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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Visit to the Lao People's Democratic Republic

### Report of the Special Rapporteur on extreme poverty and human rights\*, \*\*

#### *Summary*

Since independence, Lao PDR has achieved impressive economic growth despite a legacy of imperialism and widespread unexploded ordnance. Poverty levels have diminished significantly, but high levels of natural resource and foreign investment driven growth have not translated into commensurate reductions in poverty. Eighty percent of the population still live on less than \$2.50 per day. Inequality is rising as urban elites prosper and many lower income people have been deprived of their land and access to vital natural resources. The Lao People's Revolutionary Party holds a monopoly over the political system and political freedoms are largely non-existent. This report should be read in conjunction with the Special Rapporteur's end of mission statement which contains a detailed assessment of those issues and of the particular challenges that arise for people in rural areas, women and ethnic minorities.

This report focuses on initiatives and reforms that Lao PDR can undertake to support people in poverty and enhance respect for their human rights. These include re-evaluating economic growth strategies to ensure that the benefits of growth are shared more equally, investing in a strong social protection system which is currently largely absent, and adopting policies of transparency, meaningful participation by and empowerment of people in poverty, and genuine public dialogue.

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\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in English.

\*\* The report is submitted after the deadline to reflect the most recent information.

## Report of the Special Rapporteur on extreme poverty and human rights on his mission to Lao People's Democratic Republic

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## I. Introduction

1. The Special Rapporteur on extreme poverty and human rights visited the Lao People's Democratic Republic (PDR) from 18 to 28 March 2019. The purpose of the visit was to report to the Council on the extent to which the Government's policies and programmes relating to extreme poverty are consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders. The Special Rapporteur is grateful to the Government for inviting him, facilitating his visit, and its continuing engagement. This report is submitted in accordance with Human Rights Council resolution 35/19.<sup>1</sup>

2. The Special Rapporteur held consultations with people living in poverty, civil society, UN and humanitarian agencies and diplomats. In addition to Vientiane Prefecture, he travelled to Champasack to visit a village whose residents had been resettled to make way for dam reservoirs; to Attapeu to visit three temporary camps for survivors of the Xe-Pian Xe-Namnoy dam collapse (Hadyao, Tamayord, and Dong Ban) and a village devastated by the collapse, Mai Village; and to Houaphanh where he visited Huameuang district and Phanang, Pahkatai and Mon villages. He visited schools, health centres, a hospital and an unexploded ordnance clearance site, and met with village leaders, educators, health workers and representatives of the Lao Women's Union, as well as government officials at the district, provincial and national level.

3. At the conclusion of his visit, the Special Rapporteur presented his preliminary findings to representatives of various ministries, who stressed their interest in productive dialogue and in constructive recommendations. This report provides such recommendations, intended to support efforts to realize the human rights of people in poverty and to promote sustainable development. However, this report must be read in conjunction with the Special Rapporteur's end of mission statement, as many of the recommendations herein rely on the detailed findings and supporting evidence contained in that statement, which are not reproduced here due to space constraints.<sup>2</sup>

4. In poverty reduction terms, there is much to commend. Lao PDR has done an impressive job of reducing the number of people living below the international poverty line. The percentage of those living on less than \$1.90 per day fell from 52.4 percent in 1997 to 22.7 percent in 2012, which reflects the most recent data available.<sup>3</sup> Net secondary school enrolment has increased 23 percent, reaching 50 percent in 2012/13.<sup>4</sup> The rate of women dying of pregnancy related causes fell by half between 2005 and 2015,<sup>5</sup> and although a troubling 33 percent of children under five are stunted, that is down from 44 percent in 2012.<sup>6</sup> The government has established a Poverty Reduction Fund, focused on developing the poorest villages.<sup>7</sup> This has been achieved despite the lasting contamination of the countryside with unexploded ordnance dropped by the United States from 1964 to 1973, a shameful

<sup>1</sup> The Special Rapporteur is grateful for the excellent research and analysis undertaken by Bassam Khawaja, Rebecca Riddell, and staff of the Office of the High Commissioner for Human Rights.

<sup>2</sup> The Special Rapporteur's 'End of Mission Statement' is available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24417&LangID=E>.

<sup>3</sup> World Bank, "Poverty and Equity Data Portal: Lao PDR," <http://povertydata.worldbank.org/poverty/country/LAO>.

<sup>4</sup> World Bank, "Lao PDR Poverty Policy Notes: Drivers of Poverty Reduction in Lao PDR," October 2015, <http://documents.worldbank.org/curated/en/590861467722637341/pdf/101567-REPLACEMENT-PUBLIC-Lao-PDR-Poverty-Policy-Notes-Drivers-of-Poverty-Reduction-in-Lao-PDR.pdf> p. 9.

<sup>5</sup> Jonna P. Estudillo, "Government Programs Have Begun to Reduce Maternal Deaths in Lao PDR: Now What Comes Next?," March 30, 2018, <https://www.eastwestcenter.org/publications/government-programs-have-begun-reduce-maternal-deaths-in-lao-pdr-now-what-comes-next>.

<sup>6</sup> Lao Statistics Bureau, "Lao Social Indicator Survey II: Survey Findings Report," 2017, <https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf> pp. 17, 36.

<sup>7</sup> Meeting with Poverty Reduction Fund, March 25, 2019.

legacy that continues to contribute to poverty, and the preceding and far-reaching harms inflicted by colonial aggressors.

5. But lifting people above a minimal income level must be the beginning, not the end, of the government's efforts, and Lao PDR's rapid economic growth has not led to commensurate poverty reduction. Unfortunately, many who escape the official poverty designation remain close to the poverty line or subsequently fall below it. As of 2012/13 80 percent of the population still lived on less than \$2.50 per day.<sup>8</sup> Eighty-eight percent of children experience some form of deprivation, with dire consequences for lifelong productivity and social participation.<sup>9</sup> The country has seen a lower ratio of poverty reduction to economic growth than other countries in the region, and inequality is on the rise.<sup>10</sup>

6. The problem lies in part with the Government's strategies for achieving aggregate economic growth, often implemented on the advice of international actors. An excessive focus on large infrastructure projects such as hydropower and railways, land concessions, resource extraction and foreign investment incentives has disproportionately benefited wealthy elites and saddled the country with large debt repayment obligations without raising significant tax revenue or generating significant employment for Lao people. Without adequate investment in education, health and a strong social protection system to support the many people left behind by the transitioning economy, a large proportion of the population have seen very few benefits from the economic boom.

7. Persistent structural barriers prevent the full realization of human rights by people in poverty, particularly for people in rural areas, women and ethnic minorities. While the government has adopted many impressive pieces of legislation and elaborate policy statements, meaningful implementation is too often lacking. The international community, which has had a major role in advising and financing the Government, has not done enough to ensure that economic growth is geared towards improving the lives of the majority of Lao people, rather than just ticking boxes and meeting targets.

8. It doesn't have to be this way. Lao PDR is a country rich in natural resources and has a diverse, young population. The Special Rapporteur met with Lao people who were deeply committed to improving the well-being of all, but were struggling to operate in limited civic space while providing healthcare, education and other services in remote areas with limited resources and uncertain pay. He spoke with people working tirelessly to support their families and communities, and met with many Government officials who were clearly dedicated and eager to find effective approaches. If the Government can be encouraged to adopt policies of transparency, meaningful participation and genuine public dialogue, a huge amount could be accomplished in terms of promoting sustainable development and alleviating poverty.

9. It is important that the Lao government has begun engaging with international human rights mechanisms and issuing invitations to Special Rapporteurs after a long hiatus. The Special Rapporteur was encouraged to hear that the Government plans to invite a new mandate each year, and to learn from the Prime Minister's Office that the country is looking to accede to the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The government should follow through with these steps, which would be important demonstrations of its commitments to human rights, and for which it should get real credit from the international community. It should also establish a national human rights institution that is fully compliant with the Paris Principles.

<sup>8</sup> World Bank, "Lao PDR Poverty Policy Notes: Drivers of Poverty Reduction in Lao PDR," October 2015, <http://documents.worldbank.org/curated/en/590861467722637341/pdf/101567-REPLACENENT-PUBLIC-Lao-PDR-Poverty-Policy-Notes-Drivers-of-Poverty-Reduction-in-Lao-PDR.pdf> p. 9.

<sup>9</sup> UNICEF and Lao Ministry of Planning and Investment, "SDGs and Children: Measuring Progress on Child Wellbeing in Lao PDR," preliminary report 2018, p. 12.

<sup>10</sup> World Bank, "Poverty Profile in Lao PDR," 2014, <http://documents.worldbank.org/curated/en/868521467998508506/pdf/100120-WP-P146141-PUBLIC-Box393225B-Poverty-Profile-in-Lao-PDR-publication-version-12-19-14.pdf> p. 8.

## II. Access to information

10. A lack of access to information, in conjunction with restrictions on freedom of expression, pose a tremendous barrier to sustainable development, Lao people's ownership over the country's natural resources, and the realization of human rights. The Government and international partners cannot address poverty without an accurate understanding of the challenges facing the Lao people. But limited data collection and a lack of transparency make it difficult to accurately assess even the current state of poverty and leads to programs designed around limited, outdated, and sometimes misleading information. Independent organizations have questioned the reliability of official data, saying it does not correspond with their own findings, but the government is not interested in addressing discrepancies. The problems are compounded by government-encouraged self-censorship that keeps important conversations and findings in the dark.

11. The government should issue instructions at the highest level to prioritize the collection and dissemination of up-to-date and reliable information. This would require data to be collected on a more consistent and rigorous basis, and be made publicly and promptly accessible. Access to information and transparency will enable evidence-based decision-making by public officials, reduce corruption, enhance public confidence, and empower individuals. Recent initiatives to provide online access to information are promising and should be expanded. The Government should ensure that its citizens receive and can also freely generate and share information, and enjoy the right to freedom of speech enshrined in both the Lao Constitution and international human rights law. This could include support for activities such as citizen journalism, opinion polling and public debates, community learning centres, translation and conference participation, training for bloggers, school competitions and youth exchanges. Informed citizens engaged in deliberative activities will make a far greater contribution towards sustainable development.

12. The international community should support the Government with expertise and resources necessary to systematically increase data collection and transparency, including through support for independent online databases and portals. International actors should also consistently make public their own data and studies. High-quality but unpublished studies and reports shared with or described to the Special Rapporteur confidentially, represent valuable information that may never see the light of day and cannot be cited herein. Some prominent organizations refused to make crucial information public despite repeated requests. The international community should seriously reconsider the implications of depriving the Lao people of access to valuable independent and objective information, especially in a country that in 2018 ranked 170 out of 180 on the World Press Freedom Index.

## III. Translating economic growth into poverty reduction

13. Impressive aggregate GDP growth has not translated into commensurate improvements in the lives of most people. Factors contributing to the persistence of poverty and limiting enjoyment of human rights by people in poverty include an opaque budget, inadequate public expenditure on important social services like education and healthcare, state revenue lost to overly generous corporate tax exemptions and corruption, a regressive tax system that disproportionately burdens the poor, and growing but often undisclosed debt. Large infrastructure projects have too often had negative and even impoverishing effects on the people directly affected. The National Institute for Economic Research found that despite higher GDP growth than its peers, Lao PDR seen lower rates of poverty reduction, in part due to reliance on foreign direct investment and the natural resource sector.<sup>11</sup> The Government has focused its efforts on graduating from "Least Developed Country" (LDC) status, which in itself will not solve any of these structural challenges. In fact, graduation will

<sup>11</sup> "Poverty persisting in Laos despite economic growth," The Phnom Penh Post, 2 April 2019, <https://www.phnompenhpost.com/business/poverty-persisting-laos-despite-economic-growth>

end access to certain aid and trade privileges, which may make the poor even worse off.<sup>12</sup> The LDC debate should focus on ensuring tangible achievements in poverty reduction, rather than on the meeting of abstract indicators.

14. In the forthcoming Ninth National Socio-Economic Development Plan, for 2021-2025, the Government should embrace growth strategies, budget allocations and tax policies that prioritize poverty alleviation in practice rather than just rhetorically. This will not only protect the human rights of a large number of Lao people but will generate more sustainable and effective development.

15. Existing growth strategies rely too heavily on hydropower, large infrastructure projects and land concessions that involve significant risks and uncertain rewards. They should be balanced by policies promoting other sectors such as sustainable agriculture, urban development and tourism. This will require a well-educated, healthy and skilled workforce that can only emerge as a result of quality education, well-funded health insurance programs that support the poorest people, empowerment of women and truly accessible social protection. In order for infrastructure to contribute to poverty reduction, it must be approached in a participatory manner, guided by the interests and inputs of poor and rural communities. International financiers should back projects in line with these goals.

16. In rural areas, the Special Rapporteur spoke with contract farmers who complained of being stuck in a cycle of poverty, reporting that they struggled with centralized decisions about crop types. People deserve the autonomy to organize and make important decisions about what they grow and how they sell it, but also the type of support that the state can best provide, such as micro-insurance programs (particularly important as climate change increasingly affects fragile ecosystems), as well as information, advice (including on negotiating fair contract terms), and regional economic networks that allow people to benefit the most from their labour.

17. The Government should take a more active role in poverty reduction that relies less on international donors and on the assumption that the benefits of foreign investment will eventually reach people in poverty. It should channel its efforts toward supporting communities and individuals, empowering them to be agents of their own development.

## A. Economic policy

18. There is a strong and direct relationship between how a government raises revenue and spends its budget, and how it meets its human rights obligations.<sup>13</sup>

### *A transparent budget linked to reducing poverty*

19. Despite significant steps in recent years including a 2015 Budget Law, key details about the Lao PDR budget are not publicly available and available information is often outdated, insufficient for those within the Government, donors, or the public.<sup>14</sup> Repeated requests by the Special Rapporteur for public expenditure figures either went unanswered or elicited outdated information in piecemeal fashion.

20. The Government should publish key budget information annually in a format that ensures meaningful access. This should include all domestic revenue, international grants and loans, as well as an analysis of allocations and actual expenditure. Monitoring and evaluating actual expenditure and its effectiveness is also crucial. The Government should

<sup>12</sup> UN Committee for Development Policy, ““Impact Assessments”: What happens when a country graduates from the LDC category?,” <https://www.un.org/ldcportal/impact-assessments-what-happens-when-a-country-graduates-from-the-ldc-category/>.

<sup>13</sup> OHCHR, “Realizing Human Rights through Government Budgets,” 2017, <https://www.ohchr.org/Documents/Publications/RealizingHRThroughGovernmentBudgets.pdf> p. 12.

<sup>14</sup> World Bank, “Lao PDR Public Finance Management Reform Grant,” 2018, <http://documents.worldbank.org/curated/en/611241536118876855/pdf/Project-Information-Documents-PID-Lao-PDR-Public-Finance-Management-Reform-Grant-P167661.pdf> p. 6.

establish a mechanism through which civil society and the public can participate in establishing budget priorities and in monitoring and evaluation.

21. International partners should facilitate and encourage timely publication and dissemination of relevant information, ensure accessibility of their own information, and support the involvement of civil society and the public in the budget process.

*Public expenditure on key policy areas*

22. Public social expenditure is integral to reducing poverty, facilitating social mobility, and fulfilling human rights. While the government has made important commitments, actual social spending has too often fallen short, remains low by regional standards, and has not increased in line with GDP growth. Available figures show flagging spending on healthcare, education and social security—evidence that the country is not bringing its maximum available resources to bear on the provision of essential services. According to a development partner, 2017 spending on health was 1.7 percent of GDP (the same as in 2010-11), and 6.5 percent of the government budget (against a target of 9 percent).<sup>15</sup> Spending on education was 3.11 percent of GDP and 13.4 percent of the budget (against a target of 17 percent). The percentage of the budget spent on education in 2017 was the lowest for preceding six years.

23. A government's budget reflects its real priorities. Sustained investment in the Lao people requires greatly increased expenditure on health, education and social protection.

*Progressive tax policy and revenue generation*

24. While the Government is under pressure to reduce its fiscal deficit, this should not come at the price of inadequate social protection spending. Overly generous and insufficiently targeted fiscal incentives and exemptions to encourage investment have greatly limited revenue collection, leading even the World Bank and IMF to urge review and reform of exemptions.<sup>16</sup> Partly because of these tax breaks, Lao PDR's tax revenue as a percentage of GDP is actually on the decline—falling from 13.8 percent of GDP in 2014 to 12.2 percent in 2017—lower than that of neighbours like Vietnam, Thailand and Cambodia.<sup>17</sup> And while tax policy can be used to address inequality, Lao PDR currently collects most of its revenue from Value Added Tax,<sup>18</sup> which imposes a greater burden on poor people. Income taxes, which are levied progressively, account for less than 10 percent of the Government's tax revenue,<sup>19</sup> and the Ministry of Finance representatives said the Ministry paid no attention to inequality in taxation and budgeting.<sup>20</sup>

25. Tax revenue as a percentage of GDP should be increased and social sector expenditures and investment significantly enhanced. Existing tax and tariff exemptions should be publicly disclosed and evaluated for fiscal prudence and the contribution they have made to the overall economy given the extensive revenues foregone. Tax policies should address rising inequality, which inhibits growth, and the Government should analyse the distributional impact of tax policies on different groups and ensure that the tax system is

<sup>15</sup> Reports on public expenditure vary. A 2018 UN ESCAP report found Lao PDR spent 0 percent of GDP on social protection, 1 percent of GDP on health, and 3 percent of GDP on education, among the lowest in the region. UN ESCAP, "Social Outlook for Asia and the Pacific Poorly Protected," 2018, [https://www.unescap.org/sites/default/files/publications/Social\\_Outlook.pdf](https://www.unescap.org/sites/default/files/publications/Social_Outlook.pdf), p. 46.

<sup>16</sup> International Monetary Fund, "2017 Article IV Consultation," March 23, 2018, <https://www.imf.org/en/Publications/CR/Issues/2018/03/23/Lao-Peoples-Democratic-Republic-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-45750>; World Bank, "Lao PDR economic monitor," 2018, <http://documents.worldbank.org/curated/en/418261529002464394/Lao-PDR-economic-monitor-safeguarding-stability-an-ongoing-agenda-thematic-section-how-can-farmers-get-more-for-their-rice-and-consumers-pay-less> pp. 12, 37.

<sup>17</sup> World Bank, "Tax revenue (% of GDP)," [https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=LA-VN-TH-KH&year\\_low\\_desc=false](https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=LA-VN-TH-KH&year_low_desc=false).

<sup>18</sup> Lao PDR Annual Economic Report 2017, p. 23.

<sup>19</sup> Lao PDR Annual Economic Report 2017, p. 23.

<sup>20</sup> Meeting with Ministry of Finance, March 25, 2019.

progressive. Continued reliance on VAT policies should be offset by measures to increase the real income of disproportionately affected poor households.

#### *Public debt and the Belt and Road Initiative*

26. While increasing indebtedness might be economically justified, the nature of the debt matters. Both the amount of debt and the terms—including interest rates, service costs, and default provisions—can diminish funds available for future generations. Lao PDR has taken on significant public debt to finance major projects, increasingly on opaque and non-concessional terms, with unknown implications for the future.<sup>21</sup> The Government should be transparent about the full amount and nature of debt, and associated liabilities, that it has taken on.

27. The role of the Belt and Road Initiative (BRI), China's ambitious global infrastructure programme, exemplifies this issue. Lao PDR has borrowed heavily from China to finance BRI projects and in 2018 it was named as one of eight countries at particular risk of debt distress due to BRI projects.<sup>22</sup> Between 2010 and 2015, China's share of Lao PDR's public debt rose from 20 percent to 45 percent,<sup>23</sup> and the value of China-backed infrastructure projects in Lao PDR exceeded nominal GDP in 2017.<sup>24</sup>

28. The increasing importance of the BRI to Lao PDR means the implications of BRI debt will play an increasing role in shaping the country's economic policies and determining its ability to ensure social well-being and poverty reduction. Unfortunately, the terms of many Chinese infrastructure projects are far from transparent and rumours abound about what valuable collateral the country pledged in case of default. Due to this opacity, it is difficult to evaluate whether the terms, service costs and consequences in case of default will pose a threat in the long term. Lao PDR is certainly not alone in this regard. While parts of the UN are framing the BRI as a way to achieve the Sustainable Development Goals (SDGs),<sup>25</sup> some countries are very significantly reducing previously unfavourable terms.<sup>26</sup> As BRI projects extend across the globe, China, borrowing countries and the international community should develop a more informed and nuanced understanding of the potential attendant risks and benefits, and the importance of transparency.

## **B. Links between land and poverty**

29. Land is crucial to many poor people's livelihoods, yet their land security is often tenuous and the Government has pursued large-scale initiatives including infrastructure projects and industrial plantations that have separated people from their land, often resulting in hardship and debt. The Special Rapporteur received multiple reports of land loss and resettlement leading to the loss of livelihoods, food insecurity, lack of access to water,

<sup>21</sup> International Monetary Fund, "Lao People's Democratic Republic : 2017 Article IV Consultation" pp. 5, 9.

<sup>22</sup> Center for Global Development, "Examining the Debt Implications of the Belt and Road Initiative from a Policy Perspective," 2018, <https://www.cgdev.org/publication/examining-debt-implications-belt-and-road-initiative-a-policy-perspective>. According to one research institute, Lao PDR was the 4<sup>th</sup> highest recipient of Chinese non-concessional official flows in the world from 2000 to 2014. AIDDATA, "China's Global Development Footprint," <https://www.aiddata.org/china-official-finance>.

<sup>23</sup> World Bank, "Lao Economic Monitor," April 2017, <http://pubdocs.worldbank.org/en/933741497262078111/LEM-PPT-English.pdf> p. 11.

<sup>24</sup> UN Department of Economic and Social Affairs, Current Activities of BRI in Lao PDR, 2018, [https://www.brisdgs.org/sites/default/files/inline-files/Current%20of%20BRI%20in%20Lao%20PDR\\_2.pdf](https://www.brisdgs.org/sites/default/files/inline-files/Current%20of%20BRI%20in%20Lao%20PDR_2.pdf).

<sup>25</sup> See, e.g., UN Department of Economic and Social Affairs, "Jointly building the 'Belt and Road' towards the Sustainable Development Goals," 16 August 2016, <https://www.un.org/development/desa/en/news/policy/building-belt-road-towards-sdgs.html>; United Nations Development Programme and China Center for International Economic Exchanges, "The Belt and Road Initiative," 2017 [www.cn.undp.org/content/dam/china/docs/Publications/UNDP-CH-GGR%202017.pdf](http://www.cn.undp.org/content/dam/china/docs/Publications/UNDP-CH-GGR%202017.pdf).

<sup>26</sup> Economist Intelligence Unit Country Report: Malaysia, 25 April 2019, p. 25.

inadequate or no compensation for lost resources, impoverishment, and people being pushed into debt by the forced transition to a cash-based economy. A policy of “Turning Land into Capital” has blanketed the country with more than 1,750 concessions,<sup>27</sup> giving companies the right to use vast tracts of land—sometimes for as long as a century—and often without adequate regard for existing land use.

30. The Government deserves credit for taking steps to rethink its approach, including a 2012 moratorium on mining, rubber and eucalyptus projects. In 2017, the Lao People’s Revolutionary Party observed that land expropriation represented a “heavy burden.”<sup>28</sup> Officials from the Ministry of Natural Resources and the Environment (MoNRE) explained that, at the direction of the Ministry of Planning and Investment, they have ceased issuing concessions while a review is undertaken.

31. This re-evaluation should be about more than simply cancelling some underperforming contracts. It offers an opportunity for the Government to recognize the importance of land to people and to protect their tenure as a way of reducing poverty. Land management should not be carried out on an ad hoc and often dubious basis but should be truly participatory, reflect and offer protections for existing land use and be executed in a regular, transparent fashion with access to remedies.

32. The outcome of the ongoing review should be made public, and any future concessions approved only after complete fulfilment of all legally required assessments and processes, including meaningful consultation with the local population and fair compensation. The government should seek compliance with, cancel, or otherwise address existing concessions that are not in accord with their contract terms or that have had demonstrably adverse impacts on communities, and provide a remedy for people who have been harmed.

33. While in Lao PDR, the Special Rapporteur received multiple first-hand accounts of the extremely challenging circumstances faced by people in Thateng District, Sekong Province who were affected by loss of land to a rubber tree plantation and is alarmed that ten people reportedly remain in custody without charge.<sup>29</sup> The Government should remedy the injustices committed, provide land and humanitarian relief to community members as appropriate, and release detainees to demonstrate goodwill and eliminate a festering sore.

34. Land management must also take account existing land use, and the complex impacts of loss of land and subsequent resettlement. Any approach to land—whether initiated by MoNRE or as a result of investment or forestry policies—that blindly assumes people can lose land they rely upon or be resettled without risking serious adverse consequences is bound to produce further impoverishment and discontent.

35. The Government should conduct a thorough assessment of the implementation and impact of resettlement, expropriation and compensation. The review should evaluate the 2018 Law on Resettlement and Vocation in terms of human rights and other relevant standards. It should lead to a more transparent, systematic and equitable compensation framework that accurately compensates people for the productive value of their property.

36. The legal framework should protect the land tenure and livelihood rights of all people, including the hundreds of thousands who currently live in areas that have only in recent decades been designated as “forests,” as well as people who rely on communal land and those who practice shifting cultivation. This should be an essential goal of current land titling reform efforts. Land titling should be undertaken in a way that does not undermine the access to land people depend on, for example by imposing unduly burdensome evidentiary requirements to prove historic land use or by requiring unrealistic or unsustainable periods of continuous use. Customary land tenure should be protected.

<sup>27</sup> According to figures provided by MoNRE.

<sup>28</sup> Central Committee of the Lao People’s Revolutionary Party, No. 026/CC. 2017 March 2018, <http://www.laolandinfo.org/wp-content/uploads/2012/03/Party-Resolution-about-Land-in-Laos-English-translation.pdf>.

<sup>29</sup> International Federation for Human Rights and Lao Movement for Human Rights, “Key Human Rights Issues of Concern,” 2019 <https://www.ohchr.org/Documents/Issues/EPoverty/Lao/FIDH.pdf>.

37. The Government should establish an independent body for oversight and evaluation of the environmental, social, and human rights impacts of natural resource-related and other large infrastructure projects as well as industrial plantations, including for people subject to involuntary resettlement and loss of land. This body should have the power to receive confidential grievances directly from individuals and communities, without requiring exhaustion of alternative remedies. The mechanism should be empowered to investigate allegations and prescribe appropriate remedies.

38. The international community must take stock of its own failures with regard to land management. It has a history of supporting resettlements that reportedly had many of the same problematic effects as those the Special Rapporteur witnessed. The World Bank's previous engagement on land titling is reported to have secured the tenure of the wealthy while leaving the poor vulnerable. With renewed World Bank involvement in land, concerns raised repeatedly by civil society and development partners must be reflected in the land and forestry law reforms, and account taken of the Government's past failures to implement many of the "sustainable" policies advised for the hydropower sector.

### C. Rethinking hydropower

39. As the Prime Minister rightly recognized following the Xe-Pian Xe-Namnoy disaster in 2018, the time has come for a national review of hydropower. The Government should be commended for opening a dialogue on the future of hydropower and the role of Lao PDR as an exporter of power. However, the contours of a suspension imposed after the collapse are unclear and appear not to apply to the many planned dams already under consideration. The scope of the current review is unduly narrow: The World Bank is leading a process that considers only dam safety rather than the full impact of existing and planned hydropower dams. One-off reviews of individual dams are inadequate.

40. For economic, social and environmental reasons, the Government should heed recommendations by experts such as the Mekong River Commission and conduct a comprehensive review of the role and future of the hydropower sector looking at the current and future impacts of existing and planned dams, how many and which projects should go forward, and how construction and operation arrangements should be adjusted in light of social and environmental risks. The results of the review should be made public and should include:

- A comprehensive cumulative assessment of environmental, ecological and human rights impacts of existing and planned hydropower projects, including on livelihoods and food security for affected communities upstream and downstream from hydropower projects, taking into account the impact of climate change;
- An assessment of the regional power market with up-to-date supply and demand projections;
- An analysis of the extent, nature and implications of public debt to finance hydropower projects, revenue generated as a result of each project and future projections, as well as the use of revenue so far;
- Trans-boundary impacts; and
- An assessment of investor, developer and operator compliance with domestic law and international standards.

41. In addition to establishing the oversight body proposed in paragraph 37 above, all hydropower project-related documents, such as impact assessments and environmental and social monitoring and management plans, should be public, as should information that describes how projects contribute to poverty reduction and sustainable development.

42. The Government should review the situation of those affected by the Xe-Pian Xe-Namnoy collapse, including displaced people who remain in temporary accommodation and who have reported delays in receiving promised financial support. While the Government maintains that allegations of delay are untrue, the Special Rapporteur received consistent, independent reports of delays in monetary compensation from residents of different camps.

It should provide psychosocial support, especially to women. People should promptly receive compensation for productive land and property lost. While the Government has stated that it intends to provide people with information about the response timeline and meaningfully consult them about potential plans, many interlocutors reported that they had little or no information and had not been consulted.

43. Those international actors who remain optimistic about the hydropower sector should justify the sustainability of specific projects in the absence of a thorough cumulative (rather than one-off) assessment of the environmental and social impacts of all existing and planned projects. The World Bank should consider how—in light of low revenue generation, lack of transparency, limited regulatory monitoring and enforcement capacity, minimal job creation, and flagging investment in social services—the hydropower sector will in fact contribute to poverty reduction.

## IV. Key social protection programs

44. Lao PDR does not have a functioning comprehensive social protection system and people must often rely on kinship, village, ethnicity, or patronage-based networks. Where support programs are in place, such as for people in the formal economic sector, they are not always functional. Compounding this, the Special Rapporteur received consistent reports of schools and hospitals charging informal fees that deter or make impossible access by people in poverty. The government should monitor these issues, take action to end such bribes including by holding people accountable and realign funding arrangements to eliminate any need for supplementary income sources. It should halt the practice of paying government employees late or asking teachers to work unpaid.<sup>30</sup>

### A. Health

45. Access to affordable healthcare and health insurance is crucial to ensuring that health costs do not push people into poverty. Recent improvements in access to low-cost healthcare represent real progress. However, the Special Rapporteur received consistent reports of low-quality healthcare, inadequate health coverage in rural areas and the inability of many people to afford even basic urgent care.

46. The government is not adequately funding healthcare or providing sufficient funds to ensure that people in poverty can access treatment. Health expenditure as a percentage of GDP is among the lowest in the region.<sup>31</sup> The World Bank found that among those in or near poverty, 13 percent were in that situation because of a health shock.<sup>32</sup> And although Ministry of Health officials said during the Special Rapporteur's visit that 94 percent of people were covered by the Health Insurance Fund—which provides free childbirth and treatment for children under five<sup>33</sup>— they could not say how many of these had actually accessed healthcare.<sup>34</sup>

47. Healthcare accessibility remains very uneven. People from the poorest wealth quintile and those in rural areas have limited access.<sup>35</sup> Even in villages with health centres, people

<sup>30</sup> Bertelsmann Stiftung, "BTI 2018 | Laos Country Report," [bti-project.org/en/reports/country-reports/detail/itc/LAO/](http://bti-project.org/en/reports/country-reports/detail/itc/LAO/).

<sup>31</sup> World Health Organization, "Health Financing," [wpro.who.int/laos/topics/health\\_financing/en/](http://wpro.who.int/laos/topics/health_financing/en/).

<sup>32</sup> World Bank, "Lao Poverty Policy Brief: Taxonomy of the Poor and Its Usefulness in Policy Design," December 2017, <http://documents.worldbank.org/curated/en/114211505815281554/pdf/119794-WP-taxonomy-PovertyReport-PUBLIC-ENGLISH-and-LAO-ENGLAOfinal.pdf> p. 8.

<sup>33</sup> Association for Development of Women and Legal Education, "Capacity Assessment Report: CEDAW Implementation in Lao PDR," June 2016, [http://adwlelaos.org/wp-content/uploads/2017/09/SRP001\\_Cedaw-Assessment\\_EF-14-07-2016-ENG.pdf](http://adwlelaos.org/wp-content/uploads/2017/09/SRP001_Cedaw-Assessment_EF-14-07-2016-ENG.pdf) p. 10.

<sup>34</sup> Meeting with Ministry of Health, March 26, 2019.

<sup>35</sup> Lao Statistics Bureau, "Lao Social Indicator Survey II: Survey Findings Report," 2017, <https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf> p. 24.

consistently said they needed to travel to district or provincial hospitals for non-minor medical issues and that the costs of healthcare and transportation prevented many from seeking treatment. In one district, government officials acknowledged that 22 of 78 villages could not access health care during the rainy season.

48. The government should increase health spending in line with regional trends and develop a detailed profile of populations that do not have adequate access to healthcare. It should adopt a plan to systematically improve access for those groups, enable remote health centres to cope better with the challenges of the rainy season, and develop a plan to make transportation affordable from village centres to nearby hospitals.

## B. Education

49. Meaningful access to quality education is essential to creating a route out of poverty for Lao children as well as to developing a skilled workforce. But although the Ministry of Education and Sports is committed to improving access and has reported progress in enrolment rates and student retention, the inadequate resources allocated for education undermine the prospects for sustained improvement.<sup>36</sup>

50. Those with the least education have the lowest chance of transitioning out of poverty, and the highest likelihood of falling below the poverty line.<sup>37</sup> Access to education can increase a family's agricultural productivity or allow them to transition out of agricultural work. Yet those in poverty have far less access to education. Only 58 percent of children in the poorest quintile complete primary education, as opposed to 98 percent of the richest.<sup>38</sup> Children living in poverty can be kept out of school by the cost and the need to work to support their families.

51. Rural areas have much more limited access to education, and while most villages have a primary school, 57 percent of primary schools do not offer all five grades and many villages have no secondary school. Children very often need to travel far from home to attend secondary school or even finish primary school.<sup>39</sup> The government should explore creative transportation options, and the provision of safe and adequate accommodation for students, in order to broaden genuine access to education in rural areas.

52. The quality of education is also problematically low. The World Bank estimates that 10.8 years of Lao education equals just 6.4 quality adjusted years. In one study, almost a third of second grade students scored zero on reading fluency and 57 percent scored zero on reading comprehension.<sup>40</sup>

53. Education spending should be increased, in line with regional standards, and the government should assess why its current approach yields such poor outcomes. Money for salaries is important, but it is also needed for operational expenses, teaching materials, teacher training, and school infrastructure. According to the World Bank, around half of schools have a roof that leaks and less than half have toilets.<sup>41</sup>

<sup>36</sup> World Bank, "Lao PDR Economic Monitor," January 2019, <http://documents.worldbank.org/curated/en/818841549314902040/pdf/134324-LEM-Jan-2019-final-for-online.pdf> p. 47.

<sup>37</sup> World Bank, "Lao PDR Economic Monitor," January 2019, <http://documents.worldbank.org/curated/en/818841549314902040/pdf/134324-LEM-Jan-2019-final-for-online.pdf> pp. 34-35.

<sup>38</sup> Lao Statistics Bureau, "Lao Social Indicator Survey II: Survey Findings Report," 2017, <https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf> p. 45.

<sup>39</sup> World Bank, "Lao PDR Economic Monitor," January 2019, <http://documents.worldbank.org/curated/en/818841549314902040/pdf/134324-LEM-Jan-2019-final-for-online.pdf> p. 53.

<sup>40</sup> *Ibid.*, p. 45.

<sup>41</sup> *Ibid.*, p. 47.

54. Lao PDR has, in principle, adopted inclusive education and 5,075 children with disabilities are enrolled in mainstream schools.<sup>42</sup> But this number is very low compared to those who should be benefiting from such programs. The Government and its international partners should draw up a realistic assessment of the number and needs of students with disabilities countrywide and develop appropriate programmes to significantly expand enrolment.

## V. Challenges and opportunities

### A. Unexploded ordnance

55. The widespread presence of unexploded ordnance is an ongoing driver of poverty, as rightly recognized by Lao PDR's adoption of its own national SDG on reducing the impact of unexploded ordnance. According to Legacies of War, between 1964 and 1973 the United States dropped more than 2 million tons of ordnance over Lao PDR in 580,000 bombing missions. Some 80 million cluster bomblets failed to explode, leading to an estimate of 50,000 civilians killed or maimed since 1964. Surveys and strike data indicate that a third of the country is still contaminated with unexploded ordnance.<sup>43</sup> That means farmers cannot use agricultural land or must risk death or injury to feed their families. Explosions can cause disabilities that prevent people from working and—because of limited social support—may require intensive family care, keeping additional family members out of work.

56. Development partners, particularly the United States, should be doing much more to rapidly clear unexploded ordnance and provide support for those affected. According to one estimate, just one percent of unexploded bomblets have been cleared so far.<sup>44</sup> By the same token, this problem should not be used to distract attention from the many shortcomings of government anti-poverty policies.

### B. Rural poverty

57. People in rural areas are much more likely to be affected by poverty. According to the most recently available statistics, as of 2012/2013, rural areas accounted for 71 percent of the population, and the rural poverty rate was four times the rate in urban areas.<sup>45</sup> 88 percent of those in poverty were rural residents.<sup>46</sup> Fourteen percent of rural villages do not have road access, and even those with roads may be inaccessible during the rainy season, severely limiting their access to basic services and markets.<sup>47</sup> Rural areas have disproportionately poor access to health and education, and bear the brunt of policies such as land concessions and resettlement in terms of their access to land, livelihoods and food security.<sup>48</sup>

58. While the remote and dispersed nature of the rural population presents real challenges, the government should not give up on working to provide rural communities with equal

<sup>42</sup> Ministry of Education and Sports, "Education and Sports Sector Performance Annual Report 2017-2018 And Development Plan for 2018-2019," August 2018, p. 51.

<sup>43</sup> Legacies of War, "Cluster Bomb Fact Sheet," <http://legaciesofwar.org/resources/cluster-bomb-fact-sheet/>.

<sup>44</sup> Ibid.

<sup>45</sup> World Bank, "Lao PDR Economic Monitor," January 2019, <http://documents.worldbank.org/curated/en/818841549314902040/pdf/134324-LEM-Jan-2019-final-for-online.pdf> p. 33.

<sup>46</sup> World Bank, "Poverty Profile in Lao PDR," 2014, p. 9.

<sup>47</sup> Lao Statistics Bureau, "Lao Social Indicator Survey II: Survey Findings Report," 2017, <https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf> p. 3.

<sup>48</sup> See e.g. Miles Kenney-Lazar, "Linking food and land tenure security in Lao PDR," 2016, [https://data.opendevlopmentmekong.net/dataset/2016-6/resource/fbacdd35-9ca3-45de-b4bb-fa47d53852cd?type=library\\_record](https://data.opendevlopmentmekong.net/dataset/2016-6/resource/fbacdd35-9ca3-45de-b4bb-fa47d53852cd?type=library_record) p. vii-viii.

access to services and infrastructure by leaving them with second class status or pushing problematic consolidation or relocation programs.

### C. Ethnic minorities

59. Minority groups make up approximately 45 percent of the population.<sup>49</sup> They face higher rates of poverty,<sup>50</sup> often live in rural areas with limited social services and infrastructure, and may not speak Lao.<sup>51</sup> A 2017 World Bank report found ethnic minorities lagged behind the majority Lao-Tai at all economic levels.<sup>52</sup>

60. Crucially, the gap between ethnic minorities and the Lao-Tai majority cannot be fully explained by differences in characteristics like larger household sizes or more limited access to education and infrastructure.<sup>53</sup> Yet the government does not even acknowledge the existence of ethnic minorities and asked the Special Rapporteur to use the term ethnic ‘groups’. But terminological sidestepping will not solve the very real disparities that minority groups face. The government should recognize that its current policies are badly neglecting ethnic minorities, and undermining prospects for economic development.

61. The Government should adjust its self-defeating position on the use of minority languages. Insisting on Lao as the only language of instruction puts minority children at a disadvantage in school.<sup>54</sup> Many countries face challenges of multiple languages and the answer is not to insist dogmatically that education can only be in Lao. If the Government wants to maximize the potential of these communities it needs to develop a nuanced approach that combines its desire to promote Lao as the official language with the strategic use of local languages. Teachers and health providers in minority communities should be officially allowed to provide services in non-Lao languages when appropriate.

62. Indigenous status has been conferred on certain ethnic groups by a range of interlocutors. While this report is not the appropriate context in which to resolve that claim, such status would confer additional rights under international law, including to free, prior and informed consent to the use of land and resources. Instead of shutting down the discussion, the government should engage in good faith on the status of indigenous groups.

### D. Gender

63. Despite women’s central role in traditional ethnic Lao communities, in today’s Lao PDR they often face marginalization and discrimination, with substantial negative

<sup>49</sup> Ian Baird, “Translocational assemblages and the circulation of the concept of ‘indigenous peoples’ in Laos”, *Political Geography* 46 (2015) 54-64; “Laos Population 2019,” in *World Population Review*, at <http://worldpopulationreview.com/countries/laos-population/>; Minority Rights Group International, *Minority Rights Group International, “Laos,”* <https://minorityrights.org/country/laos/>. However, according to the Government, the majority Lao-Tai ethnic group makes up 62.5 percent of the population, in which case minority groups would make up 37.5 percent.

<sup>50</sup> World Bank “Lao Poverty Policy Brief: Why Are Ethnic Minorities Poor?,” 2017, <http://documents.worldbank.org/curated/en/501721505813643980/pdf/119793-WP-PovertyReport-PUBLIC-ENGLISH-and-LAO-ENGLAOFinal.pdf> p. 4.

<sup>51</sup> Elizabeth King and Dominique van de Walle, “Indigenous Peoples, Poverty and Development, Chapter 7: Laos,” March 2010, [http://siteresources.worldbank.org/EXTINDPEOPLE/Resources/407801-1271860301656/Chapter\\_7\\_Laos.pdf](http://siteresources.worldbank.org/EXTINDPEOPLE/Resources/407801-1271860301656/Chapter_7_Laos.pdf) p. 2.

<sup>52</sup> World Bank “Lao Poverty Policy Brief” p. 4.

<sup>53</sup> World Bank, “Poverty Profile in Lao PDR,” 2014, p. 14; World Bank, “Lao PDR Poverty Policy Notes: Drivers of Poverty Reduction in Lao PDR,” October 2015, <http://documents.worldbank.org/curated/en/590861467722637341/pdf/101567-REPLACENENT-PUBLIC-Lao-PDR-Poverty-Policy-Notes-Drivers-of-Poverty-Reduction-in-Lao-PDR.pdf> p. 23.

<sup>54</sup> Understanding Children’s Work, “Understanding Children’s Work and Youth Employment Outcomes in Laos,” 2014, <http://documents.worldbank.org/curated/en/587261545112094976/pdf/133003-WP-v1-PUBLIC-ADD-SERIES-see-103603-Laos-Summary-child-labour-youth-employment20140109-131624.pdf> p. 7.

implications for poverty alleviation and the rights of poor women. Most official bodies are required to include a representative of the Lao Women's Union, and various other Government policies promote gender equality. But far too much of this remains aspirational and tokenistic, doing little to ensure women are meaningfully included in decision-making. The widespread subordination of women has major economic consequences, quite apart from the denial of their human rights.

64. Women generally occupy the lower rungs of the labour market and are less present in the formal sector, deprived of the rights and social protection it offers. Women make up 64 percent of workers in “elementary” occupations, whereas men account for the majority of civil servants, professionals and technicians.<sup>55</sup> According to the Lao Women's Union, seven of the 69 members of the Politburo Central Committee are women, just over 10 percent,<sup>56</sup> and, as confirmed by the Government, currently none of the powerful 17 Provincial governors is a woman. Fewer than 3 percent of village chiefs are women,<sup>57</sup> and as of 2012 women accounted for just 5 percent of those in decision-making institutions. The exception is the National Assembly, which has a higher proportion of women at 27.5 percent,<sup>58</sup> and whose President and Vice-President are women. The vast majority of the Special Rapporteur's government meetings were dominated by men, including several who expressed deeply patriarchal attitudes and blamed women for gaps in achievement. Women living in villages and camps were resoundingly more likely to report they had not been informed of or consulted about critical livelihood decisions, including resettlement and compensation, contract farming arrangements or disaster relief.

65. The Government should move beyond formal equality commitments by setting meaningful targets for closing disparities in education and the job market and empowering women. An excellent starting point would be to ensure that one third of all provincial governors and village chiefs are women by the year 2025. The virtual invisibility of women at these levels sends an unmistakable message that needs to be transcended. The Government should also ensure that the new land law protects women's land rights.

## E. Children

66. Lao PDR needs to do much more to ensure that children escape the cycle of poverty. Without adequate access to education, health, and social support, too many children are dropping out of school, marrying very young, or working to support their families—all major barriers to overcoming intergenerational poverty.

67. According to UNICEF a shocking 88 percent of children in Lao PDR experience some form of deprivation.<sup>59</sup> Child marriage is highly prevalent: within the poorest quintile, 47 percent of women 20-49 were married by 18.<sup>60</sup> Lao PDR prohibits child labour below age

<sup>55</sup> UNDP, “Lao PDR: Gender Equality,” <http://www.la.undp.org/content/laopdr/en/home/sustainable-development-goals/goal-5-gender-equality.html>.

<sup>56</sup> Meeting with Lao Women's Union, March 25, 2019.

<sup>57</sup> US Department of State, “Laos 2017 Human Rights Report,” <https://www.state.gov/documents/organization/277337.pdf>.

<sup>58</sup> UNDP, “Lao PDR: Gender Equality,” <http://www.la.undp.org/content/laopdr/en/home/sustainable-development-goals/goal-5-gender-equality.html>.

<sup>59</sup> UNICEF and Lao Ministry of Planning and Investment, “SDGs and Children: Measuring Progress on Child Wellbeing in Lao PDR,” preliminary report 2018, p. 12.

<sup>60</sup> Lao Statistics Bureau, “Lao Social Indicator Survey II: Survey Findings Report,” 2017, <https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf> p. 57.

14, but according to the 2010 Labour Force and Child Labour Survey, 261,000 children aged 6-17 were working,<sup>61</sup> many in hazardous conditions.<sup>62</sup>

68. Investing in robust social protection, accessible education and healthcare for children are essential steps towards breaking the cycle of poverty and training a skilled workforce.

## F. Rule of law

69. Meaningful implementation of many impressive pieces of legislation and policies is all too often lacking. Quotas are set but not enforced, conditions are attached but not monitored, new approaches are launched but business continues as usual.

### *Corruption*

70. Lao PDR ranks 132<sup>nd</sup> out of 180 on Transparency International's corruption perceptions index.<sup>63</sup> The Prime Minister's leadership on this issue has made an important difference, as illustrated by media reports on crackdowns on "ghost projects" and the dismissal or removal of officials. Since many interlocutors claimed that corruption remains rampant at all levels of government, it is essential that it be tackled systematically, that prosecutions occur where appropriate, and that senior officials including Ministers and Governors are held accountable when implicated. However, the absence of media freedom and of an independent civil society ensure that corruption will all too rarely be exposed.

### *Access to justice*

71. The barriers to access to justice are immense, especially for poor people and those in rural areas. These include a paucity of lawyers, the cost and difficulty of travel to courts, fear of negative repercussions (particularly if the Government or a Government-backed actor is involved), and the limitations of petitions, Village Mediation Committees, and other mechanisms theoretically available for recourse. The Special Rapporteur heard that grievances were rarely escalated beyond the village level unless people had connections to powerful patrons or the endorsement of village authorities. While the National Assembly's establishment of a hotline is an important initiative, it does not yet offer a robust independent remedy. It operates only eight weeks a year when the Assembly is in session, and acts more as a complaints clearinghouse than as an institution empowered to investigate and resolve grievances. It should be kept open year-round, publicly report the type and resolution of grievances, and provide for independent rather than government ministry follow-up.

## VI. Civil society as a partner in development

72. The Special Rapporteur's end of mission statement describes in detail the repressive policies designed to suppress and deter all civil society activity that seeks to do anything beyond working for or supporting the government. The facts need not be repeated here. Quite apart from violating the Government's human rights obligations, these policies are costly and self-defeating. In the absence of a functioning civil society, informed social policies cannot be designed, the information needed to inform responsive economic policies cannot be obtained, anti-corruption campaigns cannot flourish, and governments cannot reap the benefits of diverse inputs into policy-making. Suppression drives activity underground, stores up resentment, requires a huge unproductive apparatus, leaves those aggrieved without remedies, and prevents the new generation of Lao people from offering solutions to the country's many challenges. If poverty is to be tackled, genuine civil society space is essential

<sup>61</sup> Understanding Children's Work, "Understanding Children's Work and Youth Employment Outcomes in Laos," 2014, <http://documents.worldbank.org/curated/en/587261545112094976/pdf/133003-WP-v1-PUBLIC-ADD-SERIES-see-103603-Laos-Summary-child-labour-youth-employment20140109-131624.pdf> p. 2.

<sup>62</sup> UNICEF and Lao Ministry of Planning and Investment, "SDGs and Children: Measuring Progress on Child Wellbeing in Lao PDR," preliminary report 2018, p. 70.

<sup>63</sup> Transparency International, "Laos," <https://www.transparency.org/country/LAO>.

for robust discussion of ideas, raising important concerns, sharing knowledge and experience, promoting transparency and addressing corruption.

73. The Government should consult on ways in which the 2017 Decree on Associations No. 238 could be amended to enable civil society organizations to function meaningfully and freely. Stringent restrictions on travel within the country by non-profit associations, including requirements that they must always be accompanied by government monitors, should be eliminated. It is telling that the Government has expanded the time to register a non-profit association to 165 days, while reducing the time taken to set up a company from six months to less than one month.<sup>64</sup>

74. The government has already undertaken to give careful consideration to the Concluding Observations adopted by both the UN Committee on the Rights of the Child and the UN Committee on the Elimination of Discrimination against Women. It should also implement the relevant recommendations relating to civil society from the 2015 Universal Periodic Review and the Human Rights Committee's 2018 Concluding Observations. It will be in a much better place to report positively to the 2020 UPR session if it acts now in this respect.

75. The National Assembly should explore ways to bring civil society perspectives into its increasingly vibrant debates.

76. The Government should finally allow a meaningful investigation of the disappearance of Sombath Somphone, a widely admired civil society leader, last seen getting into a vehicle after being stopped at a police checkpoint in 2012.

77. The international community needs to assist and advise the Government in these areas. Choreographed dialogue achieves little and the quiet pursuit of development goals while sidelining a discussion of human rights and civil society space will not lead to sustainable growth, a robust domestic economy or a stable society. Donors should transparently support steps to open up civil society space and public debate. They should speak up publicly to break the silence that suffocates this issue, because others cannot—it is not enough to deliver the message only behind closed doors. Diplomacy is a balancing act, but donors should ask whether initiatives they tout as accomplishments are leading to progress in the long term or helping mask persistent problems. They can also play a role in following up on the recommendations from the Universal Periodic Review and human rights treaty bodies.

## VII. International community and corporate actors

78. The international community is deeply involved in efforts to address poverty in Lao PDR, chiefly through funding a plethora of Government and civil society-implemented projects and by advising the Government on sustainable development. Much of the foregoing analysis thus has relevance to its work, and donors have themselves promoted ill-conceived development agendas and programmes that have resulted in considerable harms. It has both the responsibility and the opportunity to promote international standards and norms and to uphold the rights of the poor and marginalized and those negatively affected by development projects.

79. International actors should resist the temptation of short-term gains, quota filling and formal project completion if it involves accepting problematic conditions which undermine long-term impact and sustainability. They ought to be wary of approaches that prioritize smooth relations over the provision of meaningful analysis. Failure to provide robust feedback and engage in a genuine dialogue does a disservice to the Lao people and government. It can lead to a failure of vision, a focus on the wrong criteria, misplaced satisfaction with incremental improvements and the effective exclusion of Lao people from key aspects of the development dialogue.

<sup>64</sup> Economist Intelligence Unit Country Report: Laos, 20 April 2019, p. 13.

## A. The United Nations

80. The Special Rapporteur was consistently told that the United Nations itself (as opposed to its various agencies) is widely perceived to act as an arm of the government, has failed to be a voice for the vulnerable, let alone for human rights, and has promoted an overly optimistic picture of the country's successes while sidestepping most of the issues that it deems "sensitive." The UN's vaunted "Rights Up Front" policy looks more like a "Rights out of Sight" policy in Lao PDR.

81. With the appointment of a new UN Resident Coordinator and a new UNDP Representative, the UN should consider how it can change this perception, and play a more constructive role in promoting the values endorsed by the Organization and its Member States. Its funds and agencies should ensure their actions comport with international standards and guidelines, such as the Guiding Principles on Internal Displacement, and FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests.

## B. International financial institutions

82. International financial institutions (IFIs) have played a significant role in shaping the country's development. In 2017, the World Bank's International Development Association was the largest known provider of official development assistance (\$76.74 million), followed closely by the Asian Development Bank (\$56.34 million).<sup>65</sup> The Bank's projects cover many key policy areas, such as public finance management, land, agriculture and hydropower, and its financial commitments have risen in recent years, to \$130 million in 2018 and \$83.73 million in just the first four months of 2019.<sup>66</sup>

83. The World Bank has been an enthusiastic promoter of hydropower as a central route to economic development since the 1990s, and continues to be optimistic about the future of the sector. Its approach should, however, be tempered by the failures of its "model" dam Nam Theun 2 (which has been strongly criticized by Thayer Scudder, a member of the Nam Theun 2's panel of experts),<sup>67</sup> the inadequate implementation of the 2015 World Bank Group-supported Policy on Sustainable Hydropower Development, and the Xe-Pian Xe-Namnoy collapse. In general, the Bank has been reluctant to reckon with past shortcomings and has accepted large disconnects between policy and practice.

84. More consideration needs to be given to the harms experienced by communities affected by land grabs, hydropower and other large infrastructure projects, as well as by industrial plantations. Poverty alleviation programmes should ensure respect for the rights of persons living in poverty and ensure that foreign investment takes place on terms that benefit the Lao people and not just the investors.

85. While the World Bank is an enthusiastic advocate for opening up space for the private sector, it offers few words on civil society space or public participation.<sup>68</sup>

<sup>65</sup> Tableau, "Lao People's Democratic Republic,"

[https://public.tableau.com/views/OECDDAC/Aidataglacebyrecipient\\_new/Recipients?:embed=y&:display\\_count=yes&:showTabs=y&:toolbar=no?&:showVizHome=no](https://public.tableau.com/views/OECDDAC/Aidataglacebyrecipient_new/Recipients?:embed=y&:display_count=yes&:showTabs=y&:toolbar=no?&:showVizHome=no)

<sup>66</sup> World Bank, "Projects & Operations,"

[http://projects.worldbank.org/search?lang=en&searchTerm=&countrycode\\_exact=LA](http://projects.worldbank.org/search?lang=en&searchTerm=&countrycode_exact=LA).

<sup>67</sup> International Rivers, "Nam Theun 2 Dam," <https://www.internationalrivers.org/campaigns/nam-theun-2-dam>.

<sup>68</sup> World Bank, "World Bank East Asia and Pacific VP Highlights Human Capital, Green Growth in Visit to Lao PDR," <http://www.worldbank.org/en/news/press-release/2019/04/01/world-bank-east-asia-and-pacific-vp-highlights-human-capital-green-growth-in-visit-to-lao-pdr>.

### C. The corporate sector

86. Companies, in choosing to invest or operate in Lao PDR, do so knowing full well the serious human rights concerns, the high levels of corruption and the lack of resources for regulatory monitoring and enforcement. One might hope to see proactive steps, especially by multinational corporations with significant resources, to avoid causing or being complicit in adverse human rights impacts, in line with their responsibility to respect human rights.<sup>69</sup> Companies, including foreign companies investing in Lao Special Economic Zones or the hydropower and mining sectors, should have an ongoing human rights due diligence process to identify, prevent and mitigate their impact on human rights, as well as a process for providing remedies where appropriate. Unfortunately, in Lao PDR many corporate actors have left an abysmal track record on everything from environmental and social impacts to compliance with domestic and international law.<sup>70</sup> Companies should cooperate fully with Lao and home state-based judicial and non-judicial grievance mechanisms to address human rights abuses and other harms linked to their work.

87. Companies should make project documents available online in English and Lao, including environmental, social and human rights impact assessments, as well information about the process for seeking remedies and the status of compensation for land loss. Companies should publish a human rights-compatible corporate accountability policy.

88. Companies whose investments and activities will directly affect communities should proceed with great care in consulting and seeking informed consent for their activities. They should make use of existing tools, guidelines and best practices, proactively and continuously provide information in communities' preferred language and format, be available to individuals and connect communities with independent advocates. Consultations with or consent from village leaders is no substitute for engagement with the community, including with individuals who are often marginalized or shut out of such processes such as women and people with disabilities.

89. Finally, states have a crucial role to play in monitoring investors and their conduct in Lao PDR. States should strengthen the capacity of their institutions and legal frameworks to address the extraterritorial impacts of investments or activities carried out by companies within their jurisdiction, including by incorporating at the domestic level the due diligence and remedy requirements of the UN Guiding Principles on Business and Human Rights, and by ensuring victims of such extraterritorial harm can seek remedies in their judicial systems and access non-judicial mechanisms such as NHRIs.

## VIII. Priority recommendations

90. **Rather than restating the many recommendations above, the Special Rapporteur urges the Government and other stakeholders to prioritize the following issues:**

(a) **Spending on health, education and early child development should be increased significantly and immediately. A first step is to ensure that target levels stipulated in the annual budget are actually met, rather than ignored. Such enhanced spending should also be linked to a major long-term program to build the human capital that is indispensable if Lao PDR is to diversify economically and ensure sustainable and equitable growth.**

(b) **If the benefits of economic growth are to reach the poor, the Government should systematically re-evaluate its strategy for attracting foreign investment. Existing approaches have enriched the elites, done very little for the poor, created minimal**

<sup>69</sup> OHCHR, "Guiding Principles on Business and Human Rights," 2011,

[https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>70</sup> See, e.g., Southeast Asian Press Alliance, "Poisoned fish worries village as Sangthong district promotes good agricultural practices" 2019, <https://www.seapa.org/laos-poisoned-fish-worries-village-as-sangthong-district-promotes-good-agricultural-practices/>.

employment and brought remarkably few funds into the national budget. Key elements should include:

- (i) a re-evaluation of the hydropower strategy, including a comprehensive and public impact assessment and improved planning for climate change and future disasters;
- (ii) a thorough review of land concessions granted, the creation of a transparent inventory of all such agreements and the prompt bringing into compliance or termination of improperly executed or corrupt agreements;
- (iii) diversification of investment opportunities to emphasize and reward employment creation for the people of Lao PDR;
- (iv) an evaluation of the economic, social and environmental impacts of Special Economic Zones;
- (v) full disclosure of existing tax and tariff exemptions; and
- (vi) full disclosure of the extent of public debt (disaggregated by lender) and associated liabilities, including collateral guarantees.

(c) Transparency of information is an essential element of good governance and informed policy-making, yet secrecy and opacity are the current default settings. They benefit the elites, facilitate corruption and mismanagement, and rob the Lao people of the benefits of their land and natural resources]. The Government should adopt and truly implement a comprehensive policy of transparency, that includes up-to-date social and economic statistics, budgetary information, government debt, hydropower contracts, land concessions and SEZ arrangements.

(d) There are severe deficiencies in the rule of law in Lao PDR. There are not enough lawyers, the courts are largely an extension of the Party and the average person faces many barriers to access. One option would be to explore a major reform of Village Mediation Committees to ensure gender equality, procedural fairness and the feasibility of appeals. The crackdown on corruption must cover more than the small fish and include prosecutions of responsible high-level officials. Merely moving offenders to other jobs sends a message of impunity.

(e) An independent monitoring body should be created for the environmental, social, and human rights impacts of natural resource-related and other large infrastructure projects as well as industrial plantations, including for people subject to involuntary resettlement and loss of land.

(f) The conditions of those affected by the Xe-Pian Xe-Namnoy dam collapse are highly unsatisfactory. Monthly allowances need to be increased and paid on time, the victims need to be genuinely consulted, fertile land needs to be provided and counselling made available.

(g) Civil society should be unchained. The Government should roll back restrictions on civil society activities, end retaliation for peaceful speech and enable associations' registration to take place in less than one month, as it has done for businesses. It should provide a public database indicating applications made and actions taken. Government surveillance of civil society should cease and requirements that government monitors must accompany travel within the country should be eliminated.

91. Allowing civil rights sores to fester is not in anyone's interests. The Government should demonstrate good faith by inviting the Working Group on enforced disappearances to investigate cases including that of Sombath Somphone, and it should remedy the injustices suffered by the Sekong Province detainees.

(a) Policies towards minority groups should be re-evaluated in order to enable them to escape widespread and often deep poverty and access basic services. Refusal to recognize their existence only compounds their exclusion and their inability to contribute more to the economic development of the country.

(b) **Formal commitments to gender equality are undermined by deep disparities in education, employment and political participation. In order to send a meaningful signal and bring real change, the Government should commit to closing education and employment gaps and ensuring that one third of all provincial governors and village chiefs are women by the year 2025.**

(c) **The proposed land law should protect customary land tenure, including for people who rely on communal land as well as those who live in areas recently designated as “forests,” and the Government should adopt a more transparent and equitable approach to compensation.**

(d) **The international community must do more to rapidly clear unexploded ordnance and support those affected. Development partners should reckon with their own responsibilities for the lack of progress in relation to poverty elimination and human rights. The UN should consider how it can change the perception that it has failed to be a voice for the vulnerable, let alone for human rights. And multilateral and bilateral lenders should give more consideration to the harms caused by foreign investment and should ensure that projects bring greater benefit to Lao people.**

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