paragraph 3.3</p>

121.99. Establish a thorough, transparent and impartial investigation into Sombath Somphone's disappearance, as recommended by the United Nations Special Rapporteurs (United Kingdom of Great Britain and Northern Ireland); Source of position: A/HRC/29/7/Add.1	Accepted	H1 Human rights defenders Affected persons: - HRDs	Status: Not implemented Source: Paragraph 3.3
121.100. Conduct an urgent and credible police investigation into the disappearance of Sombath Somphone, and communicate the findings, including to address any suspicions of government involvement in his abduction (Australia); Source of position: A/HRC/29/7/Add.1	Accepted	H1 Human rights defenders Affected persons: - HRDs	Status: Not implemented Source: Paragraph 3.3
121.101. Undertake a thorough and credible investigation into the disappearance of Sombath Somphone and other cases of purported enforced disappearances (Canada); Source of position: A/HRC/29/7/Add.1	Noted	H1 Human rights defenders Affected persons: - HRDs	Status: Not implemented Source: Paragraph 3.3
121.102. Conduct a thorough and credible investigation into all and any unresolved cases of disappearances of civil society workers in the Lao People's Democratic Republic (New Zealand); Source of position: A/HRC/29/7/Add.1	Noted	H1 Human rights defenders Affected persons: - HRDs	Status: Not implemented Source: Paragraph 3.3
Theme: D43 Freedom of opinion and expression			
121.37. Revise the Penal Code to make all new laws conform with international human rights standards, and repeal provisions of the law on media and the new decree on the Internet that criminalize basic human rights and subordinate individual rights to the interests of the state (Sweden); Source of position: A/HRC/29/7/Add.1	Noted	D43 Freedom of opinion and expression Affected persons: - HRDs	Status: Not implemented Source: Paragraph 4.1-4.10

<p>121.129. Ensure de jure and de facto protection of fundamental freedoms in order to be in conformity with ICCPR that has been ratified by the Lao People’s Democratic Republic. Regarding freedom of expression; lift the restrictions to freedom of press, ensure the independence and pluralism of media, and a safe environment for the work of journalists. Regarding freedom of association, facilitate unhindered action for human rights defenders and NGOs, notably through a reform of their registration system (France); Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.135. Decriminalize defamation and misinformation and remove all undue restrictions on freedom of expression from the Penal Code, the Law on Publications and the newly adopted Internet law in conformity with the country’s international human rights obligations (Latvia); Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.136. Fully implement its obligations under ICCPR to respect and ensure the right to freedom of expression (Canada); Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.137. Amend provisions of the Penal Code, the law on media, the law on Internet and all other legislation that criminalizes the exercise of fundamental rights in order to align Lao’s legislation with international standards in this sphere (Belgium); Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.138. Guarantee freedom of expression, the press, assembly and association, as well as freedom of religion and belief in accordance with the International Covenant on Civil and Political Rights (Uruguay); Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>

<p>121.139. Ensure that the right to freedom of expression and its other international human rights commitments are upheld in any move to adopt a cyber law (United Kingdom of Great Britain and Northern Ireland);</p> <p>Source of position: A/HRC/29/7/Add.1</p>	Accepted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.140. Review its decree on Internet-based information control and management to ensure citizens' rights to information and expression are respected (Australia); Source of position: A/HRC/29/7/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - HRDs - media 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.7-4.8</p>
<p>121.141. Ensure freedom of expression and media freedom, including Internet freedom by bringing its national legislation fully in line with international standards, including by decriminalizing defamation, misinformation and related offences in relevant national laws (Estonia);</p> <p>Source of position: A/HRC/28/8/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.1-4.10</p>
<p>121.142. Re-examine recent legislation that limits dissemination of certain information via the Internet, including through social media (New Zealand);</p> <p>Source of position: A/HRC/28/8/Add.1</p>	Accepted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.7-4.8</p>
<p>121.143. Promote the development of a free and open Internet by amending the Prime Minister's Decree, which appears to unduly limit the right to freedom of expression online (United States of America);</p> <p>Source of position: A/HRC/28/8/Add.1</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - CSOs 	<p>Status: Not implemented</p> <p>Source: Paragraph 4.7-4.8</p>

121.144. Take measures to ensure that all the legislation, especially on press and media, including digital media, is fully aligned with its international human rights obligations (Costa Rica); Source of position: A/HRC/28/8/Add.1	Accepted	D43 Freedom of opinion and expression Affected persons: - CSOs	Status: Not implemented Source: Paragraph 4.1-4.10
121.145. Continue efforts to improve and facilitate access to the Internet and refrain from any restrictions on content other than permitted under international human rights law, in particular ICCPR (Germany); Source of position: A/HRC/28/8/Add.1	Accepted	D43 Freedom of opinion and expression Affected persons: - CSOs	Status: Not implemented Source: Paragraph 4.7-4.8
Theme: D44 Right to peaceful assembly			
121.138. Guarantee freedom of expression, the press, assembly and association, as well as freedom of religion and belief in accordance with the International Covenant on Civil and Political Rights (Uruguay); Source of position: A/HRC/28/8/Add.1	Accepted	D44 Right to peaceful assembly Affected persons: - HRDs	Status: Not implemented Source: Paragraph 5.1-5.5
121.146. Guarantee the effective exercise of freedom of expression, assembly and association by reforming its legislation particularly in order not to undermine the legitimate work of NGOs and human rights defenders (Luxembourg); Source of position: A/HRC/28/8/Add.1	Noted	D44 Right to peaceful assembly Affected persons: - HRDs	Status: Not implemented Source: Paragraph 5.1-5.5
121.150. Remove all restrictions in law and practice which infringe upon the work of civil societies and to ensure that all legal provisions on the rights to freedom of expression, association and peaceful assembly are in line with international human rights standards (Poland); Source of position: A/HRC/28/8/Add.1	Noted	D44 Right to peaceful assembly Affected persons: - HRDs	Status: Not implemented Source: Paragraph 5.1-5.5