

Preliminary Assessment

on the Regulatory Framework and Policy Coherence regarding **Responsible Business Conduct** in Lao PDR - 2023



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The views expressed in this report do not necessarily represent those of the Government of Lao PDR, The Government of Japan, the United Nations, including UNDP, or UN Member States.

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INTRODUCTION

Objectives

The overall purpose of this Preliminary Assessment of the Regulatory Framework and Policy Coherence on Responsible Business Practice in Lao PDR is to assess the current status of legislation and regulation in Lao PDR in the context of the United Nations Guiding Principles on Business and Human Rights (UNGPs).¹ To this end, the Preliminary Assessment utilises the UNGPs as the primary normative framework to analyse current Lao PDR laws, decrees, decisions, and plans, in order to identify gaps and propose recommendations to enable effective implementation of the UNGPs across industry sectors. The two specific objectives of the Preliminary Assessment are to:

- Assess alignment of the regulatory framework in Lao PDR with respect to the UNGPs and relevant international commitments related to responsible business practice.
- Identify gaps and make recommendations to the government to focus and guide its efforts towards the development of a National Action Plan (NAP) on responsible business conduct in Lao PDR.

The Preliminary Assessment is not intended to be a substitute for a National Baseline Assessment on Business and Human Rights (NBA), as recommended by the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises (hereinafter referred to as the UN Working Group on Business and Human Rights or UNWG) in its Guidance on National Action Plans on Business and Human Rights’ (see further, below).² Rather, it is intended that the findings and recommendations of the Preliminary Assessment will provide helpful background information to support dialogue between stakeholders and inform and guide a Government-led process of developing a NAP.

Context

International context

The UNGPs comprise the central international normative framework for this preliminary assessment. The UNGPs set out that “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises”.³ The UNGPs further specify that: “This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication”.⁴ The UNGPs are clear that: “States may breach their international human rights law obligations where... human rights abuse by private actors... can be attributed to them, or where they fail to take appropriate steps to prevent, investigate, punish and redress private actors’ abuse”.⁵

¹ United Nations Guiding Principles on Business and Human Rights, HR/PUB/11/04 (2011). Available at: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf (hereinafter ‘UNGPs’).

² United Nations Working Group on Business and Human Rights, ‘Guidance on National Action Plans on Business and Human Rights’ (2016). Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf.

³ United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (hereinafter, ‘UNGPs’), Office of the High Commissioner for Human Rights (OHCHR) HR/PUB/11/04, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf, Principle 1.

⁴ UNGPs, Principle 1.

⁵ UNGPs, Principle 1.

As set out in the official guidance issued by the UNWG, one of the “essential criteria” for NAP processes is that: “NAPs need to be context-specific and address the country’s actual and potential” responsible business risks.⁶ To this end, the UNWG advises that three of the initial steps that States should take towards developing a NAP are to: “Get an understanding of adverse business-related human rights impacts ... Identify gaps in State and business implementation of the UNGPs... [and] Consult stakeholders and identify priority areas”.⁷ The Preliminary Assessment is intended to make an initial contribution towards these steps for the development of Lao PDR’s NAP. The official guidance on NAPs issued by the UNWG advises as one of the “essential criteria” for NAP processes that: “NAPs need to be developed in inclusive and transparent processes. Relevant stakeholders need to be allowed to participate in the development... of the NAP and their views need to be considered. Information needs to be shared transparently at all stages of the process”.⁸ Iterative consultations with relevant experts were undertaken in the development of this Preliminary Assessment (see further, ‘Stakeholder consultations’, below). UNDP established a Technical Advisory Group (TAG) comprising of selected key stakeholders to guide the development of the Preliminary Assessment.

Regional context

As noted by OHCHR: “The South-East Asia region continues to be one of the most economically dynamic regions in the world. The rapid expansion of private sector presence and influence in the region as well as the implication for human rights has led to a debate on the roles and responsibilities of business”.⁹ In South-East Asia, a baseline analysis carried out in 2014 by the ASEAN Intergovernmental Commission on Human Rights (AICHR) referred to the UNGPs as the key internationally recognized framework that should guide developments in the ASEAN region.¹⁰ In other regions, the European Commission endorsed the UNGPs in 2011 and committed to supporting their implementation, calling on all European Union (EU) Member States to develop NAPs.¹¹ The Committee of Ministers of the Council of Europe,¹² the Organization of American States (OAS),¹³ and the African Union (AU) have all declared support for or committed to supporting implementation of the UNGPs.¹⁴

Country context

Guided by the global UNDP Strategic Plan (2022 – 2025) and UNDP Country Programme for Lao PDR (2022 – 2026), the UNDP Country Office (CO) in Lao PDR works closely with the line Ministries, mass organizations, civil society, development partners, and the private sector at both national and sub-national levels in pursuit of the national socio-economic development priorities defined in Lao PDR’s five-year National Socio-Economic Development Plan (NSED) and localized Sustainable Development Goals (SDGs). The UNDP CO’s work is strongly focused on the provision of policy advice and technical support to the Government in the design and

⁶ UNWG, ‘Guidance on National Action Plans on Business and Human Rights’. https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf Page 3.

⁷ UNWG, ‘Guidance on National Action Plans on Business and Human Rights’.

⁸ UNWG, ‘Guidance on National Action Plans on Business and Human Rights’.

⁹ OHCHR, South-East Asia Regional Office, ‘Business and Human Rights’. <https://bangkok.ohchr.org/business-and-human-rights>.

¹⁰ ASEAN Intergovernmental Commission on Human Rights, ‘Baseline Study on the Nexus between Corporate Social Responsibility and Human Rights in ASEAN’, (2014). <https://www.asean-csr-network.org/c/images/ASEANBaselineStudyonCSRandHRFINAL.pdf>.

¹¹ European Commission, ‘Communication on Corporate Social Responsibility’. (Document 52011DC0681), (2011). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52011DC0681>.

¹² Council of Europe, ‘Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights’, (2014).

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c6ee3.

¹³ Organization of American States, ‘Declaration on the Promotion and Protection of Human Rights in Business’, AG/RES. 2840 (XLIV-O/14), (2014). https://www.oas.org/en/sla/dil/docs/AG-RES_2840_XLIV-O-14.pdf.

¹⁴ OHCHR, “UN and AU commit to advance business and human rights agenda in Africa”, Press Release, (18 September 2014). <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15053&LangID=E>.

implementation of national legislation and strategies across four broad Priority Pillars – (1) inclusive growth and reduced inequalities, (2) UXO clearance and risk education, (3) natural resources, climate change, and disaster risk reduction, as well as (4) effective, responsive, and accountable governance.

The UNDP CO's programming on effective, responsive, and accountable governance, inter alia, focuses on the provision of policy advice and technical support to the Government to (1) enhance the rule of law and access to justice, (2) strengthen the role and capacities of the National Assembly and People's Provincial Assemblies, (3) streamline the public administration reform and national initiative on decentralization (Sam Sang Directive), as well as to (4) expand public participation in the national policy- and decision-making.

UNDP Governance Unit, Responsible Business Practice: In the area of the rule of law and access to justice, UNDP CO partners with a number of line Ministries (MoIC, MPI, MoJ, MoLSW, MoNRE, MoEM), Lao National Chamber of Commerce, and Industry (LNCCI) and international Chambers, National University of Lao PDR and Non-Profit Associations (NPAs) to strengthen the understanding and capacity of the Government, private sector, civil society, and other non-profit stakeholders to uphold the international standards for responsible business practice, including the UN Guiding Principles on Business and Human Rights (UNGPs), in Lao PDR, particularly through the implementation of the "Improving Performance, Accountability, Conduct, and Transparency of Business in Lao PDR" (IMPACT Biz) Project, funded by the Government of Japan. The UNDP IMPACT Biz Project is a part of the global UNDP-Japan joint action on "Human Rights Due Diligence in Global Supply Chains: Leveraging the UN Guiding Principles on Business and Human Rights for a Just Recovery", being implemented in 17 target countries in 2022-2023.

In the framework of the IMPACT Biz Project, UNDP CO seeks to achieve the following results: Capacity of the Government of Lao PDR to prevent and address environmental and social impacts caused or contributed by business operations and relationships is enhanced (Output 1); Capacity of businesses to avoid causing or contributing to environmental and social impacts through their business operations and relationships and to address such impacts when they occur is enhanced (Output 2); Capacity of civil society and other non-profit stakeholders to monitor and report on environmental and social impacts caused or contributed by business operations and relationships is enhanced (Output 3). This Preliminary Assessment of the Regulatory Framework and Policy Coherence on Responsible Business Practice in Lao PDR contributes to the delivery of Output 1 of the IMPACT Biz project.

Methodology

The methodology for this Preliminary Assessment is aligned with the guidance on the development of NAPs issued by the UNWG. Additionally, the methodology for the Preliminary Assessment draws upon available international good practice guidance on the development of NAPs and related baseline assessments. Below is the snapshot of the process and methodology for drafting and developing various drafts of the preliminary assessment:

Technical Consultations for First Draft: To ensure technical accuracy, the Technical Advisory Group (TAG) was established consisting of members from: UNDP Lao PDR (Chair), UNDP Global Team, ILO Lao PDR, IOM Lao PDR, UNICEF Lao PDR, ITC Asia-Pacific, OHCHR Asia-Pacific, IFC Lao PDR, USAID Lao PDR, Australia Lao PDR, EU Lao PDR, European Chamber of Commerce and Industry in Lao PDR, Japanese Chamber of Commerce and Industry in Lao PDR, National University of Lao PDR (Faculty of Law and Political Science, and Faculty of Business Administration), as well as national experts. The first consultation was conducted with the members of TAG on 2nd November 2022 to collect comments and feedback on the first outline

of the Preliminary Assessment. Following the group consultation, a series of individual consultations with each TAG member were conducted from 6 – 15 December 2023. After the consultations, the first draft was developed in April.

Stakeholders Consultations: After the first draft was developed consisting of thematic chapters, a series of government stakeholders were initiated to collect comments and feedback to improve the accuracy, reduce sensitivity, and ensure updated information on the local legal framework of the Preliminary Assessment. The ministries reviewing the first draft include: Ministry of Industry and Commerce (MoIC), Prime Minister’s Office (PMO), Ministry of Foreign Affairs (MoFA), Ministry of Justice (MoJ), Ministry of Labour and Social Welfare (MoLSW), Lao Women’s Union (LWU), and Lao Federation of Trade Unions (LFTU), Ministry of Planning and Investment (MPI), Ministry of Natural Resources and Environment (MoNRE), Ministry of Energy and Mines (MEM), and Ministry of Agriculture and Forestry (MAF). Each thematic chapter were shared with relevant government counterpart for review 2 weeks before the consultation events. The stakeholders’ consultations series were conducted for 3 consecutive days: from 19-20-21 April 2023. After the stakeholders’ consultation, the second draft was developed in July.

Final Draft: After the development of the second draft, UNDP began rounds of internal reviews of the draft. The second draft was shared with TAG members via email to provide final reviews and comments on the improved draft. The second draft was also shared with the ministry of Industry and Commerce for the last round of review to obtain comments and feedback.

International commitments

The normative framework for the Preliminary Assessment is provided by the UNGPs. The Preliminary Assessment takes note that the official guidance on NAPs published by the UNWG specifies as one of its “essential criteria” that: “NAPs need to be founded on the UNGPs. As an instrument to implement the UNGPs, NAPs need to adequately reflect a State’s duties under international law to protect against adverse business-related impacts and provide effective access to remedy.”¹⁵ Unanimously endorsed by the UNHRC in 2011, the UNGPs are the authoritative global standard on responsible business practice. The UNGPs have been incorporated into key international frameworks for responsible business practice, such as the ILO Multinational Enterprises Declaration (MNE Declaration),¹⁶ Organization for Economic Cooperation and Development (OECD) Guidelines,¹⁷ the ISO 26000 standard issued by the International Organization for Standardization,¹⁸ the International Finance Corporation (IFC) Sustainability Framework and IFC Performance Standards,¹⁹ the sustainability reporting guidelines issued by the Global Reporting Initiative (GRI),²⁰ and the UN Global Compact (UNGC),²¹ amongst others. The UNGPs are based on three pillars: (1) The duty of States to protect against human rights abuses by business enterprises including through appropriate policies, regulation, and adjudication; (2) the responsibility of all business enterprises to respect

15 UNWG, ‘Guidance on National Action Plans on Business and Human Rights’, Page 3.

16 ILO, ‘Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration)’, 5th Edition, (2017).

https://www.ilo.org/empent/Publications/WCMS_094386/lang-en/index.htm.

17 Organisation for Economic Co-operation and Development, ‘OECD Guidelines for Multinational Enterprises’.

<https://mneguidelines.oecd.org/guidelines>.

18 International Organization for Standardization, ‘ISO 26000 - Social responsibility’. <https://www.iso.org/iso-26000-social-responsibility.html>.

19 International Finance Corporation, ‘Sustainability Framework’, (2012).

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/sustainability+framework.

20 Global Reporting Initiative (GRI). <https://www.globalreporting.org/Pages/default.aspx>.

21 UNGC. <https://www.unglobalcompact.org/>. See further Report of the twenty-ninth session of the UNHRC, (2015) UN Doc A/HRC/29/28.

<https://www.ohchr.org/EN/Issues/Business/Pages/Reports.aspx>.

human rights; and (3) greater access by victims of business-related harm to effective remedy, both judicial and non-judicial.

Research questions

The Preliminary Assessment will seek to answer the following research questions regarding Lao PDR:

- What laws and policies are in place regulating business practices?
- What laws and policies are in place protecting marginalized and vulnerable groups from environmental and social impacts caused by business practices?
- What state-based judicial and non-judicial, and non-state-based, grievance mechanisms are available to provide effective remedy to victims of environmental and social impacts caused by business practice?
- To what extent are existing laws and policies aligned with the UNGPs and relevant international commitments related to responsible business practice?
- What areas should be prioritized for strengthening of existing laws and policies with respect to the UNGPs and relevant international commitments related to responsible business practice?

The methodology for the Preliminary Assessment will be based on the following normative framework, reference documents, inventory of laws, policies, and regulations, stakeholder interviews, and table of contents:

Normative framework

The normative framework for the Preliminary Assessment will be based on the following international instruments:

United Nations Guiding Principles on Business and Human Rights (UNGPs)

The principal normative framework for the preliminary assessment will be provided by the (UNGPs),²² unanimously endorsed by the UN Human Rights Council in its Resolution 17/4 of 16 June 2011.²³ The preliminary assessment will place particular emphasis on the elements of the UNGPs that directly address States as the primary duty bearers under international human rights law, namely: Guiding principles 1 – 10 inclusive setting out the state duty to protect, and guiding principles 25 – 28 on state-based judicial and non-judicial grievance mechanisms for access to remedy. The preliminary assessment will make supplementary reference to the extent appropriate and necessary to the remaining guiding principles pertaining to the corporate responsibility to respect human rights (guiding principles 11 – 24 inclusive) to and operational-level and multi-stakeholder non-state-based grievance mechanisms (guiding principles 28 – 31 inclusive).

²² Ibid, n 1.

²³ United Nations Human Rights Council 'Human rights and transnational corporations and other business enterprises', A/HRC/RES/17/4, 16 June 2011. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/17/4.

International human rights treaties

The normative framework for the preliminary assessment will be informed by relevant international commitments made by Lao PDR. These will include the international human rights conventions and optional protocols thereto ratified by Lao PDR,²⁴ viz.:

Conventions

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography

International labour standards

The normative framework for the preliminary assessment will be further defined by the ILO conventions ratified by Lao PDR and in force,²⁵ i.e.:

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Forced Labour Convention, 1930 (No. 29)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Tripartite Consultation (International Labour Standards) Convention (No. 144)
- Night Work Convention, 1990 (No. 171)
- Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
- White Lead (Painting) Convention, 1921 (No. 13)

²⁴ United Nations Treaty Body Database - Ratification Status for Lao People's Democratic Republic. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=94&Lang=EN

²⁵ International Labour Organization (ILO), NORMLEX – Lao People's Democratic Republic. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:103060

Other international instruments

The normative framework for the preliminary assessment will be further informed by other relevant international instruments ratified by Lao PDR, including:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), supplementing the United Nations Convention against Transnational Organized Crime

Regional instruments

The normative framework for the preliminary assessment will also take into account participation by Lao PDR in the following relevant regional instruments, including:

- ASEAN Human Rights Declaration (2012)
- ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)
- Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region (2004)

Reference documents

The key reference documents for the preliminary assessment will be the following:

UN reference documents

The technical methodology by which the preliminary assessment will be conducted will be principally informed by the 'Guidance on National Action Plans on Business and Human Rights' published in November 2016 by the United Nations Working Group on Business and Human Rights (UNWG).²⁶

The assessment also refers to reports published by UN specialized agencies, funds, and programmes, and relevant reports published by the Office of the United Nations High Commissioner for Human Rights (OHCHR),²⁷ including:

- Concluding observations issued by UN human rights treaty bodies²⁸
- Reports issued by UN special procedures,
- Reports issued during Lao PDR's 3rd cycle Universal Periodic Review (UPR) process²⁹

The methodology for the preliminary assessment will be fully informed by, and aligned to, the institutional and project context of the assignment within UNDP. As such, close reference will be made, amongst others, to the following UNDP reference documents:

26 UNDP, 'Preliminary Assessment of the Regulatory Framework on Responsible Business Practice in Viet Nam', 2.

27 Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Lao People's Democratic Republic'. Available at: <https://www.ohchr.org/en/countries/lao-peoples-democratic-republic>.

28 OHCHR. Available at: https://www.ohchr.org/en/documents-listing?field_content_category_target_id%5B181%5D=181&field_entity_target_id%5B1319%5D=1319&field_geolocation_target_id%5B1040%5D=1040&field_entity_target_id%5B1327%5D=1327&field_entity_target_id%5B1323%5D=1323&field_entity_target_id%5B1324%5D=1324&field_entity_target_id%5B1357%5D=1357&sort_bef_combine=field_published_date_value_DESC.

29 United Nations Human Rights Council, 'Universal Periodic Review - Lao People's Democratic Republic'. Available at: <https://www.ohchr.org/en/hr-bodies/upr/la-index>.

- United Nations Common Country Analysis (CCA) Lao PDR (2021)³⁰
- UN Sustainable Development Cooperation Framework (UNSDCF) Lao PDR (2022 – 2026)³¹
- United Nations Development Programme (UNDP) Country Programme Document (2022 – 2026)³²
- Project Document for the ‘Human Rights Due Diligence in Global Supply Chains: Leveraging the UNGPs for a Just Recovery’ global UNDP-Japan joint action
- Concept Note for the UNDP IMPACT Biz project
- Concept Note for the Preliminary Assessment of the Regulatory Framework and Policy Coherence on Responsible Business Practice in Lao PDR
- UNDP regional Business and Human Rights in Asia website³³
- UNDP, ‘The Law-Making Process in Lao PDR – a baseline study’ (2015)³⁴

The preliminary assessment will be further informed, as strategic and appropriate by examples of other such preliminary assessments recently undertaken with the support of UNDP, such as the ‘Preliminary Assessment of the Regulatory Framework on Responsible Business Practice in Viet Nam’ published in October 2019.³⁵

International Labour Organization (ILO)

The assessment also uses relevant materials³⁶ and reports³⁷ published by the International Labour Organization (ILO) including:

- ILO-NATLEX³⁸ database of national labour, social security, and related human rights legislation
- Lao PDR Decent Work Country Programme (2017–2021)³⁹
- Comments adopted by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)⁴⁰

³⁰ United Nations Common Country Analysis for the UN Sustainable Development Cooperation Framework 2022 - 2026 and the 2030 Agenda - Lao People's Democratic Republic, 12 July 2021 (hereinafter 'CCA'). Available at: <https://laopdr.un.org/en/171737-un-common-country-analysis>.

³¹ Lao PDR – United Nations Sustainable Development Cooperation Framework 2022 – 2026', 2 December 2021. Available at: <https://laopdr.un.org/en/174699-lao-pdr-united-nations-sustainable-development-cooperation-framework-2022-2026>.

³² UNDP, Country Programme Document for Lao PDR (2022 – 2026). Executive Board of the United Nations Development Programme, the United Nations Population Fund, and the United Nations Office for Project Services, second regular session 2021, 30 August to 2 September 2021, New York, Item 5 of the provisional agenda (DP/DCP/LAO/4), 2 July 2021. Available at: <https://www.undp.org/laopdr/publications/country-programme-document-lao-pdr-2022-2026>.

³³ UNDP, 'Business and Human Rights in Asia'. Available at: <https://bizhumanrights.asia-pacific.undp.org>.

³⁴ UNDP, 'The Law-Making Process in Lao PDR: A Baseline Study', 18 December 2015. Available at: <https://www.undp.org/laopdr/publications/law-making-process-baseline-study>

³⁵ UNDP, 'Preliminary Assessment of the Regulatory Framework on Responsible Business Practice in Viet Nam', 19 October 2020. Available at: <https://bizhumanrights.asia-pacific.undp.org/content/bizhumanrights/en/home/knowledge-hub0/preliminary-assessment-of-the-regulatory-framework-on-responsibl.html>.

³⁶ ILO, 'Lao People's Democratic Republic resources'. Available at: <https://www.ilo.org/asia/countries/lao-peoples-democratic-republic/facet/lang-en/index.htm>.

³⁷ ILO, 'Lao People's Democratic Republic'. Available at: https://www.ilo.org/gateway/faces/home/ctryHome?locale=EN&countryCode=LAO®ionId=4&_adf.ctrl-state=4k4imso1b_4.

³⁸ ILO, NATLEX, Lao People's Democratic Republic. Available at: https://www.ilo.org/dyn/natlex/natlex4.countrySubjects?p_lang=en&p_country=LAO.

³⁹ ILO, Decent Work Country Programme for Lao People's Democratic Republic 2017–2021. Available at: https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/program/dwcp/WCMS_575326/lang-en/index.htm.

⁴⁰ ILO, Comments adopted by the CEACR: Lao People's Democratic Republic. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13201:0::NO::P13201_COUNTRY_ID:103060.

- Observations made by employers' and workers' organizations pursuant to the procedure established by Article 23 of the ILO Constitution.⁴¹

Government sources

Reference will also be made to government reports, such as the 'Baseline Survey Report on Corporate Social Responsibility (CSR) Practices in Tourism Sector in Lao PDR' published by the Investment Promotion Department of the Ministry of Planning and Investment in 2021.⁴²

Other sources

The preliminary assessment will make careful reference will be made to non-government, academic, and civil society sources to the extent relevant and appropriate, such as:

- National Action Plans on Business and Human Rights Toolkit published jointly by the Danish Institute for Human Rights and the International Corporate Accountability Roundtable in November 2017.⁴³
- Extractives and National Action Plans (NAPs) on Business and Human Rights, published jointly by the Due Process of Law Foundation and the International Corporate Accountability Roundtable in December 2017.⁴⁴
- Children's Rights in National Action Plans (NAPs) on Business and Human Rights, published jointly by the Danish Institute for Human Rights, the International Corporate Accountability Roundtable, and the United Nations Children's Fund (UNICEF) in 2016.⁴⁵
- Human Rights Defenders in National Action Plans (NAPs) on Business and Human Rights, published jointly by the International Service for Human Rights and the International Corporate Accountability Roundtable in June 2016.⁴⁶
- Further inspiration for the general scope and format of the preliminary assessment will be sought from the set of 20 'Human Rights and Business Country Guides' published by the Danish Institute for Human Rights (DIHR).⁴⁷
- Business and Human Rights Resource Centre⁴⁸

⁴¹ ILO, 'Observations made by employers' and workers' organizations of Lao People's Democratic Republic'. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:14101::NO:14101:P14101_COUNTRY_ID,P14101_ARTICLE_NO:103060,22.

⁴² UNDP and UNEP, 'Baseline Study on CSR Practices in Tourism Sector in Lao PDR', March 2021. Available at:

<https://pea4sdgs.org/knowledge/publications/other-publications/baseline-study-on-csr-practices-in-tourism-sector-in-lao-pdr-march-2021>.

⁴³ Danish Institute for Human Rights (DIHR) and International Corporate Accountability Roundtable (ICAR), 'National Action Plans on business and human rights Toolkit' (2017 edition), 29 November 2017. Available at: <https://www.humanrights.dk/publications/national-action-plans-business-human-rights-toolkit-2017-edition>.

⁴⁴ Due Process Law Foundation (DPLF) and International Corporate Accountability Roundtable (ICAR), 'Extractives and National Action Plans (NAPs) on Business and Human Rights A Thematic Supplement to 'National Action Plans on Business and Human Rights Toolkit: 2017 Edition' December 2017. Available at: <https://globalnaps.org/wp-content/uploads/2018/01/extractives-and-national-action-plans-naps-on-business-and-human-rights.pdf>.

⁴⁵ UNICEF, Danish Institute for Human Rights (DIHR) and International Corporate Accountability Roundtable (ICAR), 'Children's Rights in National Action Plans (NAPs) on Business and Human Rights A thematic supplement to National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks'. Available at: <https://globalnaps.org/wp-content/uploads/2018/01/childrens-rights-in-national-action-plans-naps-on-business-and-human-rights.pdf>

⁴⁶ International Service for Human Rights (ISHR) and International Corporate Accountability Roundtable (ICAR), 'Human Rights Defenders in National Action Plans (NAPs) on Business and Human Rights A Thematic Supplement to 'National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks', June 2016. Available at: <https://globalnaps.org/wp-content/uploads/2018/01/human-rights-defenders-in-national-action-plans-naps-on-business-and-human-rights.pdf>.

⁴⁷ Danish Institute for Human Rights (DIHR), 'Human Rights and Business Country Guides'. Available at: <https://globalnaps.org/human-rights-and-business-country-guides>.

⁴⁸ Business & Human Rights Resource Centre. Available at: <https://www.business-humanrights.org/en>

- Human Rights Foundation, 'Voices Silenced: The Impact of Foreign Investments on Human Rights in Laos' (2021)⁴⁹

Vulnerable groups

The preliminary assessment will provide cross-cutting as well as focused stand-alone analysis of the regulatory framework for responsible business conduct as it pertains to groups or populations that may be particularly marginalized and/or vulnerable to business-related human rights impacts, including:

- Women
- Children, Adolescents and Youth
- Persons with Disabilities
- Ethnic Minorities
- Migrant Workers
- Persons living with HIV/AIDS
- Internally Displaced Persons (IDPs)
- Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ)

Industry sectors

The preliminary assessment provides cross-cutting as well as stand-alone sector-specific analysis of key industries selected on the basis of criteria such as the contribution of the sector to Gross Domestic Product (GDP), Foreign Direct Investment (FDI), exports, and/or employment. Indicatively, this preliminary assessment will include analysis of the following industry sectors:

- Agribusiness
- Construction
- Hydropower
- Extractive
- Tourism

Inventory of laws, decrees, and decisions

The primary source of law is legislation in Lao PDR. There are two types of legislation in Lao PDR: legislation of general application and legislation of specific application. Legislation of general application consists of: Constitution; Law; Resolution of the National Assembly; Resolution of the National Assembly Standing Committee; Presidential Decree; Decree of the Government; Resolution of the Government; Order or Decision of the Prime Minister; Order, Decision or Guideline of the Minister or head of the organization under the supervision of the Government; Order, Decision or Guideline of the Provincial Governor or Mayor; Order, Decision or Instruction of the District Governor or Head of Municipality; Regulation of the village. Legislation of specific application includes Presidential Decree on the promulgation of a law,

⁴⁹ Human Rights Foundation, 'Voices Silenced: The Impact of Foreign Investments on Human Rights in Laos'. Available at: <https://hrf.org/reports/laos-report>.

Presidential Decree or Decision on granting an award or appointing a person for any position or a specific task, and Notification. Jurisprudence is not recognized as a source of law and is not part of the legal system. International treaties and agreements that Lao PDR has ratified also form part of the sources of law.

The inventory of laws, decrees and decisions that have been considered in this preliminary assessment is included as Annex to this report, below.

Assessment and recommendations

The preliminary assessment will analyse the alignment existing Lao PDR laws, regulations, policies, and institutional frameworks with the UNGPs and the country's international and regional commitments. Identification of gaps and opportunities, and drafting of corresponding recommendations to the government to strengthen alignment of the national regulatory framework with respect to the UNGPs and guide potential development of a National Action Plan (NAP) on responsible business conduct will be conducted principally by reference to official United Nations (UN) sources, supplemented by other secondary sources, including the following:

Stakeholder consultations

In addition to desk-based review, the preliminary assessment primary research was based on meaningful stakeholder consultation in the form of one-on-one interviews and a series of roundtables with all the relevant government ministries and members of the TAG group. Twelve stakeholder interviews were conducted to verify and compliment desktop assessment findings. For efficiency and effectiveness, Focus Group Discussions (FGDs) with representatives of selected stakeholder categories such as the private sector and Non-Profit Associations (NPAs) were facilitated to supplement the stakeholder interviews.

Crosscutting recommendations

- Develop adopt and implement a National Action Plan (NAP) on responsible business, following relevant guidance including that issued by the UN Working Group on Business and Human Rights.⁵⁰
- Respond to the invitation for the UN Working Group on Business and Human Rights to conduct an official country visit.
- Establish a National Human Rights Institution (NHRI) compliance with the Paris Principles.
- Extend a standing invitation to the UN special procedures.
- Ensure timely and comprehensive adherence to UN human rights and ILO supervisory mechanism reporting obligations and implementation of recommendations.

⁵⁰ See also the recommendation made the OECD, page 193.

- Become an adhering country to the OECD Declaration and Decisions on International Investment and Multinational Enterprises.⁵¹
- Increase ratification and implementation of international labour standards, supported by improved monitoring and timely reporting to ILO supervisory bodies, as per Output 1.3 of the 2022 – 2026 Decent Work Country Programme (DWCP).

⁵¹ OECD Declaration and Decisions on International Investment and Multinational Enterprises.
<https://www.oecd.org/investment/mne/oecddeclarationanddecisions.htm>

INTERNATIONAL STANDARDS ON RESPONSIBLE BUSINESS PRACTICE

UN Guiding Principles in Business and Human Rights

In 2011, the UN Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs).¹ The UNGPs are the world's most authoritative, normative framework guiding responsible business conduct and addressing abuses in business operations and global supply chains.² The UNGPs constitute a global standard against which the conduct of both States and companies can be assessed. Though new international law obligations are not created by the UNGPs, they do provide a blueprint for action, defining parameters within which States and businesses should develop policies, rules and processes based on their respective roles and circumstances.

Comprising 31 principles, the UNGPs are organized under three pillars: 1) Protect, 2) Respect, and 3) Remedy. The three pillars define the duties of States and businesses to protect human rights. States and businesses have distinct but complementary responsibilities under the UNGPs. The UNGPs principles apply to all States, and all businesses regardless of their size, sector, location, ownership, and structure. Each pillar provides a set of actionable steps to ensure the protection of human rights within the context of business operations.

Pillar 1, the State's duty to protect, specifies the state's duty to protect human rights in the context of business operations.³ This requires States to set clear expectations for companies by enacting effective policies, legislation, and regulations. In doing so, States establish that appropriate steps are in place to prevent, investigate, punish, and redress adverse human rights impacts. Pillar 2, the corporate responsibility to respect, outlines how businesses can identify their negative human rights impact and demonstrate that they have adequate policies and procedures to address them.⁴ Businesses should institute a policy commitment to meet this responsibility; they should also undertake ongoing human rights due diligence to identify, prevent and mitigate human rights abuses. Finally, businesses should enable remediation mechanisms for the negative impacts they have caused or contributed to. Pillar 3, access to remedy, stipulates that when a right is violated, victims must have access to effective remedies which are legitimate, accessible, predictable, equitable, transparent and rights compatible.⁵ Pillar 3 sets out criteria for effectiveness of judicial and non-judicial grievance mechanisms implemented by both States and businesses. Further, Pillar 3 underlines the expectation that operational-level mechanisms should be based on genuine engagement and dialogue with the stakeholder groups whose rights they seek to remedy.

There are several benefits for States to implement the UNGPs. They include consolidated efforts to prevent and mitigate human rights abuses in business operations, greater awareness of laws and regulations (or gaps in such) to promote, protect and safeguard human rights, fostering relationships and creating integrated cooperation networks with all sectors, and boosting trust among investors and trading partners, thereby stimulating the economy. There

¹ UNGPs, United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (hereinafter, 'UNGPs'), Office of the High Commissioner for Human Rights (OHCHR) HR/PUB/11/04, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf.

² This heading's text is based on the UNDP summary of the UN Guiding Principles on business and human rights <https://www.undp.org/india/publications/united-nations-guiding-principles-business-and-human-rights>.

³ UNGPs, Pillar 1, Principles 1 to 10.

⁴ UNGPs, Pillar 2, Principles 11 to 24.

⁵ UNGPs, Pillar 3, Principles 25 to 31.

are also benefits for business, such as protecting and promoting a brand's reputation and values, maintaining current and expand potential customer base, fostering a good relationship between the company and surrounding communities, decreasing the risk of lawsuits, attracting domestic and international investors, reducing the risks of internal and external disruptions affecting the organisation, and promoting the company's ethics and values.

In 2011, the Human Rights Council also established a Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on Business and Human Rights).⁶ The Working Group has a mandate promote, disseminate, and implement the UNGPs. The group is also mandated to exchange and promote good practices and lessons learned on the implementation of the UNGPs, and to assess and make recommendations thereon. The Working Group is composed of five independent experts of balanced geographical representation.

National Action Plan on Business and Human Rights

The Working Group encourages all States to develop, enact and update periodically a National Action Plan (NAP) on business and human rights.⁷ Such plans are part of the responsibility of States to disseminate and implement the UNGPs. In Southeast Asia region, Thailand has already launched a National Action Plan.⁸

The Working Group has produced a Guidance on National Action Plans, which provides recommendations on the development, implementation, and update of NAPs.⁹ A NAP is defined as an “evolving policy strategy developed by a State to protect against adverse human rights impacts by business enterprises in conformity with the UNGPs.”¹⁰ NAPs may be stand-alone documents or integrated with other relevant frameworks. The Working Group considers four essential criteria to be indispensable for effective NAPs. First, NAPs need to be founded on the UNGPs. As an instrument to implement the UNGPs, NAPs need to adequately reflect a State's duties under international human rights law to protect against adverse business-related human rights impacts and provide effective access to remedy. A NAP further needs to promote business respect for human rights including through due diligence processes and corporate measures to allow for access to remedy. Moreover, NAPs must be underpinned by the core human rights principles of non-discrimination and equality. Second, NAPs need to be context-specific and address the country's actual and potential business-related human rights abuse. These include adverse impacts occurring within the country's territory and/or jurisdiction as well as the adverse impacts of companies' activities outside of the State's jurisdiction. Governments should define focused and realistic measures which deliver the most impact possible on preventing and remedying these human rights harms. Third, NAPs need to be developed in inclusive and transparent processes. Relevant stakeholders need to be allowed to participate in the development, and update, of the NAP and their views need to be considered. Information needs to be shared transparently at all stages of the process. Fourth,

6 UN Human Rights Council, Resolution 17/4, 2011. The Council renewed the Working Group's mandate in 2014 (resolution 26/22), 2017 (resolution 35/7) and 2020 (resolution 44/15).

7 UN Working Group on business and human rights, National action plans on business and human rights <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights> .

8 First National Action Plan on Business and Human Rights, 2019

<https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/NAPThailandEN.pdf>

9 UN Working Group on business and human rights, Guidance on National Action Plans on business and human rights, 2016 https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf.

10 UN Working Group on business and human rights, Guidance on National Action Plans on business and human rights, 2016 https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf, page i.

NAP processes need to regularly be reviewed and updated. They must respond to changing contexts and strive for cumulative progress.¹¹

UN Draft Treaty on Business and Human Rights

In 2014, the Human Rights Council adopted resolution 26/9 by which it decided “to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.”¹² The open-ended intergovernmental working group has had eight sessions so far.¹³

The treaty and the treaty can be mutually reinforcing and complementary. In both letter and spirit, the UNGPs call for legal developments at the international, regional, and national levels that can effectively protect against business related human rights abuses. Likewise, the treaty process represents an opportunity to increase business respect for human rights, paving the way for more principled, responsible, and accountable business operations.¹⁴

Other standards

ILO Tripartite Declaration

In 1997, the ILO adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.¹⁵ The Declaration sets out principles on employment, training, working conditions and industrial relations that governments, employers’ and workers’ organizations, and multinational enterprises are recommended to observe. The Tripartite Declaration is a voluntary and non-binding instrument.

UN Committee on the Rights of the Child General Comment 16

In 2013, the Committee on the Rights of the Child adopted General Comment 16 on state obligations regarding the impact of the business sector on children’s rights.¹⁶ General Comment 16 is addressed to all states that have ratified the Convention on the Rights of the Child (CRC), and its optional protocols – therefore including Lao PDR - and broadly covers all national and transnational business enterprises, irrespective of their size, sector, location (where they are based and where they operate), ownership (whether they are state-owned or privately owned) and structure. The main thrust of General Comment 16 is that states have a legal obligation to ensure that private sector enterprises respect the rights of the child; that they do not hinder efforts to realize and advance children’s rights, whether directly or indirectly, intentionally, or inadvertently; and that they engage positively in the realization of those rights.

11 UN Working Group on business and human rights, Guidance on National Action Plans on business and human rights, 2016 https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf, page i. The Global National Action Plans on Business and Human Rights website has a resource page that includes a “National Action Plans on Business and Human Rights Toolkit” developed by the International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights (DIHR) <https://globalnaps.org/resources/>.
12 UN Human Rights Council, resolution 26/9, 26 June 2014, 26th session.

13 Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights <https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc>.

14 OHCHR, BHR Treaty process <https://www.ohchr.org/en/business-and-human-rights/bhr-treaty-process>.

15 ILO Tripartite Declaration on principles concerning multinational enterprises and social policy, adopted by the ILO Governing Body at its 204th Session (November 1977), and revised at the 279th Session (November 2000) http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.

16 Committee on the Rights of the Child, General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights, adopted by the Committee at its sixty-second session (14 January – 1 February 2013) CRC/C/GC/16, Committee on the Rights of the Child, report on its thirty-first session, CRC/C/121, annex II.

General Comment 16 says that states have obligations, arising from the CRC and the two Optional Protocols, regarding the impact of business activities and operations on children's rights. The General Comment provides states with guidance on how to ensure that business operations do not adversely impact on children's rights and ensure access to effective remedy and reparations. Because Lao PDR is party of the CRC, this General Comment provide guidance on how the Lao PDR government should put in place adequate legal and institutional frameworks to respect, protect and fulfil children's rights, and to provide remedies.

OECD Guidelines for Multinational Enterprises

In 1976, the Organization for Economic Cooperation and Development (OECD) adopted the Guidelines for Multinational Enterprises.¹⁷ The Guidelines were revised on several occasions. The 2011 revised version establishes a general obligation for multinational enterprises to respect the human rights of those affected by their activities, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate, and domestic laws and regulations. The new update in 2023 reflects a decade of experience since their last review in 2011 and responds to urgent social, environmental, and technological priorities facing societies and businesses.¹⁸ The 34 member countries of the OECD and an additional eight countries adhere to the Guidelines.¹⁹ Companies present in all adhering countries are covered by the Guidelines wherever they operate. This includes their operations in countries that do not adhere to the Guidelines, so for example in Lao PDR. The extraterritorial scope of the Guidelines makes them a potentially important instrument in Lao PDR. The Guidelines, however, are only recommendations to companies by adhering countries; they are a voluntary instrument and are not binding. They are intended to act only as a benchmark for multinational enterprises, and have a recognised mediation role, but compliance is not mandatory. Part I of the Guidelines has eleven chapters covering disclosure, human rights, employment and industrial relations, environment, and combating bribery. Part II establishes the procedures for implementation, mechanisms for the resolution of issues such as the National Contact Points.

Under the OECD Guidelines, each adhering country has the obligation to establish a National Contact Point (NCP) to ensure the promotion of the Guidelines at the national level, resolve implementation issues through specific instances procedure, and assist civil society in the interpretation of the guidelines. The specific instances procedure constitutes the most important competency of the NCPs with respect to corporate human rights responsibilities. The procedure allows for concerned parties –trade unions, NGOs, individuals, employers' organisations –to refer a case to the NCP alleging that a company has failed to comply with the Guidelines. The NCP will examine the submission and will either dismiss it, if it is unfounded, or declare the complaint admissible. In the latter case, the NCP will make every effort to ensure that the issues are resolved. If the matter merits more in-depth examination, or where issues arise in relation to countries not adhering to the Guidelines –for example Lao PDR-, the NCP will take steps to further its understanding of the issue. The NCP will consult the parties and will solicit advice from the relevant authorities and representatives from the business

¹⁷ OECD Guidelines for Multinational Enterprises, revised 2011 <https://www.oecd.org/corporate/mne/>.

¹⁸ OECD Guidelines for Multinational Enterprises, 2023 update <http://mneguidelines.oecd.org/targeted-update-of-the-oecd-guidelines-for-multinational-enterprises.htm>.

¹⁹ OECD member countries (Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States), plus eight additional countries: Argentina, Brazil, Egypt, Israel, Latvia, Lithuania, Peru, Romania as well the European Commission.

community, trade unions, and NGOs. With the agreement of the concerned parties, the NCP will facilitate entry into non-adversarial and consensus-based dialogue, such as mediation or conciliation. If the parties reach an agreement, the matter will be considered resolved. If no solution is found, the NCP will issue a public statement and make recommendations to the parties.

EU Corporate Sustainability Due Diligence Directive

In February 2022, the European Commission adopted a proposal for a Directive on Corporate Sustainability Due Diligence.²⁰ In June 2023, the European Parliament voted in favour of the draft Directive. The aim of the Directive is to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies' operations and corporate governance. The new rules will ensure that businesses address adverse impacts of their actions, including in their value chains inside and outside Europe.

The Directive establishes a corporate due diligence duty. The core elements of this duty are identifying, ending, preventing, mitigating, and accounting for negative human rights and environmental impacts in the company's own operations, their subsidiaries, and their value chains. In addition, certain large companies need to have a plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C in line with the Paris Agreement. The Directive also introduces duties for the directors of the EU companies covered. These duties include setting up and overseeing the implementation of the due diligence processes and integrating due diligence into the corporate strategy. The Directive will only apply to certain large (both in terms of employees and turnover) large EU companies and third countries companies operating in the EU. Lao companies as thus not covered by the directive but could be indirectly affected if they are part of a large EU company's global value chain. For Lao PDR as a developing country the directive will have several benefits, including more sustainable investment, improved sustainability-related practices, better protection of human rights and the environment, increased stakeholder awareness on key sustainability issues, increased take-up of international standards, and improved living conditions for people.

²⁰ European Commission, Proposal for a directive on corporate sustainability due diligence, 23 February 2022
https://commission.europa.eu/publications/proposal-directive-corporate-sustainability-due-diligence-and-annex_en

CORPORATE AND INVESTMENT LAWS

Corporate Law

International commitments

The UNGPs set out that States should ensure that “laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights”.¹ This section assesses corporate law in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent corporate law in Lao PDR encourages or impedes responsible business practice. This section examines the regulatory framework for the establishment and operation of business enterprises, and the rights and duties of those involved in business operations, including owners, directors, managers, officers, board members, and shareholders, the regulation of state-owned companies, small and medium enterprises, and the resolution of economic disputes. The analytical framework for this section draws on the ‘Corporate Law Project’ led by the former UN Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises.²

Regulatory framework

The Lao PDR Constitution specifies that: “All types of enterprises are equal before the law... and operate according to the principle of the market economy, competing and cooperating with each other to expand production while regulated by the State in the direction of socialism”.³ The Enterprise Law (2013 amended in 2022) applies to all enterprises established and/or operating in the country,⁴ and regulates the establishment, operation, and management of business enterprises in order, amongst other things, to “promote production, trade and services of all economic sectors” and “contribute to the national development and enhance living conditions for people of all ethnic groups”⁵ The Enterprise Law regulates private enterprises, including limited and public companies, individually-owned enterprises, partnerships, and limited partnerships, as well as State-Owned Enterprises (SOEs), and mixed public-private enterprises.⁶ Under the Enterprise Law, business enterprises have the obligation to “subscribe to the social security system, protect legitimate rights and benefits of workers, protect the environment, provide information, cooperate and contribute to the public security-national defense affairs, while helping society.”⁷ Enterprises are “obliged to conduct only a business that they have been allowed to, follow accounting requirements, performing obligations entrusted to them by the state”.⁸ Companies are required to establish bylaws that cover, amongst others, management and dispute settlement.⁹ The previous version of the

¹ UNGPs, United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (hereinafter, ‘UNGPs’), Office of the High Commissioner for Human Rights (OHCHR) HR/PUB/11/04, 2011.

https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf, Principle 3.

² Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Addendum Human rights and corporate law: trends and observations from a cross-national study conducted by the Special Representative. A/HRC/17/31/Add.2, 23 May 2011. Available via: <https://www.ohchr.org/en/special-procedures/wg-business/special-representative-secretary-general-human-rights-and-transnational-corporations-and-other>. See especially, ‘Appendix III - Research template’.

³ Lao People’s Democratic Republic’s Constitution of 1991 with Amendments through 2003.

https://www.constituteproject.org/constitution/Laos_2003.pdf?lang=en, Art. 13

⁴ Enterprise Law, No. 33/NA (amended 2022), Art. 9.

⁵ Enterprise Law, Art. 1.

⁶ Enterprise Law, Art. 11.

⁷ Enterprise Law, Art. 8.

⁸ Enterprise Law, Art. 8.

⁹ Enterprise Law, Art. 87.

Enterprise Law (2013) provided for a “negative list” (not included in the 2022 amendment) of business activities characterised by “high sensitivity, mainly for national security, public order, traditions and environment” that are subject to inspection by “relevant sectoral agencies” as a precondition for business registration.¹⁰

Director’s duties

Beyond the general requirement for the enterprises that they direct to protect workers’ rights and interests and preserve the environment, there is no specific authorisation or requirement for directors to consider a company’s impact on non-shareholders. Directors of enterprises must act within the scope of their powers and duties as described in the bylaws of the company, under the supervision of the company’s shareholders.¹¹ Director’s duties include, *inter alia*: Managing the business of the company to properly operate as specified in its contract of incorporation, its bylaws, and the resolutions of its shareholders; managing and using the company’s capital in compliance with its purposes; maintaining and keeping all of the company’s documents; and administering the officers and employees of the company.¹² Directors are prohibited from conducting various forms of business that have “competing character” with that of the company.¹³ Directors are liable for violating the scope of business purpose as prescribed in the bylaws or contract of incorporation of the company, violating the company’s bylaws themselves, acting beyond the scope of assigned power and/or duties, and for non-performance of assigned rights and duties.¹⁴ Directors are additionally subject to civil liabilities.¹⁵ Companies are required to take measures against directors that commit misconduct and must stipulate such measures in the company’s bylaws.¹⁶ Companies are liable for the misconduct of their directors.¹⁷

Boards

The board of directors of a limited company is responsible for being the “focal point” of the company, regulating the activities of the directors, and creating plans of the company’s business activities for shareholder approval. A board of directors is required to conduct its activities based on the principles and means prescribed in the company’s bylaws.¹⁸

Owners

The owners of individual enterprises must: “Comply with obligations toward the State” and “Perform other rights and duties” as specified in law.¹⁹ Owners may hire managers, whose duties and liabilities must be specified by contract.²⁰ Managers of ordinary partnerships have the duty to: “Fully perform duties in the interests of the partnership and in good faith”, and to: “Perform right and duties as specified in the bylaws of the ordinary partnership”.²¹

¹⁰ Previous version Enterprise Law (2013), Art. 3(2). Art. 16.

¹¹ Enterprise Law, Art. 124.

¹² Enterprise Law, Art. 127.

¹³ Enterprise Law, Art. 128.

¹⁴ Enterprise Law, Art. 124.

¹⁵ Enterprise Law, Art. 124.

¹⁶ Enterprise Law, Art. 125.

¹⁷ Enterprise Law, Art. 125.

¹⁸ Enterprise Law, Art. 132.

¹⁹ Enterprise Law, Art. 33(4) and Art. 33(5).

²⁰ Enterprise Law, Art. 35.

²¹ Enterprise Law, Art. 48.

Shareholders

Shareholder meetings are the “supreme organ” of limited companies.²² Shareholders have the right to present opinions on the business of the company, participate in its activities, fully protect their interests, receive, and inspect information and documents as specifies in the company’s bylaws, elect, and dismiss directors, and bring lawsuits against directors, officers, and/or employees of the company who cause damage to their interests.²³

Reporting requirements

The UNGPs set out that States should “encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts”.²⁴ The UNGPs further elaborate that this communication can range from of informal engagement with affected stakeholders to formal public reporting,²⁵ and highlight that such requirements to communicate can be particularly appropriate where the nature of business operations or operating contexts pose a significant risk to social and environmental standards.²⁶ Furthermore, the UNGPs outline that financial reporting requirements should clarify that social and environmental impacts in some instances may be “material” or “significant” to the economic performance of the business enterprise.²⁷ The Enterprise Law neither specifically requires nor permits companies to disclose the impacts of their operations on non–shareholders. The previous version (2013) of the Enterprise Law allowed for annual reports to include “Other issues as provided under the bylaws of the limited company”²⁸ but this provision is not included in the 2022 amendment. Shareholders, through shareholder meetings, have the right and duty, amongst others, to approve the “summary report” (taken here to mean annual report) on the business operations, statement of income and expenses and the business plan of a limited company.²⁹

State-Owned Enterprises (SOEs)

The UNGPs set out that: “States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies ... including, where appropriate, by requiring human rights due diligence”.³⁰ The UNGPs further elaborate that: “Where a business enterprise is controlled by the State or where its acts can be attributed otherwise to the State, an abuse of human rights by the business enterprise may entail a violation of the State’s own international law obligations. Moreover, the closer a business enterprise is to the State, or the more it relies on statutory authority or taxpayer support, the stronger the State’s policy rationale becomes for ensuring that the enterprise respects human rights. Where States own or control business enterprises, they have greatest means within their powers to ensure that relevant policies, legislation, and regulations regarding respect for human rights are implemented”.³¹

The Enterprise Law provides for the establishment of SOEs and state companies in business areas of “highly important and necessary for the country that other economic sectors are not allowed to engage with, especially in strategic areas involving national security, or “that enable the State to provide society with better and wider public services which cannot be achieved by

²² Enterprise Law, Art. 139.

²³ Enterprise Law, Art. 152.

²⁴ UNGPs, Principle 3.

²⁵ UNGPs, Principle 3.

²⁶ UNGPs, Principle 3.

²⁷ UNGPs, Principle 3.

²⁸ Previous version Enterprise Law (2013), Art. 162(6).

²⁹ Enterprise Law, Art. 152(6).

³⁰ UNGPs, Principle 4.

³¹ UNGPs, commentary to Principle 4.

other economic sectors”, or that “can be operated with high effectiveness and economic-financial stability, while being able to generate huge accumulation of capital.”³² The Enterprise Law sets out “fundamental principles” on which the operations of SOEs must be conducted, including “strict compliance” with government guidelines and policies, social-economic development plans and prevailing laws and regulations, under the regular supervision of relevant sectoral agencies.³³ SOEs are also required to maintain independent business operations that are based on commercial principles, and must maintain “a good, transparent and modern management system” that is “subject to regular internal and external audits”.³⁴ SOEs must also ensure the “full participation of mass organizations, in view of contributing toward improving efficiency of business operations”.³⁵ Boards of directors of SOEs have the responsibility to “guide and lead the enterprise’s management strategy and plan”,³⁶ with the board president accorded overall responsibility for the SOE’s business operations, including with respect to the State’s assets and capital.³⁷ In particular, the boards of SOEs have the right and duty to study the management strategy and plan of the SOE, evaluate the results of its business operations, and ensure effective use of the State’s assets and capital, amongst others.³⁸

Mixed enterprises

The Enterprise Law provides for the establishment and operation of “mixed enterprises”, being enterprises invested in jointly by the State and by non-state domestic and/or foreign investors.³⁹

Small and Medium Enterprises (SMEs)

The Law on Promotion of Small and Medium Sized Enterprises (SMEs) defines the principles and measures on establishing and operating regarding the promotion of and building competitiveness for SMEs with the aim of creating employment, raising people’s income, and living standards, and contributing to sustainable growth and development.⁴⁰

SMEs are classified into three categories: i) SMEs operating in production of commercial goods; ii) SMEs operating in trade; and iii) SMEs operating in services.⁴¹ The government encourages and promotes the development of SMEs aiming to enhance their competitiveness capability.⁴² The main SMEs promotion activities include: creating an enabling environment; accessing to finance; policy on customs and taxation; creating and developing entrepreneurs; providing services on business development consultation; cooperating between SMEs and large size enterprises and foreign investment enterprises; increasing on productivity; accessing and expanding markets; business clustering; allocating business location; promoting on advanced technology utilization; using and protecting intellectual property; and providing and accessing to information.⁴³

³² Enterprise Law, Arts. 190.

³³ Enterprise Law, Art. 191.

³⁴ Enterprise Law, Art. 191.

³⁵ Enterprise Law, Art. 191.

³⁶ Enterprise Law, Art. 192.

³⁷ Enterprise Law, Art. 192.

³⁸ Enterprise Law, Art. 194.

³⁹ Enterprise Law, Art. 202.

⁴⁰ Law on Promotion of Small and Medium Sized Enterprises (No. 011/NA of 2011), Article 1.

⁴¹ Law on Promotion of Small and Medium Sized Enterprises, Article 9.

⁴² Law on Promotion of Small and Medium Sized Enterprises, Article 5.

⁴³ Law on Promotion of Small and Medium Sized Enterprises, Article 13.

Resolution of economic disputes

The Law on the Resolution of Economic Disputes of 2010 establishes the principles related to the organization, operation, regulation and supervision of the resolution of economic disputes so those “are resolved promptly, peacefully and fairly aiming to promote production, business growth and international integration by creating the favorable environment for both domestic and foreign investors to contribute to the national socio-economic development.”⁴⁴ An economic dispute is defined as a dispute between legal entities, or between a legal entity and an individual, or between individuals whether domestic or foreign that may arise from the breach of a contract, or from a dispute related to production or business operations.⁴⁵ According to the law the basic principles to follow in the resolution of economic disputes are a guarantee of justice and strict compliance with the law, the voluntary agreement of the disputing parties, the equality of the disputing parties, the independence and impartiality of the mediator or arbitrator, the language used, and confidentiality.⁴⁶ Economic disputes can be resolved either by arbitration or by mediation.⁴⁷

Institutional framework

The Ministry of Planning and Investment (MPI) is responsible for business registration in specific sectors, whilst the Enterprise Registration and Management Department of the Ministry of Industry and Commerce (MoIC) is responsible for business registration in other sectors. Under the Enterprise Law, the government has overarching responsibility for “overall supervision and inspection” of enterprises.⁴⁸ Enterprise management and inspection authority consists of industry and commerce sector and authorities in charge of granting business permit.⁴⁹ Specific rights and duties of supervision and inspection agencies include formulating policies and regulations on the supervision, inspection, and development of business operations,⁵⁰ encouraging implementation of such regulations and policies by enterprises, including through technical assistance and support to human resource development, and supervising and inspecting business operations.⁵¹ Local authorities are also charged with supervising and inspecting business activities.⁵²

General prohibitions for individuals and legal entities include operating “banned or illegal businesses” “unregistered businesses”, “obstructing” the establishment and operation of all forms of business” and engaging in other unlawful behaviours.⁵³ In terms of penalties, the Enterprise Law specifies that individuals and legal entities breaching this Law “shall be subject to education, warning, disciplinary and fine measures, while being obliged to compensate any damage incurred or punished by law.”⁵⁴ Supervising authorities have the right and duty to take actions against any violations, including notifying the registrar to cease operations of an enterprise that violates regulations.⁵⁵ Provisions in the previous version of the Enterprise Law (2013) establishing monetary fines for the offence of operating an unregistered business⁵⁶ or a

44 Law on the Resolution of Economic Disputes (No. 06/NA of 2010), Article 1.

45 Law on the Resolution of Economic Disputes, Article 2.

46 Law on the Resolution of Economic Disputes, Article 8.

47 Law on the Resolution of Economic Disputes, Article 15.

48 Enterprise Law, Art. 210.

49 Enterprise Law, Art. 210.

50 Enterprise Law, Art. 211(1).

51 Enterprise Law, Art. 211(5).

52 Enterprise Law, Art. 214.

53 Enterprise Law, Art. 207.

54 Enterprise Law, Art. 219.

55 Enterprise Law, Art. 211.

56 Previous version Enterprise Law (2013), Art. 212.

business “outside of the purposes” of the enterprise⁵⁷ are not included in the 2022 amendment.

The Ministry of Industry and Commerce is also responsible for the management of SEM promotion.⁵⁸

Lao Securities Exchange (LSX)

The Lao Securities Exchange (LSX) is the country’s first and only stock market.⁵⁹ The LSX opened operations in 2010 as a joint venture between the Bank of Lao PDR (BOL) and the Korea Exchange (KRX).⁶⁰ In 2020, total market capitalisation on the LSX equated to 4.43 per cent of GDP,⁶¹ and the daily average trading value in the first quarter of 2022 was LAK 145 million.⁶² The LSX does not have a listing segment for sustainability bonds, does not publish a stand-alone sustainability report, is not covered by any sustainability-related index, and does not include sustainability information in its annual report. The LSX is not part of the Sustainable Stock Exchange (SSE) initiative.⁶³ Nor is the LSX part of the Sustainability Working Group of the World Federation of Exchanges (WFE).⁶⁴

Lao Chamber of Commerce and Industry (LNCCI)

The Enterprise Law provides for the Lao PDR National Chamber of Commerce and Industry (LNCCI) as “a social organization of businesspersons... acting as an interface between State agencies and business units and a representative of employers, business associations and all types of enterprises that are established and conduct their businesses in Lao PDR”.⁶⁵ Under the Enterprise Law, the LNCCI “has the role to provide suggestions to the government regarding business environment; bring round, educate, organize and mobilize businesspersons, in order to encourage them to make contributions to the development of economy, trade, finance and services, and protect legitimate rights and interests of enterprises as they conduct lawful business activities as stipulated in the laws”.⁶⁶ The Enterprise Law specifies that regulations on the organization and operation, rights and duties of the LNCCI will be provided for separately.⁶⁷

Recommendations

- Revise the Enterprise Law to empower and require enterprise directors to consider the impacts of the enterprise on people and the environment, and to require enterprises to include disclosure of the impacts of their operations on non-shareholders, as well as any action taken or intended to address those impacts, following the international good practices identified by the former UN SRSG on business and human rights.⁶⁸
- Develop incentives for enterprises to specify a minimum balance of gender representation, as well as minimum requirements of the representation of

⁵⁷ Previous version Enterprise Law (2013), Art. 213.

⁵⁸ Law on Promotion of Small and Medium Sized Enterprises, Article 36.

⁵⁹ Lao Securities Exchange (LSX), ‘About’. <http://www.lsx.com.la/en/about/ceo.jsp>.

⁶⁰ LSX, ‘History’. <http://www.lsx.com.la/en/about/history.jsp>.

⁶¹ LSX, ‘LSX Market Performance (Q1/2022)’, 9 May 2022. <http://www.lsx.com.la/about/annual/listPosts.do?lang=en>

⁶² LSX, ‘LSX Market Performance (Q1/2022)’, 9 May 2022. <http://www.lsx.com.la/about/annual/listPosts.do?lang=en>

⁶³ Sustainable Stock Exchanges initiative. <https://sseinitiative.org/exchanges-filter-search/>

⁶⁴ World Federation of Exchanges (hereinafter, ‘WFE’), ‘WFE Launches Sustainability Working Group’, 25 March 2014. <https://www.world-exchanges.org/news/articles/wfe-launches-sustainability-working-group>.

⁶⁵ Enterprise Law, Art. 205.

⁶⁶ Enterprise Law, Art. 205.

⁶⁷ Enterprise Law, Art. 205.

⁶⁸ See further, SRSG.

stakeholders such as workers and community members in respect of the Members' Councils of LLCs; Members' Councils of State-Owned Enterprises (SOEs); and the Boards of Management of JSCs.

- Require, preferably through a revision to the Enterprise Law or otherwise through passage of subsidiary regulations, State-Owned Enterprises (SOEs) to publicly disclose ESG information on an annual basis, considering the relevant provisions of the UNGPs, specifically Principles 3, 4, and 21.⁶⁹
- Require the LSX to establish a listing segment for sustainability bonds, and to include sustainability information in its annual report.
- Enrol the LSX in the Sustainable Stock Exchange (SSE) initiative.
- Enrol the LSX in the World Federation of Exchanges (WFE) and its Sustainability Working Group.

Investment Law

International commitments

The UNGPs set out that: “States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.”⁷⁰ The UNGPs note that: “Economic agreements concluded by States, either with other States or with business enterprises – such as bilateral investment treaties...can... affect the domestic policy space of Governments. For example, the terms of international investment agreements may constrain States from fully implementing new human rights legislation or put them at risk of binding international arbitration if they do so. Therefore, States should ensure that they retain adequate policy and regulatory ability to protect human rights under the terms of such agreements.”⁷¹ The UNGPs further highlight the importance of States “supporting and equipping departments and agencies, at both the national and subnational levels, that shape business practices ... including those responsible for... investment... to be informed of and act in a manner compatible” with the Governments’ international obligations on ensuring responsible business practice.⁷² The UNGPs also set out that that States should protect against abuses by business enterprises that are owned or controlled by the State such as export credit agencies and official investment insurance or guarantee agencies, including by requiring due diligence on social and environmental standards.⁷³ Meanwhile, as noted by the UNGPs, performance standards covering social and environmental aspects are required by certain institutions that support overseas investments.⁷⁴ The Performance Standards on Environmental and Social Sustainability of the International Finance Corporation (IFC) are an important example.⁷⁵

The IFC Performance Standards provide guidance to IFC clients on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure

⁶⁹ UNGPs, Principles 3, 4 and 21.

⁷⁰ UNGPs, Principle 9.

⁷¹ UNGPs.

⁷² UNGPs, Principle 8.

⁷³ UNGPs, Principle 4.

⁷⁴ UNGPs, Principle 2.

⁷⁵ International Finance Corporation (IFC), ‘Performance Standards’.

https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards.

obligations of the client in relation to project-level activities. In the case of its direct investments, IFC requires its clients to apply the Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced. Together, the eight Performance Standards establish standards that the client is to meet throughout the life of an investment by IFC on: 1) assessment and management of environmental and social risks and impacts; 2) labour and working conditions; 3) resource efficiency and pollution prevention; 4) community health, safety, and security; 5) land acquisition and involuntary resettlement; 6) biodiversity conservation and sustainable management of living natural resources; 7) indigenous peoples; and 8) cultural heritage.⁷⁶

The World Bank also has Safeguard Policies, a mechanism for addressing environmental and social issues in the bank-financed project design, implementation, and operation.⁷⁷ The policies provide a framework for consultation with communities and for public disclosure. Examples of these requirements include conducting environmental and social impact assessments, consulting with affected communities about potential project impacts, and restoring the livelihoods of displaced people. In 2016, the World Bank adopted a new set of environment and social policies called the Environmental and Social Framework (ESF).⁷⁸ As of 2018, the ESF applies to all new World Bank investment project financing.⁷⁹

This section assesses investment law in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent investment law in Lao PDR encourages or impedes responsible business practice. In particular, this section examines the regulatory framework related to social and environmental obligations of investors, investment incentives, intellectual property rights, and the establishment of special economic zones.

Regulatory framework

Regarding domestic investment, the Constitution specifies that: “The State promotes the investment by all domestic economic sectors in production, businesses, and services to contribute to the industrial transformation and modernisation of, and to develop and strengthen, the national economy”.⁸⁰ As regards foreign investment, the Constitution specifies that: “The State promotes foreign investment in the Lao People’s Democratic Republic, [and] creates favourable conditions for the injection of capital, for the use of technology and for introducing modern types of management into production, businesses and services. The lawful assets and capital of investors in the Lao People’s Democratic Republic shall not be confiscated, seized, or nationalised by the State”.⁸¹ The Constitution further specifies that: “The State protects and promotes all forms of property rights: State, collective, private domestic and foreign investment”.⁸²

Investment in Lao PDR is mainly regulated in the Law on Investment Promotion of 2016.⁸³ The Law on Investment defines principles and measures regarding domestic and foreign investment promotion and administration with the aim “to ensure the rights and benefits of investors, the state, collective and people, enabling the regional and international integration, contributing to the continuous growth of national socio-economic development in line with

76 International Finance Corporation (IFC), ‘Performance Standards’.
https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards.

77 World Bank, Environmental and Social Policies <https://www.worldbank.org/en/projects-operations/environmental-and-social-policies>.

78 World Bank, Environmental and Social Framework <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>.

79 With existing projects continuing to apply the Safeguard Policies, the two systems will run in parallel until 2025.

80 Constitution, Art. 14.

81 Constitution, Art. 15.

82 Constitution, Art. 16.

83 Law on Investment Promotion (2016), Law No. 14/NA.

green direction and sustainability.”⁸⁴ In addition, the Decree on Special Economic Zones (SEZs) defines principles, regulations and measures on the organization and function of the SEZs developed in reference to the Law on Investment, “in order to attract investment through the utilization of special promotion policies aiming to make investment more convenient, swift, accurate and transparent guaranteeing interests for the Government, people, zone developers and investors.”⁸⁵

Social and environmental obligations of investors

The Investment Law provides for several obligations of investors. These include the promotion of local employment, especially of women and ethnic people,⁸⁶ social obligations - such as the facilitation of organization and activities of mass organizations in their enterprises, especially trade union, and compensation of those who have been affected by their business operations⁸⁷ – and environmental obligations in accordance with international treaties and agreements to which Lao PDR is a party.⁸⁸

Investment incentives

From a business responsibility point of view, it is important that among the principles of investment promotion are listed “improv[ing] living conditions of people” and “protect[ing] natural resources effectively in green direction and sustainably”, and that in addition to the legitimate rights and interests of the state and investors also the rights of people are protected.⁸⁹ A challenge is for those protected rights not to conflict with the investment incentives that the law provides for, including tax, duty and land-use incentives.⁹⁰ For example, SEZ developers are entitled for the many customs, tax policies including tax exemption.⁹¹

In 2022, the Asian Development Bank (ADB) with the Lao National Chamber of Commerce and Industry (LNCCI) released the second edition of the Provincial Facilitation for Investment and Trade (ProFIT) Index.⁹² The joint report analyses the experiences and perceptions of the business community in complying with regulations at the local government level, focusing on six key areas: i) the ease of starting a business, ii) transparency and access to information, iii) regulatory burden, iv) informal charges, v) consistency in policy implementation, and the vi) business friendliness of the provincial administration. The report recommends that the government take steps to reduce regulatory requirements to encourage companies to register formally, improve transparency, and remove informal charges levied on enterprises.

Women participation

The ProFIT index also includes a gender analysis that shed light on women's participation in economic activities and the constraints that women entrepreneurs face in doing business.⁹³ It notes that women entrepreneurs reported that their business registration takes longer and

84 Law on Investment Promotion.

85 Decree on Special Economic Zones (revised 2018) No.188/GOV.

86 Law on Investment Promotion, Art 72.

87 Law on Investment Promotion, Art 73.

88 Law on Investment Promotion, Art 74.

89 Law on Investment Promotion, Art 5.

90 Law on Investment Promotion, Chapter I.

91 Decree on Special Economic Zones, Art. 40.

92 Asian Development Bank and Lao National Chamber of Commerce and Industry, Provincial Facilitation for Investment and Trade Index: Measuring Economic Governance for Business Development in the Lao People's Democratic Republic - Second Edition, 2022

<https://www.adb.org/publications/economic-governance-business-development-lao-pdr>.

93 Asian Development Bank and Lao National Chamber of Commerce and Industry, Provincial Facilitation for Investment and Trade Index: Gender Analysis for Measuring Economic Governance for Business Development in the Lao People's Democratic Republic - Second Edition, 2022

<https://www.adb.org/publications/gender-analysis-economic-governance-lao-pdr>.

costs more. The report urges the government to train staff to overcome hidden gender biases and make it easier for women to create and run businesses.

Intellectual Property (IP) rights

In relation to the protection of Intellectual Property (IP) rights, the Investment Law protects the intellectual property of investors registered under the Law on Intellectual Property Rights, international treaties, and agreements to which the Lao PDR is a party.⁹⁴

Special Economic Zones (SEZs)

The Investment Law defines Special Economic Zones (SEZs) as “zones that have their specific administrative mechanism to create favorable conditions to attract investment which uses high, innovation for production of agricultural products, clean production using less natural resources and energy for sustainable and environmental-friendly development.”⁹⁵ The Decree on Special Economic Zones uses a similar definition.⁹⁶ SEZs are established by Government’s decision and consist of “industrial zones, processing industry for export, development of technology and information, services, trade, tourism.”⁹⁷ Investment within SEZs can be of three types, namely: i) 100% public investment; ii) joint investment between the Government and domestic or international private sector; or iii) 100% private investment.⁹⁸

The conditions for establishing SEZs include the competition of an initial environmental and social impact assessment and ensuring sustainable development and environment protection.⁹⁹ Among the principles of activities of the SEZs the law lists again ensuring sustainable development and environment protection.¹⁰⁰

SEZs developers have several specific rights and obligations.¹⁰¹ The latter include, notably in terms on business responsibility, promoting participation of people living near an SEZ in the development of the zone as well as making contributions to their local area and promoting the use of local workers, particularly female and ethnic workforces.¹⁰² Issues related to land use in SEZs are discussed in Chapter 4 on Environmental and Land Laws.

Institutional framework

Investment Promotion and Supervision Committee (IPSC)

The Investment Promotion and Supervision Committee (IPSC) is a committee established by the Government with a mandate to promote and supervise investment, at two levels: central and provincial.¹⁰³ The investment one-stop service office (OSO) is the permanent office for the IPSC to provide its investment one-stop service to investors.¹⁰⁴

94 Law on Investment Promotion, Art 24.

95 Law on Investment Promotion, Art 57.

96 Decree on Special Economic Zones, Art. 2: “a SEZ refers to a zone with specific administrative mechanism creating favorable conditions to attract investment via the utilization of high-level technology and innovation to help commercializing agricultural products, promoting clean production, saving natural resources and energy for the sustainable and environmentally friendly development.”

97 Law on Investment Promotion, Art 57.

98 Decree on Special Economic Zones, Art. 13.

99 Law on Investment Promotion, Art 59 and Decree on Special Economic Zones, Art. 12.

100 Law on Investment Promotion, Art 59.

101 Decree on Special Economic Zones, Arts. 20 and 21.

102 Decree on Special Economic Zones, Arts. 21(4) and 21(7).

103 Law on Investment Promotion, Art 75.

104 Law on Investment Promotion, Art 80.

The Central IPSC approves any investment in controlled businesses, businesses under specific supervision, concession businesses, and in the development of SEZs.¹⁰⁵ The central IPSC in coordination with relevant local administrations recommends the Government on the decision to establish SEZs.¹⁰⁶ The Government supervises SEZs in a centralized manner nationwide by assigning the Ministry of Planning and Investment (MPI) to be directly responsible and to actively coordinate with other relevant sector authorities and local administration.¹⁰⁷

Special Economic Zone Management Committee

Special Zone Management Committee is an organization under the management of MPI.¹⁰⁸ It has a status equivalent to the provincial department consisting of sections, units, and some number of technical officials. The Zone Management Committee can approve certain activities without the approval of the IPSC.¹⁰⁹ The committee has also some important functions in relation to business responsibility to respect. For example, the Committee together with the Labour and Social Welfare Sector as well as other concerned parties should to develop labour skills to fulfil labour demands of SEZ developers and investors.¹¹⁰ It should also monitor, inspect, and encourage SEZ developers and investors “to protect the environment, society and fine cultural traditions of the country”.¹¹¹

Office for Economic Dispute Resolution

When there is an investment-related dispute, either party thereto shall have the rights to request the Office for Economic Dispute Resolution for resolution of Lao PDR or abroad as agreed by the parties of the dispute.¹¹² Lao PDR recognizes and enforces the award of foreign or international arbitration subject to certification by people’s court of Lao PDR.

Recommendations

- Ensure that further amendments to the Investment Law focus, in addition to the need of attracting foreign investment also on social concerns and provide opportunity for public participation so to ensure the promotion of responsible quality investments.
- Create incentives for responsible investment including by reducing regulatory requirements to encourage companies to register formally, improve transparency, and remove informal charges levied on enterprises, in line with ADB recommendations.
- Improve women’s participation in the economy including by training staff to overcome hidden gender biases and make it easier for women to create and run businesses, in line with ADB recommendations.

¹⁰⁵ Law on Investment Promotion, Art 77.

¹⁰⁶ Law on Investment Promotion, Art 60.

¹⁰⁷ Law on Investment Promotion, Art 63.

¹⁰⁸ Decree on Special Economic Zones, Art. 30.

¹⁰⁹ Decree on Special Economic Zones, Art 25.

¹¹⁰ Decree on Special Economic Zones, Art. 36.

¹¹¹ Decree on Special Economic Zones, Art. 38.

¹¹² Law on Investment Promotion, Art 96.

LABOUR LAWS

The UNGPs specify that the responsibility of business enterprises to respect human rights refers, at a minimum, to the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work,¹ and those expressed in the International Bill of Human Rights.² The Declaration, which was amended in June 2022 to include the right to a safe and healthy working environment,³ affirms the obligations and commitments of ILO Member States regarding:

- Freedom of association and the effective recognition of the right to collective bargaining
- Elimination of all forms of forced or compulsory labour
- Effective abolition of child labour
- Safe and healthy working environment
- Elimination of discrimination in respect of employment and occupation

This chapter provide a preliminary assessment of the regulatory framework and policy coherence in Lao PDR with respect to Freedom of Association and Collective Bargaining (Section 3.1), Forced Labour (Section 3.2), Child Labour (Section 3.3), Occupational Safety and Health (Section 3.4), and Working Conditions (Section 3.5, including with regards to wages, working time, violence and harassment, maternity protection, and social protection, discrimination in respect of employment, and labour disputes and other employment-related grievances.

The UNGPs emphasize that failure to enforce existing labour laws is often a significant gap in State practice when it comes to the duty to protect against human rights abuse involving business enterprises.⁴ The UNGPs emphasize that it is important for States to consider measures that may reasonably correct the situation,⁵ and specifically call upon States to enforce existing labour laws.⁶ The UNGPs entreat States to “periodically to assess the adequacy of such laws and address any gaps”, including to review whether labour laws “provide the necessary coverage in light of evolving circumstances and whether, together with relevant policies, they provide an environment conducive to business respect for human rights”.⁷ The UNGPs advise States to aim at horizontal policy coherence by “supporting and equipping departments and agencies, at both the national and subnational levels, that shape business practices – including those responsible for ... labour – to be informed of and act in a manner compatible with the Governments’ human rights obligations”.⁸

Sustainable Development Goal 8 (SDG 8) calls for the promotion of “decent work for all”,⁹ and sets out targets covering decent work for all women and men (including for young people and

¹ ILO Declaration on Fundamental Principles and Rights at Work, as amended in 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf.

² United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (hereinafter, ‘UNGPs’), Office of the High Commissioner for Human Rights (OHCHR) HR/PUB/11/04, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf. Principle 12.

³ ILO, 110th International Labour Conference adds safety and health to Fundamental Principles and Rights at Work. 10 June 2022. https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_848132/lang-en/index.htm.

⁴ UNGPs, Principle 3.

⁵ UNGPs, Principle 3.

⁶ UNGPs, Principle 3.

⁷ UNGPs, Principle 3.

⁸ UNGPs, Principle 8.

⁹ United Nations, Department of Economic and Social Affairs – Sustainable Development. <https://sdgs.un.org/goals/goal8>.

persons with disabilities), job creation and full and productive employment (including youth employment, education, and training), entrepreneurship, formalization, equal pay for work of equal value, safe and secure working environments (including for migrant workers, in particular women migrants, and those in precarious employment), and the eradication of forced labour, child labour, modern slavery, and human trafficking.¹⁰ The World Bank's International Finance Corporation (IFC) has also set up labour and working conditions standards requiring that companies treat their workers fairly, provide safe and healthy working conditions, do not use child or forced labour, and identify risks in their supply chain.¹¹

Freedom of Association and Collective Bargaining

Freedom of association and the effective recognition of the right to collective bargaining are fundamental principles and rights at work, as recognized in the ILO Declaration on Fundamental Principles and Rights at Work.¹² The principle of freedom of association is proclaimed in the UDHR,¹³ lies at the core of the ILO's values, and is enshrined in the ILO Constitution.¹⁴ Freedom of association, in turn, is the prerequisite for sound collective bargaining and social dialogue.¹⁵ Collective bargaining is considered to be an “enabling right” that provides a means by which other conditions of work can be negotiated between trade unions and employers.¹⁶ As an instrument of good governance, sound industrial relations fosters cooperation and economic performance, helping to create an enabling environment for the realisation of improved conditions of work at enterprise, sectoral, and national levels.¹⁷ As such, the ILO identifies freedom of association and collective bargaining as indispensable to ensuring the long-term economic and social sustainability of development.¹⁸

International commitments

The UDHR states that: “Everyone has the right to form and to join trade unions for the protection of [their] interests”;¹⁹ “Everyone has the right to freedom of peaceful assembly and association”,²⁰ and that: “No one may be compelled to belong to an association”.²¹ The ICESCR,²² ratified by Lao PDR,²³ requires States Parties to ensure the right to freely form and join trade unions; the right of trade unions to function freely; the right to strike; the right of trade unions to establish national federations or confederations; and the right of such federations or confederations to form or join international trade union organizations. The ICCPR,²⁴ ratified by Lao PDR,²⁵ sets out the right to freedom of association, including the right to form and join trade unions,²⁶ and specifies that: “No restrictions may be placed on the exercise of this right other

10 United Nations, Department of Economic and Social Affairs – Sustainable Development. <https://sdgs.un.org/goals/goal8>.

11 IFC, Labour and Working Conditions Performance Standard 2

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps2.

12 ILO.

13 UDHR, Art. 20(1).

14 ILO Constitution. https://www.ilo.org/dyn/normlex/en/f?p=1000:62:::NO:62:P62_LIST_ENTRIE_ID:2453907:NO.

15 ILO, International Labour Standards on Freedom of association. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/freedom-of-association/lang-en/index.htm>.

16 ILO, ‘Collective Bargaining: A Policy Guide’, (2015). https://www.ilo.org/travail/info/instructionmaterials/WCMS_425004/lang-en/index.htm. Page 2.

17 ILO, ‘Decent Work for Sustainable Development’ (2017). <https://sustainabledevelopment.un.org/content/documents/14618ILO.pdf>.

18 ILO.

19 Universal Declaration of Human Rights, proclaimed by the UN General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) (hereinafter ‘UDHR’). <https://www.un.org/en/universal-declaration-human-rights>. Art. 23(4).

20 UDHR, Art. 20(1).

21 UDHR, Art. 20(2).

22 International Covenant on Economic, Social and Cultural Rights (hereinafter, ‘ICESCR’). Adopted 16 December 1966 by General Assembly resolution 2200A (XXI). <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>. Art. 8.

23 OHCHR.

24 OHCHR.

25 OHCHR.

26 International Covenant on Civil and Political Rights (hereinafter, ‘ICCPR’). Adopted 16 December 1966 by General Assembly resolution 2200A (XXI). <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. Art. 22(1).

than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”.²⁷ ILO Member States are obligated to respect, promote and realize “freedom of association and the effective recognition of the right to collective bargaining”.²⁸ SDG Target 8.8 calls upon States to, *inter alia*, “Protect labour rights... for all workers”,²⁹ and SDG Indicator 8.8.2 is the: “Level of national compliance with la

bour rights (freedom of association and collective bargaining) based on ILO textual sources and national legislation, by sex and migrant status”.³⁰ The UNGPs emphasize “the role of legitimate trade unions in addressing labour-related disputes”.³¹ The two fundamental ILO conventions on this subject are the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87),³² and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).³³ Lao PDR has ratified neither of these two conventions.³⁴

Regulatory framework

Freedom of association

The Constitution guarantees the right of Lao citizens to freedom of assembly, and the “right to set up associations”, but also states that: “Lao citizens have the obligation ... to observe labour discipline”.³⁵ The Labour Law (2013) provides for the establishment of trade unions as: “Agencies representing employees... with the role of participating in the protection of the rights and benefits of employees that work within a labour unit”.³⁶ Under the Labour Law, trade unions have the right and responsibility to: “Educate, mobilize and encourage employees to comply with laws, employment contracts, the social insurance system, the labour unit production plan and other obligations in relation to labour ... Contribute to the creation and revision of laws in relation to labour ... Participate in the creation of labour contracts and collective bargaining ... Participate in labour dispute resolution in accordance with and under its responsibility... [and] Encourage employees to become members of its organization or to establish a grassroots trade union unit”.³⁷

The Labour Law sets out the requirement for labour units with 10 or more employees to have either a trade union or one or more “employee representatives” appointed by employees.³⁸ Where a trade union is present in the labour unit, its leader is held by the Labour Law to be the

²⁷ ICCPR, Art. 22(2).

²⁸ ILO, Page 1.

²⁹ UN, ‘SDG Indicators: Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development’. UN Doc A/RES/71/313; E/CN.3/2018/2; E/CN.3/2019/2. <https://unstats.un.org/sdgs/indicators/indicators-list>.

³⁰ UN, ‘SDG Indicators: Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development’. UN Doc A/RES/71/313; E/CN.3/2018/2; E/CN.3/2019/2. <https://unstats.un.org/sdgs/indicators/indicators-list>.

³¹ UNGPs, Principle 29.

³² ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087

³³ ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098. See further: Rodgers, G., Lee, E., Swepston, L., Van Daele, J. ‘The International Labour Organization and the Quest for Social Justice 1919-2009’, (2009). Geneva-Ithaca: ILO-Cornell University Press.

https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_104643/lang-en/index.htm. Page 49.

³⁴ ILO, Lao PDR has ratified the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312289:NO. Ratifications: ILO, n 276.

³⁵ Lao People’s Democratic Republic’s Constitution of 1991 with Amendments through 2003.

https://www.constituteproject.org/constitution/Laos_2003.pdf?lang=en. Art. 44 and Art. 47.

³⁶ Labour Law, Art. 164.

³⁷ Labour Law, Art. 165.

³⁸ Labour Law, Art. 166 and Art. 167. Employee representatives have the right and responsibility to: “Build solidarity, and to educate and mobilize employees to be disciplined in their professional work... Promote and protect the legitimate interests of employees... Participate in labour dispute resolution, collective bargaining, the creation of employment contracts and internal regulations of labour units... Recommend improvements to wages, work conditions, and social insurance systems... Recommend the establishment of agencies representing employees or trade unions within labour units... Receive protection in accordance with the law... [and] Implement the rights and duties as stated in the law and regulations. Labour units with more than 50 employees must have two employee representatives, plus one additional representative for every further 100 employees.

unit's employee representative.³⁹ Labour units are required to “facilitate the activities of employer representatives and grass roots trade unions by providing “appropriate” time and space.⁴⁰ The Labour Law specifies that: “Trade unions can be established within labour units that have been operating for at least six months or within other branches of work where employees see fit to establish [them] such, at the central, provincial, municipal or district level”.⁴¹

The Trade Union Law (2017) sets out that: “The State protects the legitimate rights and interest[s] of the workers and employees through the Lao Federation of Trade Unions” (LFTU), and “encourages the [Lao People’s Revolutionary] Party, State, the Lao Front of National Construction, mass organizations, [and] labour units of... [the] public sector, the private sector, [and] foreign investment unit[s] to organize... trade unions; [and] appropriately provide budget, personnel, and facilities to the organization[s]”.⁴² The Trade Union Law defines a trade union legislatively as “a mass organization in the political system of people’s democracy led by the Lao Revolutionary Party, presenting to protect the legitimate rights and interests of the trade union members, workers, and employees”.⁴³ The Trade Union Law “defines the principles, rules [and] measures relating to the organization, activities, management, and inspection of... trade unions in order to enhance the efficiency of the performance upon its roles, rights and duties in order to build a strong collective power [and to] protect legitimate rights and interests of its members, workers, employees, aiming to contribute to the national defence and development”.⁴⁴ The Trade Union Law specifies that trade unions can be established in a labour unit or production group that has more than 30 workers or employees.⁴⁵ The activities of trade unions must “be based on the principles of democratic centralism and unified leadership under the Lao Revolution[ary] Party”.⁴⁶ The definition of “employees” provided in the Trade Union Law includes both informal workers (defined as those who work outside a labour unit) and formal workers, and extends to civil servants, students, “intelligentsias”, farmers, “handicraftsmen”, service providers, and “freelancers”.⁴⁷

The Trade Union Law requires trade unions to “voluntarily” apply for membership of the LFTU,⁴⁸ which the Law establishes as only “organizational system” of trade unions in the country, one that is “established, led, and educated by the Lao People’s Revolution Party”.⁴⁹ The functions of the LFTU set out in the Trade Union are, amongst others, to “propagate, educate, encourage, [and] gather its members, workers, and employees to become politically conscious, aware of their rights, duties, and interests... [and] to have mental morality and discipline in working... [and] To represent to protect the legitimate rights and interests of the trade union members, workers, and employees.⁵⁰ The Trade Union Law requires the LFTU to conduct its activities “under the straight and comprehensive directions of the [Lao People’s Revolutionary] Party committee standing within its organization”, requires “lower levels” of the LFTU to perform their duties “as recommended by the superior levels”, and requires members to “respect” decisions made by the organization.⁵¹ The central federation of the LFTU has the power to cancel or suspend the

³⁹ Labour Law, Art. 166.

⁴⁰ Labour Law, Art. 168.

⁴¹ Labour Law, Art. 164.

⁴² Law on Trade Union (Revised) no. 39/NA, dated 15 November 2017 (Trade Union Law). Art. 1. <http://extwprlegs1.fao.org/docs/pdf/lao208896.pdf>.

Trade Union Law, Art. 4.

⁴³ Trade Union Law, Art. 2.

⁴⁴ Trade Union Law, Art. 1.

⁴⁵ Trade Union Law, Art. 24.

⁴⁶ Trade Union Law, Art. 5.

⁴⁷ Trade Union Law, Art. 3(5) and Art. 3(7).

⁴⁸ Trade Union Law, Art. 5(3).

⁴⁹ Trade Union Law, Art. 8.

⁵⁰ Trade Union Law, Art. 10.

⁵¹ Trade Union Law, Art. 9.

resolutions, guidelines, notices and regulations issued by the trade unions at lower levels, and to dissolve trade unions at lower levels.⁵²

The UN Human Rights Committee has expressed its concern about restrictions on the constitutional right to freedom of association in practice.⁵³ The U.S. Department of State has observed that: “The law does not permit police, civil servants, foreigners, and members of the armed forces to form or join unions... There is no explicit prohibition against antiunion discrimination... There is no explicit requirement for reinstatement of workers fired for union activity... [and] Penalties under law for infringing on workers’ freedom of association... were not commensurate with those for other laws involving civil rights”.⁵⁴ Whilst the Labour Law provides for the right to strike, subject to “law and regulations”,⁵⁵ according to the U.S. Department of State: “Trade unions are prohibited from striking or creating a disturbance... [and] By law workers who join an organization that encourages protests, demonstrations, and other actions that might cause “turmoil or social instability” may face prison time”.⁵⁶

Collective bargaining

The Labour Law provides for collective bargaining, defined legislatively as “consultation and negotiation between employers and employee representatives or trade unions regarding work conditions or recruitment, wages, welfare and other benefits not contrary to the law, based on the principle of equality and mutual benefit”.⁵⁷ The Labour Law recognizes collective labour contracts agreed upon through collective bargaining “for implementation according to the law”, following examination by the Labour Administration Agency, and registration or notarization by the courts.⁵⁸ The U.S. Department of State has observed that: “The law ... does not set out conditions” for collective bargaining.⁵⁹ The Decent Work Country Programme (DWCP 2022 – 2026),⁶⁰ signed in June 2022,⁶¹ includes as an output: “Improved capacities of tripartite constituents at national and provincial levels for social dialogue (including policy engagement and collective bargaining) and provision of membership services”.⁶² According to the ILO, 106 new collective agreements were agreed during 2017 – 2020, covering a total of 13,680 workers, including 9,918 female workers.⁶³ The obligation of the Labour Administration Agency, together with other relevant sectors, to survey and register labour for administration and use various aspects of the Labour Law, extends to “collective employment contracts”.⁶⁴ Under the Trade Union Law, all four tiers of the LFTU have the right and duty to participate in the establishment of collective contracts.⁶⁵

The law does not provide for the right of workers to form and join worker organizations independent of the Lao Federation of Trade Unions (LFTU). The law defines collective bargaining but does not set out conditions, and it requires the examination of all collective bargaining agreements by the Labour Administration Agency. The law provides for the right to

⁵² Trade Union Law, Art. 12(4) and Art. 12(5).

⁵³ Human Rights Committee, Concluding observations on the initial report of the Lao People’s Democratic Republic. CCPR/C/LAO/CO/1, 23 November 2018. <https://www.ohchr.org/en/documents/concluding-observations/ccprclao1-concluding-observations-initial-report-lao-peoples>. Para. 35.

⁵⁴ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, ‘2021 Country Reports on Human Rights Practices: Laos’. <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/laos>. Section 7(a). Page 23.

⁵⁵ Labour Law, Art. 154.

⁵⁶ U.S. Department of State, n 54. Section 7(a). Page 23.

⁵⁷ Labour Law, Art. 169.

⁵⁸ Labour Law, Art. 170.

⁵⁹ U.S. Department of State, n 54. Section 7(a). Page 23.

⁶⁰ ILO, Decent Work Country Programme for the Lao People’s Democratic Republic, 2022 – 2026 (hereinafter, ‘DWCP 2022 - 2026’). Not publicly available online at the time of writing.

⁶¹ ILO, ‘ILO and Lao PDR continue efforts to ensure decent and productive work for all’, 16 June 2022. https://www.ilo.org/asia/media-centre/news/WCMS_848731/lang-en/index.htm.

⁶² ILO DWCP 2022 – 2026, n 60, page iv.

⁶³ ILO DWCP 2022 – 2026, n 60, page 52.

⁶⁴ Labour Law, Art. 142(4).

⁶⁵ Trade Union Law, Art. 12(9), Art. 13(8), Art. 14(7), and Art 15(3).

strike, subject to certain limitations. The law does not permit police, civil servants, foreigners, and members of the armed forces to form or join unions. There is a general prohibition against discrimination against employees for reasons unrelated to performance, although there is no explicit prohibition against antiunion discrimination. There is no explicit requirement for reinstatement of workers fired for union activity.

The law requires a workforce of ten or more workers to elect one or more employee representatives. Where an LFTU-affiliated trade union exists, the head of the union is by default the employee representative. Both representatives and trade union heads may bargain collectively with employers on matters including working conditions, recruitment, wages, welfare, and other benefits. Trade union law allows workers in the informal economy, including workers outside of labour units or who were self-employed, to join LFTU-affiliated unions. It also establishes rights and responsibilities for “labourer representatives,” which the law defines as “an individual or legal entity selected by the workers and laborers in labour units to be a representative to protect their legitimate rights and interest.” The law permits affiliation between unions of separate branches of a company but does not explicitly allow or disallow affiliation at the industry, provincial, or national levels.

Institutional framework

As noted by the ILO: “Formal tripartite social dialogue mechanisms operate with varying degrees of effectiveness at the national and provincial levels... covering areas such as industrial relations, social security, and OSH [Occupational Safety and Health]”.⁶⁶ Amongst others, the National Tripartite Committee, established in September 2021 via Prime Ministerial Decree No. 571, is mandated to provide policy advice to the Government on issues related to decent work.⁶⁷ The ILO observes that while there are no formal institutional bipartite dialogue mechanisms between employers’ and workers’ organizations at either the central (national) or sectoral levels, *ad hoc* issue-based consultations between the LNCCI and LFTU “do sometimes take place”.⁶⁸

The Labour Administration Agency, “together with other relevant sectors”, has the duty to “survey and register labour for administration and use”, including as regards the registration of labour units with trade union [and/or] employee representatives”.⁶⁹ The key social dialogue partners are the Ministry of Labour and Social Welfare (MoLSW), Lao PDR National Chamber of Commerce and Industry (LNCCI), and the Lao Federation of Trade Unions (LFTU), all of which, together with the Ministry of Planning and Investment (MPI), are signatories to the 2022 – 2026 DWCP.⁷⁰ Tripartite social dialogue structures at the sub-national (provincial and project-level) include various technical and project tripartite committees, and 14 provincial tripartite committees.⁷¹

⁶⁶ ILO DWCP 2022 – 2026, n 60. Page 10.

⁶⁷ ILO DWCP 2022 – 2026, n 60. Page 10. As noted by the ILO: “Prior to the establishment of the [National Tripartite] Committee, the main national tripartite body dealing with labour and industrial relations issues was the Technical Committee on Industrial Relations. This was established in 2010, the same year the Lao People’s Democratic Republic ratified Convention No. 144 on tripartite cooperation. The Technical Committee on Industrial Relations has provided key inputs for the revision of minimum wages (from LAK 900,000 to LAK 1,100,000) and reform of the Social Security Law, the PM’s Decree on labour disputes resolution and the PM’s Decree on OSH. The Technical Committee has also provided a platform for discussing COVID-19 impacts and response, as well as issues related to disputes resolution at company levels and the establishment of the new national tripartite committee”.

⁶⁸ ILO DWCP 2022 - 2026, n 60. Page 10.

⁶⁹ Labour Law, Art. 142(4).

⁷⁰ Decent Work Country Programme for the Lao People’s Democratic Republic, 2022 – 2026 (hereinafter, ‘ILO DWCP 2022 - 2026’). Not publicly available online at the time of writing. See further: ILO, ‘ILO and Lao PDR continue efforts to ensure decent and productive work for all’, 16 June 2022. https://www.ilo.org/asia/media-centre/news/WCMS_848731/lang-en/index.htm.

⁷¹ ILO, Decent Work Country Programme for Lao People’s Democratic Republic 2017–2021 (hereinafter, ‘ILO DWCP 2017 – 2021’). https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/program/dwcp/WCMS_575326/lang-en/index.htm. Page 42.

The LFTU is the sole national trade union centre and is directly linked to the Lao People's Revolutionary Party.⁷² The LFTU is recognised in the Constitution as one of the country's key organs to “unite and mobilise all strata of the multi-ethnic people to take part in the tasks of protection and construction of the country; to develop the right of self-determination of the people and protect the legitimate rights and interests of members of their respective organisations”.⁷³ The Trade Union Law sets out the four-tier structure of the LFTU, comprising of its central federation; federations a ministerial (and ministerial-equivalent) agency, provincial and metropolitan-level; federations at district, municipality, city, factory, business group, and educational institution-level; and trade unions at “root level”.⁷⁴ According to the ILO, trade union coverage is 100 per cent in the formal public sector, but only 50 per cent in the formal private sector.⁷⁵ The LFTU has staff and offices at provincial and district levels throughout the country and is affiliated with the World Federation of Trade Unions (WFTU).⁷⁶ The U.S. Department of State has observed that: “The law does not provide for the right of workers to form and join worker organizations independent of the Lao Federation of Trade Unions (LFTU), an organ of the LPRP”.⁷⁷

Recommendations

- Ratify the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in line with the recommendation made by the OECD,⁷⁸ and ensure its effective implementation.
- Ratify the ILO the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in line with the recommendation made by the OECD,⁷⁹ and ensure its effective implementation in line with the ILO Collective Bargaining Recommendation, 1981 (No. 163).⁸⁰
- Give full effect to the constitutional guarantee of freedom of association in practice and revise relevant laws, regulations, and practices with a view to bringing them into compliance with article 22 of the ICCPR, in line with the recommendation made by the UN Human Rights Committee.⁸¹
- Ensure the right to strike in law and practice, as per Article 8(c) of the ICESCR.⁸²
- Conduct a review of the status of social dialogue at national, sectoral, provincial and workplace-level that yields recommendations for prioritization of capacities that require strengthening through support from the ILO and other stakeholders, in line with the relevant target set in the 2022 – 2026 DWCP.⁸³
- Review with the constituents the effectiveness of existing tripartite social dialogue mechanisms in the areas of representation, functioning, monitoring, follow-up

⁷² ILO DWCP 2017 – 2021, n 71. Page 14.

⁷³ Constitution, Art. 7.

⁷⁴ Trade Union Law, Art. 11.

⁷⁵ ILO DWCP, Page 12.

⁷⁶ ILO DWCP 2017 – 2021, Page 14. See further: World Federation of Trade Unions (WFTU). <http://www.wftucentral.org>.

⁷⁷ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, ‘2021 Country Reports on Human Rights Practices: Laos’. <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/laos>. Section 7(a). Page 23.

⁷⁸ OECD, Investment Policy Reviews: Lao PDR. 11 July 2017. OECD Publishing, Paris. ISBN 978-92-64-27605-5. Page 203.

<https://doi.org/10.1787/9789264276055-en>.

⁷⁹ OECD, page 203.

⁸⁰ ILO Collective Bargaining Recommendation, 1981 (No. 163).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312501.

⁸¹ Human Rights Committee, n 53. Para. 26.

⁸² ICESCR, Art 8(c).

⁸³ ILO DWCP, Page 11.

arrangements and support for implementation at the provincial level, as recommended by the ILO in the 2022 – 2026 DWCP.⁸⁴

- Support LNCCI and LFTU to review the implementation and effectiveness of enterprise-level bipartite consultation, collective bargaining, and dispute resolution mechanisms and to identify how these could be improved, in line with the recommendation made by the ILO in the 2022 – 2026 DWCP.⁸⁵
- Undertake initiatives to strengthen relevant capacities of the tripartite constituents, in line with Indicator 1.3.1 of the 2022 – 2026 DWCP, including increased membership of LFTU and expanded MSME membership of LNCCI, and strengthened social partner services.⁸⁶
- Ensure social partner input into new national policies, laws, and strategies, in line with Indicator 1.3.1 of the 2022 – 2026 DWCP.⁸⁷
- Ensure an enabling environment for the negotiation of collective bargaining agreements between employers and workers, and the establishment of worker representation and/or worker committees at workplace level, in support of Indicator 1.3.4 and corresponding target of the 2022 – 2026 DWCP.⁸⁸
- Ensure that trade unions “play a key role in the design and delivery of technical support and training” that is industry-specific on responsible business conduct principles and standards, as recommended by the OECD.⁸⁹

Forced Labour

Forced labour, human trafficking, debt bondage and forced marriage, often included under the umbrella term ‘modern slavery’, are forms of labour exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception and/or abuse of power.⁹⁰ Elimination of all forms of forced or compulsory labour is one of the fundamental principles and rights at work, as recognized in the ILO Declaration on Fundamental Principles and Rights at Work.⁹¹ This section is organised into the following sub-sections: Forced labour (including debt bondage and forced marriage); and Human trafficking.

International commitments

Forced Labour

The UDHR⁹² and ICCPR⁹³ prohibit slavery, servitude, and the slave trade in all their forms. The ICCPR, which Lao PDR has ratified, sets out that: “No one shall be required to perform forced or compulsory labour”.⁹⁴ SDG Target 8.7 calls, *inter alia*, for “immediate and effective measures

84 ILO DWCP, Pages 10 – 11.

85 ILO DWCP, Page 11.

86 ILO DWCP, Page 11.

87 ILO DWCP, Page 11.

88 ILO DWCP, Page 11.

89 OECD, Page 196.

90 ILO, ‘Global Estimates of Modern Slavery: Forced Labour and Forced Marriage’, (2017).

https://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm. See also ILO, ‘Forced labour, modern slavery and human trafficking’. <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>.

91 ILO Declaration on Fundamental Principles and Rights at Work, as amended in 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf.

92 UDHR, Art. 4.

93 ICCPR, Art. 8.

94 ICCPR, Art. 8.

to eradicate forced labour [and] end modern slavery”.⁹⁵ The fundamental ILO Conventions relating to the suppression of forced labour are the Forced Labour Convention, 1930 (No. 29),⁹⁶ and the Abolition of Forced Labour Convention, 1957 (No. 105).⁹⁷ Of these, Lao PDR has ratified only the Forced Labour Convention No. 29,⁹⁸ which prohibits all forms of forced or compulsory labour, defined by the Convention as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.⁹⁹ Convention No. 29 requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying States ensure that the relevant penalties imposed by law are adequate and strictly enforced.¹⁰⁰

As mentioned above, Lao PDR has not ratified the Abolition of Forced Labour Convention (No. 105).¹⁰¹ The up-to-date 2014 Protocol to the Forced Labour Convention (No. 29),¹⁰² also not ratified by Lao PDR,¹⁰³ is an up-to-date legally-binding instrument that aims to advance prevention, protection and compensation measures, as well as to intensify efforts to eliminate all forms of forced labour, including trafficking in persons that supplements Convention No. 29 and complements existing international instruments by providing specific guidance on effective measures to be taken regarding prevention, protection and remedy in order to eliminate all forms of forced labour.¹⁰⁴ Lao PDR has not ratified either the Slavery Convention,¹⁰⁵ the Protocol amending the Slavery Convention,¹⁰⁶ or the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.¹⁰⁷

Debt bondage is defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956),¹⁰⁸ not ratified by Lao PDR,¹⁰⁹ as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined”. The ILO Private Employment Agencies

95 SDG Target 8.7.

96 ILO Forced Labour Convention, 1930 (No. 29). <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang-en/index.htm>.

97 ILO Abolition of Forced Labour Convention, 1957 (No. 105). https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105

98 ILO, ratification of Co29 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312174.

99 ILO, ‘International Labour Standards on Forced labour’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang-en/index.htm>.

100 ILO, Co29.

101 ILO, Co105 https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105.

102 ILO, NORMLEX, ‘P029 - Protocol of 2014 to the Forced Labour Convention, 1930: Countries that have not ratified this Convention’.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11310:0::NO:11310:P11310_INSTRUMENT_ID:3174672:NO.

103 ILO Po29 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029.

104 ILO, ‘What is forced labour, modern slavery and human trafficking’. <https://www.ilo.org/global/topics/forced-labour/definition/lang-en/index.htm>.

105 Slavery Convention, adopted 25 September 1926, entered into force 9 March 1927, in accordance with article 12.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>. Ratifications: United Nations Treaty Collection (UNTC), Chapter XVIII – Penal Matters: Slavery Convention, signed at Geneva on 25 September 1926 and amended by the Protocol’.

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-2&chapter=18&clang=en.

106 Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, adopted 23 October 1953 by General Assembly resolution 794 (VIII): <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-amending-slavery-convention-signed-geneva-25-september>.

Ratifications: United Nations Treaty Collection (UNTC) Chapter XVIII – Penal Matters: Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, New York, 7 December 1953. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-1&chapter=18&clang=en.

107 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted 7 September 1956 by the Conference of Plenipotentiaries convened by Economic and Social Council resolution 608(XXI) of 30 April 1956 and done at Geneva.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/supplementary-convention-abolition-slavery-slave-trade-and>. Ratifications: United Nations Treaty Collection (UNTC), Chapter XVIII – Penal Matters: Supplementary Convention on the Abolition of Slavery, the Slave Trade, and

Institutions and Practices Similar to Slavery, Geneva, 7 September 1956.

https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=en.

108 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, (1956).

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>.

109 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted 7 September 1956 by the Conference of Plenipotentiaries convened by Economic and Social Council resolution 608(XXI) of 30 April 1956 and done at Geneva.

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Institutions and Practices Similar to Slavery, Geneva, 7 September 1956.

https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=en.

Convention (No. 181),¹¹⁰ which Lao PDR has not ratified,¹¹¹ and the ILO's 'General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs' (2019)¹¹² recognize the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment.

The ICCPR¹¹³ (ratified by Lao PDR),¹¹⁴ and the UDHR,¹¹⁵ recognize that marriage shall be entered into only with the "free and full consent of the intending spouses". The CEDAW, which Lao PDR has ratified,¹¹⁶ requires States parties to "ensure, on a basis of equality of men and women... The same right freely to choose a spouse and to enter into marriage only with their free and full consent",¹¹⁷ and specifies that: "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory".¹¹⁸ The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (The Convention on Consent to Marriage), not ratified by Lao PDR,¹¹⁹ sets out that: "No marriage shall be legally entered into without the full and free consent of both parties", and requires States Parties to take legislative action to specify a minimum age for marriage.¹²⁰

Human trafficking

Lao PDR has acceded to the UN Convention against Transnational Organized Crime (2000)¹²¹ and to its accompanying Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) (the 'Palermo Protocol').¹²² The Convention is the main international instrument in the fight against transnational organized crime.¹²³ In ratifying the Convention, Lao PDR has committed to taking a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption and obstruction of justice), the adoption of frameworks for extradition, mutual legal assistance and law enforcement cooperation, and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.¹²⁴ The Palermo Protocol aims to prevent and combat trafficking in persons, to protect and assist the victims of such trafficking with full

¹¹⁰ ILO Private Employment Agencies Convention, 1997, (No. 181).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326. Art. 7(1).

¹¹¹ ILO, C181 https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312326.

¹¹² ILO, 'General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs', (2019).

https://www.ilo.org/global/topics/fair-recruitment/WCMS_536755/lang-en/index.htm.

¹¹³ ICCPR, Art 23(3).

¹¹⁴ OHCHR.

¹¹⁵ UDHR, Art. 16(2).

¹¹⁶ OHCHR.

¹¹⁷ CEDAW, Art. 16(1).

¹¹⁸ CEDAW, Art. 16(2).

¹¹⁹ United Nations Treaty Collection (UNTC) CHAPTER XVI Status of Women: Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, New York, 10 December 1962. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVI-3&chapter=16&clang=en.

¹²⁰ UN, 'Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages', (1963).

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/MinimumAgeForMarriage.aspx>. Art. 1(1) and Art 2.

¹²¹ UN Convention against Transnational Organized Crime and the Protocols Thereto, adopted by the UN General Assembly on 15 November 2000, by resolution 55/25, entered into force on 29 September 2003, in accordance with article 38. <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>. In acceding to the Convention, Lao PDR registered a reservation declaring that to refer a dispute relating to interpretation and application of the Convention to arbitration or the International Court of Justice, the agreement of all parties concerned in the dispute is necessary. Ratifications: United Nations Treaty Collection (UNTC) Chapter XVIII - Penal Matters: United Nations Convention against Transnational Organized Crime, New York, 15 November 2000. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12&chapter=18&clang=en#EndDec.

¹²² UN, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, (2000) (hereinafter, 'Palermo Protocol').

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>. Ratifications: United Nations Treaty Collection (UNTC) Chapter XVIII - Penal Matters: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000. In acceding to the Protocol, Lao PDR registered a reservation declaring that, to refer a dispute relating to interpretation and application of the Protocol to arbitration or the International Court of Justice, the agreement of all parties concerned in the dispute is necessary.

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=en.

¹²³ UN Convention against Transnational Organized Crime.

¹²⁴ UN Convention against Transnational Organized Crime.

respect for their human rights and to promote cooperation among States Parties in order to meet those objectives.¹²⁵ As a party to the Protocol, Lao PDR is bound to criminalize human trafficking, develop anti-trafficking laws in line with the Protocol's legal provisions, provide protection and assistance to victims of human trafficking and ensure that their rights are fully respected.¹²⁶ Lao PDR has acceded to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).¹²⁷ Trafficking of women in any form is prohibited under CEDAW,¹²⁸ which Lao PDR has ratified.¹²⁹ Lao PDR is a signatory to the 'Memorandum of Understanding on cooperation against trafficking in persons in the Greater Mekong Sub-region'.¹³⁰ SDG Target 8.7 calls, *inter alia*, for "immediate and effective measures to eradicate ... human trafficking".¹³¹

Regulatory framework

Forced Labour

The Constitution is silent on forced labour.¹³² The Labour Law prohibits employers from "Using forced labour of any kind, whether directly or indirectly",¹³³ and establishes "No forced labour in any form" as a key principle of labour affairs.¹³⁴ The Labour Law further specifies that: "No matter in what form, the use of forced labour is not authorized".¹³⁵ The Labour Law defines the expression "Using labour by force" to mean "the use of labour where the employee does not voluntarily accept the assigned work or which is inconsistent with the employment contract, any forceful use of the employee or working population for the benefit of an individual or group".¹³⁶ Exceptions to this general rule are established under the Labour Law for national defence and security, emergencies (including fires, natural disasters, and disease epidemics), work resulting from a court decision under the administration of relevant government officials, and "group work" in accordance with the decision of local authorities, organizations, or associations to which the employee is attached or is a member".¹³⁷ The Labour Law further provides that: "Any individual or legal entity that violates this law shall be re-educated, warned, fined, subject to temporary suspension of business, subject to withdrawal of business license or brought to court proceedings based on the nature of the offence, including having to compensate for the civil damage caused, as regulated by the laws and regulations".¹³⁸ However, the Labour Law does not specify the particular penalties for use of forced labour, as noted by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR).¹³⁹ The Penal Code does not provide for any corresponding specific criminal offence(s) relating to forced labour in general, although it does establish the offences of 'Human Trafficking' (see further below), as well as separate offences of 'Human

¹²⁵ Palermo Protocol, Art. 2.

¹²⁶ UNODC, The Protocol, <https://www.unodc.org/unodc/en/human-trafficking/protocol.html>.

¹²⁷ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted 2 December 1949 by General Assembly resolution 317 (IV), entered into force 25 July 1951, in accordance with article 24. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/TrafficInPersons.aspx>. Ratifications: United Nations Treaty Collection (UNTC) Chapter VII 1 Traffic In Persons: Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Lake Success, New York, 21 March 1950. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=VII-11-a&chapter=7&clang=en.

¹²⁸ CEDAW, Art. 6.

¹²⁹ OHCHR, Status of Ratification Interactive Dashboard. <https://indicators.ohchr.org>.

¹³⁰ ILO, 'Memorandum of Understanding on cooperation against trafficking in persons in the Greater Mekong Sub-region' (2004). https://www.ilo.org/asia/info/WCMS_160937/lang-en/index.htm.

¹³¹ SDG Target 8.7.

¹³² Constitution.

¹³³ Labour Law, Art. 141(3).

¹³⁴ Labour Law, Art. 5(7).

¹³⁵ Labour Law, Art. 59.

¹³⁶ Labour Law, Art. 3(23).

¹³⁷ Labour Law, Art. 59.

¹³⁸ Labour Law, Art. 179.

¹³⁹ ILO, Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016). Worst Forms of Child Labour Convention, 1999 (No. 182) - Lao People's Democratic Republic (Ratification: 2005). https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0:NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:3252408,103060.

Trading’, and ‘Forcing to Prostitution’, with penalties of five to ten years of imprisonment accompanied by fines of LAK 20 to 100 million.¹⁴⁰ Under the Labour Law, employers are prohibited from deducting salary or wages from employees “for the purposes of binding the employee to itself”.¹⁴¹

The law prohibits all forms of forced or compulsory labour. The law prohibits private employers from using forced labour, and the penalties for perpetrating forced labour may include fines, suspension from work, revocation of business licenses, and prosecution.

Human trafficking

The Law on Anti-Trafficking in Persons (2015) provides a national legislative definition of trafficking in persons,¹⁴² preventive measures,¹⁴³ prohibition,¹⁴⁴ monitoring and inspection,¹⁴⁵ case management (including reporting, documentation, compensation),¹⁴⁶ protection of victims (identification, rights, rescue, referral, safety, confidentiality),¹⁴⁷ assistance for victims (shelter, legal assistance, medical treatment, education and vocational training, economic support, reintegration),¹⁴⁸ definition of key legislative terms,¹⁴⁹ principles,¹⁵⁰ and international cooperation.¹⁵¹ The Law on Anti-Trafficking in Persons prohibits “individuals, legal entities and other organizations” from “Recruiting, campaigning, transporting or transferring, threatening, forcing, coercing, abusing power or position, offering benefits, deceiving, inciting, guiding, assisting or facilitating others to commit trafficking in persons”.¹⁵² Measures against violators set out in the Law on Anti-Trafficking in Person include “re-educational or disciplinary measures, payment of compensation or punishment, depending on the degree of the violation”.¹⁵³ Specific penalties are set out in the Penal Code (see further, below).

The Penal Code (2017) establishes the offence of ‘Human Trafficking’, setting out a broad definition of the offence, and providing for imprisonment ranging from five to twelve years of imprisonment, and fines of LAK 10 million to 100 million (see ‘Child Labour’ as regards the regulatory framework with respect to trafficking of children).¹⁵⁴ The Penal Code also establishes the separate offence of ‘Human Trade’ (distinct from the offence of ‘Human Trafficking’), with penalties from five to ten years of imprisonment and fines of LAK 30 to 100 million, applicable to both persons ‘trading’ as well as ‘purchasers’, and penalties for attempts to commit such an offence.¹⁵⁵ The Law on Development and Protection of Women prohibits trafficking in women and children, with penalties ranging from 5 to 10 years imprisonment and LAK 10 to 100 million in fines¹⁵⁶ (see further the ‘Child Labour’ sub-section of this chapter as regards the regulatory framework with respect to the prohibition set out in the Labour Law on “Work to repay debts” with respect to debt bondage of persons under the age of 18).¹⁵⁷ The National Action Plan on Anti-Trafficking in Persons (2017 – 2020) sought to protect victims of trafficking and to prevent

¹⁴⁰ Penal Code No. 13/2017, adopted 15 May 2017. https://bic.moe.go.th/images/stories/pdf/Law_of_Laos_11-2562.pdf. Art. 253.

¹⁴¹ Labour Law, Art. 113.

¹⁴² Law on Anti-Trafficking in Persons, No. 73/NA of 17 December 2015. Art. 1. <https://www.ilo.org/dyn/hatlex/docs/ELECTRONIC/103108/132386/F-1601666567/LAO103108%20Eng.pdf>.

¹⁴³ Law on Anti-Trafficking in Persons, Part III. Chapter 1.

¹⁴⁴ Law on Anti-Trafficking in Persons, Art. 30.

¹⁴⁵ Law on Anti-Trafficking in Persons, Art. 29.

¹⁴⁶ Law on Anti-Trafficking in Persons, Part III. Chapter 3.

¹⁴⁷ Law on Anti-Trafficking in Persons, Part III. Chapter 4.

¹⁴⁸ Law on Anti-Trafficking in Persons, Part III. Chapter 5.

¹⁴⁹ Law on Anti-Trafficking in Persons, Art. 4.

¹⁵⁰ Law on Anti-Trafficking in Persons, Art. 6.

¹⁵¹ Law on Anti-Trafficking in Persons, Art. 8 and Part III. Chapter 6.

¹⁵² Law on Anti-Trafficking in Persons, Art. 73.

¹⁵³ Law on Anti-Trafficking in Persons, Art. 85.

¹⁵⁴ Penal Code, Art. 215.

¹⁵⁵ Penal Code, Art. 213.

¹⁵⁶ Penal Code, Art. 215.

¹⁵⁷ Law on Development and Protection of Women, No. 70/PO of 15 November 2004. Art. 49.

<https://www.ilo.org/dyn/travail/docs/1425/Law%20on%20the%20Development%20and%20Protection%20of%20Women%202004.pdf>.

people from becoming victims of trafficking, and which included various awareness-raising measures on anti-trafficking in persons.¹⁵⁸ The ILO CEACR has noted the development of a new National Plan of Action to Prevent and Combat Trafficking in Persons.¹⁵⁹

Institutional framework

Regarding institutional frameworks for the prohibitions on forced labour set out in the Labour Law, the Ministry of Labor and Social Welfare (MLSW) is the body directly responsible for the management of labour administration, including coordination of such management with the labour and social welfare division of each province and city, the labour and social welfare office in each district and municipality, and the Labor Units and Social Welfare at the village-level.¹⁶⁰ The Labour Law sets out a range of rights and duties of the MLSW, including, *inter alia*, the development, dissemination, monitoring, supervision and inspection of implementation of labour laws, regulations, and strategic plans.¹⁶¹

The Law on Anti-Trafficking in Persons specifies agencies responsible for anti-trafficking in persons activities,¹⁶² including the National Committee on Anti-Trafficking in Persons (NCATIP), and provincial-level and capital city Committees on Anti-Trafficking in Persons.¹⁶³ The NCATIP is a non-standing state body responsible for formulating and disseminating policies, strategic plans, programs, plans and projects relating to anti-trafficking in persons, guiding, supervising and monitoring provincial-level and municipal-level Committees on Anti-Trafficking in Persons, guiding and reviewing activities, and maintaining regional and international cooperation in respect of trafficking in persons.¹⁶⁴ The NCATIP is chaired by the Deputy Prime-Minister, and with the Police Department serving as its Secretariat, comprises of senior representatives of the Ministry of Public Security (MPS), Ministry of Labour and Social Welfare (MLSW), Ministry of Foreign Affairs (MFA), Ministry of Justice (MoJ), Prime Minister's Office, Ministry of Public Health, Ministry of Education and Sport, Ministry of Information, Culture and Tourism, Lao Women's Union, Lao Revolutionary Youth Union, and the Lao Federation of Trade Unions (LFTU).¹⁶⁵ The Law on Anti-Trafficking in Persons sets out the specific responsibilities of each of these actors.¹⁶⁶ As noted by the CEDAW, anti-trafficking departments have been established in police departments.¹⁶⁷

Recommendations

- Ratify the ILO Forced Labour Protocol (No. 29), as recommended by the OECD,¹⁶⁸ and ensure its effective implementation in line with the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).¹⁶⁹

¹⁵⁸ ILO, Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021). Worst Forms of Child Labour Convention, 1999 (No. 182) - Lao People's Democratic Republic (Ratification: 2005).

https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4019771,103060.

¹⁵⁹ ILO, n 158.

¹⁶⁰ Labour Law, Art. 155.

¹⁶¹ Labour Law, Art. 156.

¹⁶² Law on Anti-Trafficking in Persons, Part IV Chapter 1.

¹⁶³ Law on Anti-Trafficking in Persons, Arts. 54 – 58.

¹⁶⁴ Law on Anti-Trafficking in Persons, Art. 55 and Art. 57.

¹⁶⁵ Law on Anti-Trafficking in Persons, Art. 56.

¹⁶⁶ Law on Anti-Trafficking in Persons, Part IV, Chapter 2, Arts., 61 – 71, and Part VII Chapter 1.

¹⁶⁷ Committee on the Elimination of Discrimination against Women (hereinafter, 'CEDAW'), Concluding observations on the combined eighth and ninth periodic reports of the Lao People's Democratic Republic, 14 November 2018, CEDAW/C/LAO/CO/8-9. Para. 27. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/378/64/PDF/N1837864.pdf?OpenElement>

¹⁶⁸ OECD, Page 203.

¹⁶⁹ ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3174688.

- Ratify the ILO Abolition of Forced Labour Convention, 1957 (No. 105), as recommended by the OECD,¹⁷⁰ and ensure its effective implementation in line with the ILO Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35).¹⁷¹
- Ratify the ILO Private Employment Agencies Convention, 1997 (No. 181) and ensure its effective implementation in line with the ILO Private Employment Agencies Recommendation, 1997 (No. 188).¹⁷²
- Ratify the Slavery Convention, the Protocol amending the Slavery Convention, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, and ensure their effective implementation.
- Take the necessary measures to ensure that the exaction of forced or compulsory labour is punishable by dissuasive penal sanctions, considering the seriousness of the violation, as requested by the ILO CEACR.
- Prohibit and criminalize the sale of children as a separate crime from child trafficking, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.¹⁷³
- Develop and implement a successor to the 2017 – 2020 National Action Plan on Anti-Trafficking in Persons.
- Increase collaboration with neighbouring countries, including regarding the Association of Southeast Asian Nations (ASEAN) Plan of Action against Trafficking in Persons, Especially Women and Children, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.¹⁷⁴

Child Labour

According to the Lao Social Indicator Survey II 2017 (LSIS II), carried out by the Lao Statistics Bureau (LSB), more than 40 per cent of children aged 5 – 14 years in Lao PDR are engaged in child labour, with almost 28 per cent of children aged 5 – 17 years working under hazardous conditions.¹⁷⁵ Under international law, as defined by the ILO, ‘child labour’ is work that is mentally, physically, socially or morally dangerous or harmful to children and/or that interferes with their education by depriving them of the opportunity to attend school, obliging them to leave school prematurely and/or requiring them to attempt to combine school attendance with excessively long and heavy work.¹⁷⁶ The ‘worst forms of child labour’ include work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (otherwise known as ‘hazardous child labour’); all forms of slavery or practices similar to slavery involving children, such as the sale and trafficking of children, debt bondage, serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for

¹⁷⁰ OECD, Page 203.

¹⁷¹ ILO Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312373:NO.

¹⁷² ILO Private Employment Agencies Recommendation, 1997 (No. 188).

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R188:NO#:text=\(1\)%20Private%20employment%20agencies%20should,list%20of%20potential%20job%20candidates](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R188:NO#:text=(1)%20Private%20employment%20agencies%20should,list%20of%20potential%20job%20candidates).

¹⁷³ OHCHR, Footnote 102.

¹⁷⁴ OHCHR, Footnote 10.

¹⁷⁵ UNICEF, Lao Social Indicator Survey (LSIS) 2017, as cited in ILO CEACR, n 204. <https://www.unicef.org/laos/reports/lao-social-indicator-survey-lsis-2017>.

¹⁷⁶ ILO, ‘What is child labour’. <https://www.ilo.org/ipec/facts/lang-en/index.htm>.

prostitution, for the production of pornography or for pornographic performances; and the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.¹⁷⁷

International commitments

As a State party to the Convention on the Rights of the Child (CRC),¹⁷⁸ Lao PDR has an international obligation to protect children from “economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”.¹⁷⁹ As a State party to both the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), Lao PDR has committed to “ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young person”,¹⁸⁰ and to “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency”.¹⁸¹ Lao PDR has specified 14 as the minimum age for admission to employment pursuant to its ratification of the ILO Minimum Age Convention (No. 138).¹⁸²

SDG Target 8.7 calls, *inter alia*, for “immediate and effective measures to ... secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms”.¹⁸³ The corresponding SDG Indicator 8.7.1 is the “Proportion and number of children aged 5 – 17 years engaged in child labour, by sex and age”.¹⁸⁴ The Durban Call to Action adopted by the 5th Global Conference on Child Labour in May 2022 sets out commitments to end child labour across six main areas.¹⁸⁵ The UNGPs set out that guidance issued by States to business enterprises on respecting human rights should, *inter alia*, “indicate expected outcomes and help share best practices ... advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by ... children”.¹⁸⁶

Regulatory framework

The Constitution sets out that: “The State, society and families attend to ... protecting the legitimate rights and benefits of ... children”.¹⁸⁷ The Constitution further sets out that “Lao citizens have the right to receive education and upgrade themselves”.¹⁸⁸ Further, pursuant to the Constitution: “The State attends to developing education and implements compulsory

¹⁷⁷ ILO C182 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C182.

¹⁷⁸ OHCHR.

¹⁷⁹ Convention on the Rights of the Child, adopted 20 November 1989, by General Assembly resolution 44/25, entered into force 2 September 1990, in accordance with article 49, Art. 32. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹⁸⁰ ILO Minimum Age Convention, 1973 (No. 138). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C138. Art. 1.

¹⁸¹ ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C182, Art. 1.

¹⁸² ILO C138 https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0:0::P12100_ilo_code:C138.

¹⁸³ SDG Target 8.7.

¹⁸⁴ SDG Indicator 8.7.1.

¹⁸⁵ LO, 5th Global Conference on the Elimination of Child Labour: Global Child Labour Conference agrees Durban Call to Action to end child labour, press release, 20 May 2022. https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_845804/lang-en/index.htm. The six main areas identified in the Durban Call to Action are: “Make decent work a reality for adults and youth above the minimum age for work by accelerating multi-stakeholder efforts to eliminate child labour, with priority given to the worst forms of child labour; End child labour in agriculture; Strengthen the prevention and elimination of child labour, including its worst forms, forced labour, modern slavery and trafficking in persons, and the protection of survivors through data-driven and survivor-informed policy and programmatic responses; Realize children’s right to education and ensuring universal access to free, compulsory, quality, equitable and inclusive education and training; Achieving universal access to social protection; and increasing financing and international cooperation for the elimination of child labour and forced labour”.

¹⁸⁶ UNGPs, Commentary to Principle 3.

¹⁸⁷ Constitution, Art. 29.

¹⁸⁸ Constitution, Art. 38.

primary education to build good citizens with revolutionary competence, knowledge, and abilities. The State and society attend to developing high quality national education, to create opportunities and [favourable] conditions in education for all people throughout the country, especially people in remote areas, ethnic groups, women, and disadvantaged children. The State promotes private sector investment in the development of national education in accordance with the laws”.¹⁸⁹

The Labour Law (2013) defines the “workforce” as “persons aged fourteen years to sixty years who are able to work”,¹⁹⁰ and defines “child labour” as “youth labour unauthorized to work in dangerous jobs or sectors, working overtime, or undertaking hard labour, including children under the age of twelve years undertaking economic work”.¹⁹¹ The Labour Law defines “youth labour” as “employees aged between twelve and under eighteen years”,¹⁹² and defines “light work for youth” to mean “work that is not dangerous to health, both physically and mentally, and which does not affect the development of the body, mind or psychology, or the studies of the youth employee”.¹⁹³

The Labour Law permits employment of persons over the age of 14 and prohibits overtime for persons aged 14 to 18.¹⁹⁴ The law prohibits the worst forms of child labour. The law allows children from ages 14 to 18 to work a maximum of eight hours per day, provided such work is not dangerous or difficult. Children 12 to 14 may perform light work that does not affect their health or school attendance. The law applies only to work undertaken in a formal labour relationship, not to self-employment or informal work.

Employers are required under the Labour Law to keep records on youth employees including their full name, age, date of birth, date of commencement of work and position, and to supply such records to labour inspection officials and other relevant parties.¹⁹⁵ The Labour Law also permits employment of persons aged 12 and above in “light work” such as “Work that will not negatively impact the body, psychology or mind” and “Work that will not obstruct attendance of school, professional guidance or vocational training”.¹⁹⁶ The Labour Law provides for the separate specification of a “list of light work”.¹⁹⁷ The Committee on the Rights of the Child indicates that such as a list of light work has not yet been promulgated.¹⁹⁸ The Labour Law prohibits the use of “youth employees” in: “Work in activities, duties and locations that are unsafe, dangerous to the health of the body, psychology or mind... Forced labour... Work to repay debts... Human trafficking... Trade or deception into the sex industry or solicitation of prostitution, photography or pornography... [and] Trade or deception into the movement and production, transportation, possession of narcotics or addictive substances”.¹⁹⁹ The Labour Law provides for the separate specification of the “list of hazardous works”,²⁰⁰ which has been promulgated as the Ministerial Decision No. 4182/MLSW on the Identification of Hazardous Work and Prohibition of the Use of Child Labour of 23 November 2016 (see further, below).²⁰¹ Under the Labour Law, violators can be “re-educated, warned, fined, subject to temporary suspension of business, subject to withdrawal of business license or brought to court

¹⁸⁹ Constitution, Art. 22.

¹⁹⁰ Labour Law, No. 43/NA of 24 December 2013, unofficial translation, updated on 13 October 2014. Art. 3(2).
<https://www.ilo.org/dyn/natllex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369>.

¹⁹¹ Labour Law, Art. 3(11).

¹⁹² Labour Law, Art. 3(10).

¹⁹³ Labour Law, Art. 3(21).

¹⁹⁴ Labour Law, Art. 101.

¹⁹⁵ Labour Law, Art. 103.

¹⁹⁶ Labour Law, Art. 101.

¹⁹⁷ Labour Law, Art. 103.

¹⁹⁸ Committee on the Rights of the Child, n 226, para. 41.

¹⁹⁹ Labour Law, Art. 102.

²⁰⁰ Labour Law, Art. 102.

²⁰¹ ILO, Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021) Minimum Age Convention, 1973 (No. 138) - Lao People's Democratic Republic (Ratification: 2005).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0:NO:13100:P13100_COMMENT_ID:P13100_COUNTRY_ID:3999099.103060:NO.

proceedings based on the nature of the offence, including having to compensate for the civil damage caused, as regulated by the laws and regulations”.²⁰² The Anti-Human Trafficking Law (2015) imposes jail sentences of 15 to 20 years of imprisonment for child trafficking (see further, ‘Human Trafficking’).²⁰³

The National Strategy and Plan of Action (NPA) on Prevention and Elimination of Child Labour (2014 – 2020) had the objectives of improving access for child labourers and vulnerable children to services and interventions, maintaining children in school, and mainstreaming child labour concerns into policies and interventions in the agricultural sector. The ILO CEACR reiterated in 2019 its earlier requests for the Government to provide information on the measures taken as well as on the results achieved within the framework of the NPA.²⁰⁴

According to UNESCO,²⁰⁵ and the UN Committee on the Rights of the Child,²⁰⁶ the Education Law as revised in 2015 makes both secondary as well as primary education compulsory, thereby raising the age of compulsory education to at least 14 years,²⁰⁷ which is aligned to the general minimum age for admission to employment set out in the Labour Law.²⁰⁸ The Education and Sports Sector Development Plan (ESDP, 2016 – 2020) sought, *inter alia*, to achieve compulsory primary education and expand it to include lower secondary education, and to expand, strengthen and promote secondary education and technical and vocational education. The National Plan of Action for Mothers and Children (2016 – 2020) aimed to increase the net enrolment rate of lower secondary school students to 90 per cent.²⁰⁹

In 2019, the ILO CEACR issued two Direct Requests and two Observations in respect of Lao PDR’s ratification of Convention No. 138 and Convention No. 183.²¹⁰ Regarding admission to hazardous work, the ILO CEACR recapitulated its previous comments that Section 4 of the Ministerial Decision No. 4182/MLSW on the Identification of Hazardous Work and Prohibition of the Use of Child Labour of 23 November 2016 permits young persons aged 14 and above to engage in the types of hazardous work that are listed under Section 3 of the Decision, on the condition that such persons receive sufficient training, technical guidance, instructions and safety tools, and so long as their work is assessed and authorized by the relevant labour management agencies.²¹¹ Recalling that pursuant to the ILO Minimum Age Convention (No. 138), such an exemption is only permitted for young persons from 16 years of age, the CEACR has requested the Government to revise Section 4 of the Ministerial Decision, in order to raise the minimum age for admission to hazardous types of work from 14 to 16 years.²¹²

²⁰² Labour Law, Art. 179.

²⁰³ ILO, Observation (CEACR) - adopted 2019, published 109th ILC session (2021) Worst Forms of Child Labour Convention, 1999 (No. 182) - Lao People’s Democratic Republic (Ratification: 2005).
https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4019774,103060.

²⁰⁴ ILO, NORMLEX, Observation (CEACR) - adopted 2019, published 109th ILC session (2021) Minimum Age Convention, 1973 (No. 138) - Lao People’s Democratic Republic (Ratification: 2005).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:3999102,103060:NO. In the same Observation the CEACR reiterated its earlier requests for the Government to provide information on development of a database on child labour and school attendance, and regarding the second National Child Labour Survey, that had been planned for 2020.

²⁰⁵ UNESCO, Global Education Monitoring Report: Lao People’s Democratic Republic (Last modified 28 July 2021). <https://education-profiles.org/eastern-and-south-eastern-asia/lao-peoples-democratic-republic/?inclusion>.

²⁰⁶ Committee on the Rights of the Child, n 226, paragraph 38). The Committee cites World Bank Group’s ‘Systems Approach for Better Education Results (SABER) Country Report of the Lao People’s Democratic Republic (PDR)’ (2016) on this point:
<https://openknowledge.worldbank.org/handle/10986/27663/>

²⁰⁷ There does not appear to be any English language version of the 2015 revision of the Education Law available online.

²⁰⁸ The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) recently indicated that it is yet to receive information from the Government in this regard. ILO CEACR, n 211. According to the most recent information provided to the CEACR by the Government, the CEACR understands that the age of completion of compulsory schooling is still 12 years of age, which would be two years below the minimum age for admission to employment or work, being 14 years of age. The CEACR has encouraged the Government to provide information on the results achieved in this regard, n 211.

²⁰⁹ ILO, citing Committee on the Rights of the Child, n 226, paragraph 161.

²¹⁰ ILO, ‘Requested reports and replies to CEACR comments: Lao People’s Democratic Republic’.
https://www.ilo.org/dyn/normlex/en/f?p=1000:14000:0::NO:14000:P14000_COUNTRY_ID:103060.

²¹¹ ILO, Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021) Minimum Age Convention, 1973 (No. 138) - Lao People’s Democratic Republic (Ratification: 2005).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:3999099,103060:NO.

²¹² ILO, Direct Request (CEACR).

Noting the Government's indication that Ministerial Decision No. 4182/MLSW on the List of Hazardous Works for Young Persons was adopted on 23 November 2018, the CEACR has requested the Government to indicate whether this Decision exempts children aged 14 to 16 from the prohibition on the employment of young persons in hazardous work.²¹³ The CEACR has requested the Government to take the necessary measures to bring this Decision into conformity with ILO Convention No. 138 by ensuring that children under 16 years of age may not under any circumstances be authorized to perform hazardous work, if the Decision in its current form does make such an exemption.²¹⁴

The Law on Technical and Vocational Education and Training (2013) sets out the legislative basis for training and development of the labour force,²¹⁵ whilst the Decree on Technical and Vocational Education and Training and Skills Development of 22 January 2010, at Section 11(4), includes "participatory training" at enterprises, such as on-the-job training in places of business, factories, or places of production.²¹⁶ The ILO CEACR has made a Direct Request to the Government for information on the rules regarding the minimum age for entering apprenticeship programmes set out in the Law,²¹⁷ and to indicate whether the Decree specifies a minimum age for the engagement of young persons in "participatory training" in enterprises.²¹⁸

Institutional framework

The Labour Law, which applies to all employers both registered and unregistered,²¹⁹ specifically denotes "use of child labour" as a key element of labour inspection content.²²⁰ As noted by the ILO CEACR from the Government's October 2017 report to the Committee on the Rights of the Child, mandatory training on child labour for labour inspectorates as well as for law enforcement officials, prosecutors, and judges was institutionalised under the National Strategy and Plan of Action on Prevention and Elimination of Child Labour (2014 – 2020).²²¹ As noted by the ILO CEACR, a Child Community Protection Network has been established at the village-level.²²² The Centre for Counselling and Protection of Women and Children of the Lao Women's Union and the National Commission for the Advancement of Women and Mothers and Children, together with the MLSW, amongst others centres, provide various forms of assistance to child victims of trafficking including accommodation, scholarships, educational and vocational training and referrals, and counselling and legal and medical services.²²³

Recommendations

- Effectively implement the ILO Minimum Age Convention (No. 138), in line with ILO Recommendation No. 146, and ensure timely and comprehensive reporting to the ILO CEACR, including in response to the relevant Observation and Direct Request issued by the CEACR in 2019.
- Effectively implement the Worst Forms of Child Labour Convention (No. 182), in line with ILO Recommendation No. 190, and ensure timely and comprehensive reporting

²¹³ ILO, Direct Request (CEACR).

²¹⁴ ILO, Direct Request (CEACR).

²¹⁵ ILO CEACR, citing Committee on the Rights of the Child, n 226.

²¹⁶ ILO CEACR.

²¹⁷ ILO CEACR.

²¹⁸ ILO CEACR.

²¹⁹ Labour Law, Art. 6.

²²⁰ Labour Law, Art. 172(5).

²²¹ ILO CEACR, See further, Committee on the Rights of the Child, n 226.

²²² ILO CEACR.

²²³ ILO CEACR.

to the ILO CEACR, including in response to the relevant Observation and Direct Request issued by the CEACR in 2019.

- Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, as recommended by the UN Committee on the Rights of the Child.²²⁴
- Revise the Labour Law to set the minimum age for employment at 14 years, without exceptions, in line with the recommendation made by the Special Rapporteur on the sale and sexual exploitation of children,²²⁵ and align the definitions of child labour contained in the Labour Law with international standards, noting that the Labour Law allows for “light work” from the age of 12 without defining it, as recommended by the Committee on the Rights of the Child.²²⁶
- Revise Section 4 of the Ministerial Decision No. 4182/MLSW on the List of Hazardous Work for Young Persons (2016) to raise the minimum age for admission to hazardous types of work from 14 to 16 years, as recommended by the ILO CEACR.²²⁷
- Finalize, launch, and ensure effective implementation of the National Plan of Action for Child Protection System Strengthening (2022 – 2026).²²⁸
- Adopt a comprehensive national strategy on children’s rights with a specific budget allocation and adequate follow-up mechanisms, as recommended by the Committee on the Rights of the Child.²²⁹
- Increase collaboration with neighbouring countries in respect of the Association of Southeast Asian Nations (ASEAN) Plan of Action against Trafficking in Persons, Especially Women and Children, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, as recommended by the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material.²³⁰
- Take all necessary legislative, judicial and administrative steps to simplify and accelerate the registration process for civil society organizations working on children’s rights, as recommend by the Committee on the Rights of the Child.²³¹
- Prohibit and criminalise the sale of children as a separate crime from child trafficking, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.²³²

²²⁴ OHCHR, Human Rights Council Working Group on the Universal Periodic Review Thirty-fifth session 20–31 January 2020, Compilation on the Lao People’s Democratic Republic – Report of the Office of the United Nations High Commissioner for Human Rights. General Assembly A/HRC/WG.6/35/LAO/2, 4 November 2019, para. 3. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/317/05/PDF/G1931705.pdf?OpenElement>. Footnote 6.

²²⁵ OHCHR, Footnote 19.

²²⁶ Committee on the Rights of the Child, Concluding observations on the combined third to sixth periodic reports of the Lao People’s Democratic Republic, CRC/C/LAO/CO/3-6, 1 November 2018.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLAO%2fCO%2f3-6&Lang=en.

²²⁷ ILO CEACR.

²²⁸ UNICEF is supporting the Child Protection and Assistance Committee (CPAC) and the Ministry of Labour and Social Welfare (MOLSW) to develop the National Plan of Action for Child Protection System Strengthening (2022 – 2026), which will support a holistic child protection system approach to child labour. See further: UNICEF Lao PDR Child Protection – Fact Sheet: Child Labour, March 2022.

<https://www.unicef.org/laos/media/7356/file/UNICEF%20Lao%20PDR%20Child%20Protection%20Compendium%20of%20Factsheets.pdf>.

²²⁹ OHCHR, Footnote 19.

²³⁰ OHCHR, Footnote 6.

²³¹ OHCHR, Footnote 6.

²³² OHCHR, Footnote 102.

- Establish a child-friendly complaints mechanism for all kinds of abuse, exploitation, and violence against children, as recommended by the Committee on the Rights of the Child.²³³
- Reinforce the capacities of the labour inspection services to adequately monitor and detect cases of child labour in both the informal and the formal sectors, as requested by the ILO CEACR.²³⁴

Occupational Safety and Health (OSH)

International commitments

The ILO Declaration on Fundamental Principles and Rights at Work²³⁵ was amended in June 2022 to include the right to a safe and healthy working environment,²³⁶ as mentioned above. Each of the fundamental principles and rights at work is associated with the most relevant ILO Conventions.²³⁷ The new fundamental ILO Conventions regarding a safe and healthy working environment are the Promotional Framework for Occupational Safety and Health Convention (No. 187),²³⁸ and the Occupational Safety and Health Convention (No. 155).²³⁹ Lao PDR ratified both of these conventions on 4 July 2022, and the conventions will enter into force for the country on 4 July 2023.²⁴⁰ The ICESCR, ratified by Lao PDR,²⁴¹ recognizes “the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular... Safe and healthy working conditions”.²⁴² SDG Target 8.8 is to: “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment”.²⁴³ The corresponding SDG Indicator 8.8.1 is: “Frequency rates of fatal and non-fatal occupational injuries, by sex and migrant status”.²⁴⁴

Regulatory framework

As noted by the ILO: “Recent years have seen positive progress in the development of a national OSH legal and policy architecture”,²⁴⁵ and the MoLSW Five-Year Plan 2021 – 2025 sets out several OSH legislative and policy targets, including the development of a law on OSH, and developing a third national OSH profile (2022 – 2026).²⁴⁶ The Constitution provides that: “The State and society attend to building and improving disease prevention systems ... to ensure the people’s good health”.²⁴⁷ The Labour Law establishes safe working conditions as a key principle of labour affairs.²⁴⁸ The Labour Law establishes OSH as “a joint activity between the employer and the employee” covering “risk assessment of the work environment, appropriate measures for reducing hazards and risks, methods for protecting against

²³³ OHCHR, Footnote 98.

²³⁴ ILO CEACR.

²³⁵ ILO Declaration on Fundamental Principles and Rights at Work, as amended in 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf

²³⁶ ILO Declaration on Fundamental Principles and Rights at Work.

²³⁷ ILO Declaration on Fundamental Principles and Rights at Work.

²³⁸ ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C187:NO

²³⁹ ILO Occupational Safety and Health Convention, 1981 (No. 155).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C155:NO

²⁴⁰ ILO https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

²⁴¹ OHCHR.

²⁴² ICESCR, Art. 7(b).

²⁴³ SDG target 8.8.

²⁴⁴ SDH Indicator 8.8.1.

²⁴⁵ ILO DWCP, Page 10.

²⁴⁶ ILO DWCP, Page 10.

²⁴⁷ Constitution, Art. 25.

²⁴⁸ Labour Law, Art. 5(2).

workplace accidents, protection against injury and occupational diseases and the gradual creation of a culture of safety at the workplace at all times”.²⁴⁹ The Labour Law sets out complimentary obligations of the State, employers and employees,²⁵⁰ as well as those of designers, producers, importers, suppliers and installers.²⁵¹

The law provides for safe working conditions and higher compensation for dangerous work, but it does not explicitly protect the right of workers to remove themselves from a hazardous situation. In case of injury or death on the job, employers are responsible for compensating the worker or the worker’s family. The law requires employers to report accidents causing major injury to or death of an employee or requiring an employee to take a minimum of four days off work to the Labour Administration Agency. The law also mandates extensive employer responsibility for workers with disabilities who become so while at work. The law does not specify differentiated penalties for noncompliance with specific occupational safety and health provisions, but it states that workplaces could face warnings, fines, “re-education,” or suspension of business licenses.

Internal regulations that employers are required to establish must include “Restrictions and health and safety measures including the use of equipment, tools and protective gear for protection against workplace accidents and occupational diseases”.²⁵² In particular, “the employer must create internal regulations consistent with relevant laws and successfully complete consultation with trade unions or employee representatives or the majority of employees within the labour unit”.²⁵³ Employers must also “inspect and assess risks to safety and health within the labour unit and workplace regularly and report the results of the risk assessment to the Labour Inspection Agency at least once per year”.²⁵⁴ Such risk assessments can be undertaken by the employer, labour inspection officials or labour health and safety service organizations authorized by the Labour Administration Agency.²⁵⁵

Employers are further required to: “Instil appropriate measures to ensure workplace health and safety for the employee working under its administration; ... Ensure the workplace, machinery, equipment, and procedures in the production of metals or chemicals and explosive materials in the labour unit are safe or do not pose a danger to the health of employees; ... Regularly inspect all safety measures and improve any that are inappropriate; ... Assess risks to employee health and safety at least once per year and then report to the Labour Administration Agency; ... Maintain the workplace, safety systems, environment and atmosphere when working to ensure good conditions for the health of the employees; ... Provide appropriate facilitation of welfare for employees in the workplace; ... Supply information, recommendations, training and protection for employees so that they may undertake their work safely; ... Supply individual safety gear to employees in full and in good condition according to international standards; ... Prohibit the use of addictive substances or drink, or any mind altering substances in or around the workplace; ... old training on basic health and safety knowledge, protection from occupational diseases, namely HIV, for the employees at least once per year; ... [and] Appoint employees responsible for labour health and safety”.²⁵⁶

In addition, employers must maintain an employee (for labour units with 100 or fewer employees), a unit (for labour units with more than 100), or a board (“in case of necessity”) responsible for OSH.²⁵⁷ Such employees responsible for OSH must have knowledge, training,

²⁴⁹ Labour Law, Art. 117.

²⁵⁰ Labour Law, Arts. 117 - 120.

²⁵¹ Labour Law, Arts. 117 - 120.

²⁵² Labour Law, Art. 64.

²⁵³ Labour Law, Art. 122.

²⁵⁴ Labour Law, Arts. 117 - 120.

²⁵⁵ Labour Law, Arts. 117 - 120.

²⁵⁶ Labour Law, Arts. 117 - 120.

²⁵⁷ Labour Law, Art. 123.

degree or certification from an institute or organization in regard to OSH that is recognized by the Labour Administration Agency.²⁵⁸ Labour units must maintain a medicine cabinet and have one employee as primary nurse, and labour units “located in the suburbs or remote areas” with 50 or more employees are required to have “a medical practitioner attached to the labour unit”.²⁵⁹ The Labour Law requires employers to record and report in detail to the Labour Administration Agency within three days the cause of accidents that cause an employee to take four or more days off work, accidents or occupational diseases that cause injury, major injury, or death.²⁶⁰ The definition of labour accidents extends to accidents “outside the workplace” and “when traveling to or from work”.²⁶¹ The Law on Social Insurance determines the responsibilities of employers and social insurance implementation agencies for the cost of treatment for employees injured as a result of a labour accident or occupational disease.²⁶² Employees have the right to full wages payable by the employer during periods of medical treatment of up to six months, and payable by an social insurance implementation agency thereafter.²⁶³

The State is responsible for, *inter alia*: “Determining, implementing, and revising policies and national strategies in relation to labour health and safety consistent with the national socio-economic development plan by ... Having measures for protection against workplace accidents or occupational diseases by reducing the causes of hazards that may occur due to the work environment; ... [and] Determining duties and responsibilities for relevant government sectors, the employer, the employee, and other relevant sectors in the protection of health and safety in the workplace; ... Determining health and safety measures and ensuring all relevant parties participate in labour health and safety; ... Establishing, developing and improving labour health and safety systems at each interval to include responsible agencies, participation between employees and employers, provision of information, consultation services, training, collection and analysis of data on injuries and occupational diseases; ... Making appropriate investments in research, aid or facilitation for the labour unit that produces tools or equipment used in the protection of safety and health, including personal protective gear; ...Creating an account of occupational diseases, both physical and mental, through consultation with representatives of relevant agencies pertaining to employers or employees; ... [and] Having measures for the protection of employees or those who inform of malpractice or neglect in regard to workplace health and safety in the labour unit”.²⁶⁴

Under the Trade Union Law, all four tiers of the LFTU have the right and duty to provide information and training on OSH to workers and employees.²⁶⁵ Pursuant to Decree No. 22, approved by the Prime-Minister’s Office in 2019,²⁶⁶ employees can petition labour management agencies to intervene if their employers do not improve workplace environments to meet OSH standards in line with employee requests, and have the right to reject a job assignment if the work is deemed to be highly risky or dangerous.²⁶⁷ Decree No. 22 also sets out the right of employees to receive information regarding risky or dangerous workplace conditions, and to be informed of precautionary measures that would avoid risks and dangers.

²⁵⁸ Labour Law, Art. 123.

²⁵⁹ Labour Law, Arts. 117 - 120.

²⁶⁰ Labour Law, Art. 125.

²⁶¹ Labour Law, Art. 125.

²⁶² As specified in the Labour Law, Art. 125.

²⁶³ As specified in the Labour Law, Art. 128.

²⁶⁴ Labour Law, Arts. 117 - 120.

²⁶⁵ Trade Union Law, Art. 12(1), Art. 13(10), Art. 14(10), and Art. 15(7).

²⁶⁶ ILO DWCP, Page 10.

²⁶⁷ As reported in the *Vientiane Times*, ‘New decree orders safe, healthy workplaces’, 28 February 2019. https://www.vientianetimes.org.la/freeContent/FreeContent_New_decree_50.php

Institutional framework

As noted by the ILO, “significant issues and gaps remain in existing national OSH arrangements. These include the lack of a functional system of recording and notification of fatal and non-fatal occupational injuries and diseases; weak compliance and enforcement of laws, including the Labour and Investment Laws; lack of capacity (resources, finance, systems) at all levels; weak coordination and complementarity within government (horizontal and vertical); high levels of informal and seasonal employment workers who are outside the scope of OSH services; the low levels of [Lao Social Security Organisation] membership in the private sector and among informal workers; and the unregulated use of hazardous chemicals in agricultural production”.²⁶⁸ Institutional OSH targets set out in the MoLSW Five-Year Plan 2021 – 2025 include building a national centre for OSH, developing a data collection system for workplace injury and occupational disease, and building the capacity of labour inspectors at the national and provincial levels.²⁶⁹

Recommendations

- Ensure effective implementation of the ILO Occupational Safety and Health Convention, 1981 (No. 155) in line with the ILO Occupational Safety and Health Recommendation (No. 164).²⁷⁰
- Ensure effective implementation of the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) in line with the ILO Promotional Framework for Occupational Safety and Health Recommendation (No. 197).²⁷¹
- Ratify the ILO Occupational Health Services Convention (No. 161), and ensure its effective implementation, in lines with the ILO Occupational Health Services Recommendation (No. 171).²⁷²
- Develop a national centre for OSH, as set out in the MoLSW Five-Year Plan 2021-2025.
- Develop a data collection system for workplace injury and occupational disease, as set out in the MoLSW Five-Year Plan 2021 – 2025.
- Build the capacity of labour inspectors at the national and provincial levels, as set out in the MoLSW Five-Year Plan 2021 – 2025.

Working Conditions

For the purposes of this section, the term ‘working conditions’ encompass various aspects of human rights in the context of employment other than those that are addressed in the preceding sections of this chapter. This section addresses the following topics:

- Working time

²⁶⁸ ILO DWCP, Page 10.

²⁶⁹ ILO DWCP, Page 10.

²⁷⁰ ILO Occupational Safety and Health Recommendation, 1981 (No. 164).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R164.

²⁷¹ ILO Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312534.

²⁷² ILO Occupational Health Services Recommendation.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R171,/Document.

- Wages
- Maternity protection
- Violence and harassment
- Social protection
- Discrimination in employment and occupation and
- Labour disputes

International commitments

Working time

The ICESCR,²⁷³ ratified by Lao PDR,²⁷⁴ recognizes “the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular... Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”. A number of ILO conventions and recommendations provide authoritative international legal reference points regarding hours of work, overtime, daily and weekly rest periods, and annual holidays.²⁷⁵ To date, Lao PDR has not ratified any of the ILO conventions that specifically set out these authoritative international standards on working time.²⁷⁶ Relevant ILO conventions that are open to ratification by Lao PDR include those setting out the principles of the 40-hour or 48-hour work week, maximum of eight working hours per day, three working weeks of annual paid holiday, and those regulating working hours with respect to part-time work.

Wages

Wages are amongst the conditions of work that have the most tangible and direct impact on the lives of workers.²⁷⁷ The ICESCR recognizes “the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular... Remuneration which provides all workers, as a minimum, with... Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; [and] ... A decent living for themselves and their families”.²⁷⁸ ILO Conventions and Recommendations provide for the fixing of minimum wage levels, regular payment of wages, protection of wages, and set out the principle of equal remuneration for women and men for work of equal value.²⁷⁹ Out of the “selected relevant instruments” on wages that are identified by the ILO,²⁸⁰ Lao PDR has ratified only the Equal Remuneration Convention (No. 100), which requires Lao PDR to promote and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.²⁸¹ Lao PDR has not ratified the Minimum Wage Fixing

²⁷³ ICESCR, Art. 7(d).

²⁷⁴ OHCHR.

²⁷⁵ ILO, ‘International Labour Standards on Working time’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang-en/index.htm>.

²⁷⁶ ILO, NORMLEX, ‘Ratifications for Lao People’s Democratic Republic’. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103060.

²⁷⁷ ILO, ‘International Labour Standards on Wages’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/wages/lang-en/index.htm>.

²⁷⁸ ICESCR, Art. 7(a).

²⁷⁹ ILO, International Labour Standards on Wages. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/wages/lang-en/index.htm>.

²⁸⁰ ILO <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/wages/lang-en/index.htm>.

²⁸¹ ILO Equal Remuneration Convention, 1951 (No. 100). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312245:NO.

Convention (No. 131), which requires ratifying states to establish a minimum wage fixing machinery that is capable of determining and periodically reviewing and adjusting minimum wage rates having the force of law.²⁸² Neither has Lao PDR ratified the Protection of Wages Convention (No. 95) which, *inter alia*, provides for payment of wages in legal tender at regular intervals,²⁸³ or the Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173), which provides for the protection of wage claims in insolvency and bankruptcy by means of a privilege or through a guarantee institution.²⁸⁴ SDG Indicator 8.5.1 is: "Average hourly earnings of female and male employees, by occupation, age and persons with disabilities".²⁸⁵

Maternity protection

As noted by the ILO, "pregnancy and maternity are an especially vulnerable time for working women and their families. Expectant and nursing mothers require special protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave [...] Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security".²⁸⁶ As a State party to the CEDAW,²⁸⁷ Lao PDR has an international legal obligation to prevent discrimination against women on the grounds of maternity,²⁸⁸ and to take measures to ensure "a proper understanding of maternity as a social function".²⁸⁹ The ICESCR,²⁹⁰ ratified by Lao PDR,²⁹¹ recognizes that "special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits". The ILO Maternity Protection Convention (No. 183), not ratified by Lao PDR,²⁹² is the most up-to-date ILO treaty on maternity protection.²⁹³

Violence and harassment

The Violence and Harassment Convention (No. 190), not ratified by Lao PDR,²⁹⁴ aims to protect workers and employees from violence and harassment in the world of work.²⁹⁵

Social protection

Social protection, or social security, relates to access to health care and income security, particularly in the event of unemployment, illness, work-related injury, maternity, old age, and

²⁸² ILO, Ratifications https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

²⁸³ ILO, Ratifications https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

²⁸⁴ ILO, Ratifications https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

²⁸⁵ SDG Indicator 8.5.1.

²⁸⁶ ILO, 'International Labour Standards on Maternity protection': <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/maternity-protection/lang-en/index.htm>.

²⁸⁷ OHCHR.

²⁸⁸ CEDAW, Arts. (b) and 11(2).

²⁸⁹ Convention on the Elimination of All Forms of Discrimination against Women (hereinafter 'CEDAW'). Adopted and opened for signature, ratification, and accession by General Assembly resolution 34/180 of 18 December 1979, entered into force 3 September 1981, in accordance with Art. 27(1). <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>. Art. 5(b).

²⁹⁰ ICESCR, Art. 10(2).

²⁹¹ OHCHR.

²⁹² ILO https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

²⁹³ Earlier relevant ILO instruments, namely the 'Maternity Protection Convention, 1919' (No. 3), and the 'Maternity Protection Convention (Revised), 1952' (No. 103) remain in force for certain countries. See further ILO, 'International Labour Standards on Maternity protection' (n. 293). The ILO Maternity Protection Convention (No. 183) is accompanied by the ILO Maternity Protection Recommendation (No. 191)

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312529.

²⁹⁴ ILO, 'Ratifications of C190 - Violence and Harassment Convention, 2019 (No. 190)'.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810:NO.

²⁹⁵ ILO Violence and Harassment Convention, 2019 (No. 190).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190.

the loss of a main income earner.²⁹⁶ As noted by the ILO: “Social security is a human right which responds to the universal need for protection against certain life risks and social needs. Effective social security systems guarantee income security and health protection, thereby contributing to the prevention and reduction of poverty and inequality, and the promotion of social inclusion and human dignity”.²⁹⁷ Lao PDR’s international commitment to ensure the rights of everyone to social security is recognized in the ICESCR.²⁹⁸ Meanwhile, the CEDAW, ratified by Lao PDR, sets out the obligation to take measures to ensure the right of rural women to benefit directly from social security programmes.²⁹⁹ SDG Target 1.3 is to: “Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable”.³⁰⁰ The corresponding SDG Indicator 1.3.1 is the: “Proportion of population covered by social protection floors/systems, by sex, distinguishing children, unemployed persons, older persons, persons with disabilities, pregnant women, new-borns, work-injury victims and the poor and the vulnerable”.³⁰¹ The ILO identifies the following “relevant” social protection conventions:³⁰² The Social Security (Minimum Standards) Convention (No. 102),³⁰³ Equality of Treatment (Social Security) Convention (No. 118),³⁰⁴ and Maintenance of Social Security Rights Convention (No. 157).³⁰⁵ Lao PDR has not ratified any of these ILO Conventions.³⁰⁶

Discrimination in employment and occupation

ILO Discrimination (Employment and Occupation) Convention (No. 111)³⁰⁷ assigns to States that ratified it the fundamental aim of promoting equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation. Discrimination is denied as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction, or social origin that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.³⁰⁸ The scope of the Convention covers access to vocational training, access to employment, and to specific occupations and terms and conditions of employment. Lao PDR ratified Convention No. 111 in 2008. Member States that ratified this Convention undertake to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with this policy, and to enact legislation and promote educational programmes which favour its acceptance and implementation in cooperation with employers’ and workers’ organizations. This policy shall be pursued and observed in respect of employment under direct control of a national authority, and of vocational guidance and training and placement services under the direction of such authority.

²⁹⁶ ILO, ‘Social protection’. <https://www.ilo.org/global/topics/social-security/lang-en/index.htm>.

²⁹⁷ ILO, ‘International Labour Standards on Social security’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang-en/index.htm>.

²⁹⁸ ICESCR, Art. 9.

²⁹⁹ ICESCR, Art. 14(c).

³⁰⁰ SDG Target 1.3.

³⁰¹ SDG Indicator 1.3.1.

³⁰² ILO <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang-en/index.htm>.

³⁰³ ILO Social Security (Minimum Standards) Convention, 1952 (No. 102).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C102:NO.

³⁰⁴ ILO Equality of Treatment (Social Security) Convention (No. 118).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C118:NO.

³⁰⁵ ILO Maintenance of Social Security Rights Convention, 1982 (No. 157).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C157:NO.

³⁰⁶ ILO, https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

³⁰⁷ ILO Discrimination (Employment and Occupation) Convention (No. 111).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111.

³⁰⁸ ILO Discrimination (Employment and Occupation) Convention (No. 111), Art 1.

Regulatory framework

The Constitution provides that: “Lao citizens have the right to work and engage in occupations which are not contrary to the laws”,³⁰⁹ and recognises workers as key components of the state.³¹⁰ As set out in the Constitution: “The State and society attend to developing skilled labour, upgrading labour discipline, promoting vocational skills and occupations and protecting the legitimate rights and benefits of workers”.³¹¹ The Constitution further provides that: “The State attaches great importance to the development of the economy in conjunction with cultural and social development by giving priority to human resource development”.³¹² The Labour Law requires employers to devise through consultation between the employer and the trade union or employee representative or majority of workers within labour units, and submit for approval by the Labour Administration Agency, “internal regulations” to implement the Labour Law that establish “specific regulations for the protection of the employee that may not be covered in the law”.³¹³

Working time

The Constitution sets out that: “Working people have the right to rest”.³¹⁴ The Labour Law sets out that: “The employer must set hours of work and hours of rest for the employee as part of its responsibilities in accordance with the location of the labour unit and real working conditions”,³¹⁵ and specifies that: “Normal hours of work in every labour unit will be no more than six days per week and eight hours per day or no more than forty-eight hours per week, regardless of the type of salary or wage”.³¹⁶ The Labour Law further sets out that the “internal regulations” that an employer must devise must specify, *inter alia*, “the times for commencing and completing the work of the labour unit... the times for breaks, lunch breaks and necessary breaks during work hours ... Weekly rest days... [and] Rest days due to injury or other necessary reasons”.³¹⁷ The Labour Law specifies that: “Hours of rest for lunch break shall be no less than sixty minutes and may not be included in hours of work”.³¹⁸ The Labour Law also sets out the right of employees working at to at least 11 hours rest before beginning work on a new day.³¹⁹

The Labour Law sets out that: “Overtime shall not exceed forty-five hours per month or three hours per day”.³²⁰ The Labour Law further specifies that employers may only request employees to work overtime “if necessary” and “subject to the prior consent of the trade union, worker’s representative, or the majority of employees”,³²¹ and must “notify and explain the necessity of the work to the employee in advance”.³²² The Labour Law sets out specific working time requirements for shift work.³²³ Paid personal leave of up to three days is provided for by

³⁰⁹ Constitution, Art. 39.

³¹⁰ Constitution, Art. 2.

³¹¹ Constitution, Art. 27.

³¹² Constitution, Art. 21.

³¹³ Labour Law, Art. 63.

³¹⁴ Constitution, Art. 39.

³¹⁵ Labour Law, Art. 51.

³¹⁶ Labour Law, Art. 51. The Labour Law establishes a shorter working day of maximum six hours and a shorter working week of 36 hours for employees whose occupations are in sectors that involve: Exposure to radiation or to dangerous communicable diseases; Exposure to vapours or smoke which are hazardous to health; Direct exposure to dangerous materials or chemicals, such as explosives; Working in pits, or in underground tunnels, under water or at high elevations; Working in abnormally hot or cold places; [and/or] Working directly with constantly vibrating equipment. The Labour Law further sets out that: “Aside from the above, there are other forms of dangerous work determined by specific terminology”, and that “Normal hours of work may be reduced as appropriate in cases where in danger cannot be prevented or controlled”. The Labour Law further contemplates that: “Specific hours of work could be determined for specific occupation or economic sectors where it is deemed necessary based on approval from labour management authority after tripartite consultation and unanimous consent”. Art. 51. The Labour Law also provides for an additional three days per year of annual leave (for a total of 18 days per year) for employees who have worked consecutively in such forms of employment for more than one year. Art. 53.

³¹⁷ Labour Law, Art. 64.

³¹⁸ Labour Law, Art. 51.

³¹⁹ Labour Law, Art. 61.

³²⁰ Labour Law, Art. 53.

³²¹ Labour Law, Art. 53.

³²² Labour Law, Art. 53.

³²³ Labour Law, Arts. 52, 62 and 116.

the Labour Law in the advent of the death or hospitalisation of a parent, spouse or child, marriage of the employee, birth, or miscarriage of an employee’s child, or if the employee is “affected by natural disasters”.³²⁴ Under the Labour Law, only employees who have worked consecutively for one year are entitled to 15 days of fully paid annual leave.³²⁵

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities). Overtime may not exceed 45 hours per month, and each period of overtime may not exceed three hours. Employers may apply to the government for an exception, which the law stipulates workers, or their representatives must also approve.

Wages

The Labour Law provides for the government to periodically announce the minimum wage “to ensure a basic livelihood”,³²⁶ specifying that both “Daily wages” as well as “Wages by unit of production” must not be lower than the minimum wage.³²⁷ The Labour Law specifies that the State promulgates the level of the minimum wage “at every interval”, “based on the results of consultations with third parties”, but does not specify the minimum frequency by this the State must review the minimum wage, or which “third parties” the State must consult in so doing.³²⁸ The Labour Law provides legislative definitions of “salary” and “wages”,³²⁹ and sets out the basis for the determination of “Basic salary” and “Total salary”,³³⁰ and specifies that employers must set salary or wages in accordance with the labour skill level of the employee.³³¹ The Enterprise Law specifies that: “The minimum wage shall not be less than what is defined in relevant law and regulations”.³³² The Labour Law requires employers to pay “overtime wages”,³³³ at a rate of 150 per cent of the normal rate during the day and 200 per cent at night and 250 per cent to 350 per cent on weekly rest day or official holiday, depending on the time of day.³³⁴ As of 1 August 2022, the minimum wage was set at LAK 1,200,000 per month (approximately equivalent to USD 80 per month at the prevailing UN operational exchange rate as of 1 August 2022).³³⁵

Employers are required to pay regular salaries and wages at least once per month, and wages based on units of production at least twice per month,³³⁶ at penalty of payment of the extra amount specified in employment contract in the advent of payments delayed “without sufficient reason”, and with a facility for advance payment of wages in the event that an employee gives birth, miscarries, is injured or has an accident.³³⁷ The Labour Law provides for wage protection in the advent of temporary suspension of work, and in the advent of the winding up or bankruptcy of an employer.³³⁸ Ensuring that salary or wages are paid in full is set out as a key principle of labour affairs in the Labour Law,³³⁹ which includes “Implementation of policies, strategic plans, action plans, and laws on labour affairs” including as regards to “salary or wage”

³²⁴ Labour Law, Art. 58.

³²⁵ Labour Law, Art. 57.

³²⁶ Labour Law, Art. 105.

³²⁷ Labour Law, Art.107.

³²⁸ Labour Law, Art.108.

³²⁹ Labour Law, Art. 104.

³³⁰ Labour Law, Art. 106.

³³¹ Labour Law, Art. 24.

³³² Enterprise Law (Amended), No. 46/NA, dated 26 December 20213 (Unofficial Translation). Available at:

https://laotradeportal.gov.la/kcfinder/upload/files/Enterprise_Law_ENG2013.pdf. Art. 140.

³³³ Labour Law, Art. 53. The Labour Law further specifies that: “Where overtime is necessary for more than forty-five hours in any one month, the employer must first request authorization from the Labor Administration Agency which is responsible for its labour unit and receive approval from the trade union or workers’ representatives, or the majority of employees in its labour unit”. Art. 53.

³³⁴ Labour Law, Art. 114 and Art. 155.

³³⁵ Wage Indicator, ‘Minimum Wage – Laos’. <https://wageindicator.org/salary/minimum-wage/laos>.

³³⁶ Labour Law, Art. 110.

³³⁷ Labour Law, Art. 110.

³³⁸ Labour Law, Arts. 111 and 112.

³³⁹ Labour Law, Art. 5(2).

within the scope of labour inspection,³⁴⁰ and which specifies that labour inspection officials have the right and responsibility to inspect “accounts for salaries or wages, calculation of overtime”. The Labour Law allows for the payment of wages in “materials” (as opposed to payment in cash).³⁴¹

In 2018 the government raised the monthly minimum wage for all private-sector workers; it was above the estimated national poverty line but has not since been raised. Some piecework employees, especially on construction sites, earn less than the minimum wage.

Maternity protection

Under the Labour Law, female employees are entitled to at least 105 days of fully paid maternity leave before and after giving birth, including at least 42 days after giving birth.³⁴² Female employees have the right to one hour of rest per day to care for their child.³⁴³ Female employees have the right to receive an allowance for giving birth, as determined by the Law on Social Security.³⁴⁴ It is prohibited for employers to “create conditions that block or deny female employees who are married or pregnant”, “check for pregnancy before accepting the employee”, or cancel an employment contract due to marriage or pregnancy.³⁴⁵ It further unauthorized to terminate employment contracts of women who are pregnant or who have a child aged less than one year old.³⁴⁶ It is further prohibited to employ such women in certain forms of work, including night work, overtime, work involving lifting and carrying by hand loads heavier than 10kg and/or standing for longer than two consecutive hours, or work specified in the “list of hazardous works”,³⁴⁷ which is understood here to mean the Ministerial Decree on the List of Hazardous Work for Young Persons.³⁴⁸

The law prohibits the employment of pregnant women and new mothers in occupations deemed hazardous to women’s reproductive health. The law requires the transfer of women working in such jobs to less demanding positions, without a wage or salary reduction.

Violence and harassment

Employees have the right, under the Labour Law, to receive compensation (of an unspecified amount) “in the event there is any molestation, harassment, or sexual harassment on the part of the employer, or the employer ignores the occurrence of such actions”.³⁴⁹ The CEDAW has expressed concern regarding the “absence of a clear legal framework governing sexual harassment in the workplace and the absence of complaints made by women on sexual harassment in the workplace”.³⁵⁰

Social protection

The Constitution sets out that: “The State and society attend to implementing policies on social security, especially towards national heroes, soldiers, retired civil servants, disabled people, [and the] families of those who have sacrificed their lives for the revolution and who have

³⁴⁰ Labour Law, Art. 172(1).

³⁴¹ Labour Law, Art. 109.

³⁴² Labour Law, Art. 98.

³⁴³ Labour Law, Art. 98.

³⁴⁴ Labour Law, Art. 98.

³⁴⁵ Labour Law, Art. 100.

³⁴⁶ Labour Law, Art. 87(1).

³⁴⁷ Labour Law, Art. 87(1).

³⁴⁸ As identified in: ILO, Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021) Minimum Age Convention, 1973 (No. 138) - Lao People's Democratic Republic (Ratification: 2005).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:P13100_COUNTRY_ID:3999099,103060:NO.

³⁴⁹ Labour Law, Art. 87(1).

³⁵⁰ CEDAW, para 37(d).

contributed extensively to the nation”.³⁵¹ The Constitution also provides that: “Working people have the right ... to receive medical treatment in times of illness” and “to receive assistance in the event of incapacity or disability, in old age, and in other cases as provided by the laws”.³⁵² The Law on Social Security (2018) provides a key legislative framework for social protection.³⁵³ The Ministerial Decree on Social Security Inspections, promulgated in November 2021, details the assignments, qualifications, rights and duties of inspectors; type and methods of inspections and the obligations and responsibilities of inspected entities. The National Social Protection Strategy (NSPS) was adopted in April 2020.

Discrimination in employment and occupation

The Labour Law defines “discrimination in the workplace” as “all actions by the employer that hinders, is biased, or limits opportunities for promotion and confidence on the part of the employee”.³⁵⁴ Under the law an employer is prohibited from “obstructing employment or using direct or indirect force to make an employee stop work due to marital status, gender discrimination, or infection of HIV” as well as from “direct or indirect discrimination toward employees within the labor unit”.³⁵⁵ Definition of discrimination and employer prohibitions are not in line with the ILO Discrimination (Employment and Occupation) Convention (no. 111) to which Lao PDR is a party. Article 1 of the 111 Convention defines discrimination as follow: “(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies.”³⁵⁶

The law prohibits direct or indirect discrimination by employers against employees based on sex but does not explicitly prohibit employment discrimination based on race, disability, language, sexual orientation, gender identity, political opinion, national origin or citizenship, social origin, age, language, and HIV or other communicable disease status. The law prohibits actions by the employer that are biased or limit opportunities for promotion on the part of the employee. The law also requires equal pay for equal work, although a gender wage gap persists in Lao PDR, prohibits discrimination in hiring based on a woman’s marital status or pregnancy, and protects against dismissal on these grounds.

Institutional framework

As noted by the ILO, the “proper application of labour legislation depends on an effective labour inspectorate”.³⁵⁷ The ILO identifies two relevant conventions in this connection,³⁵⁸ namely the Labour Inspection Convention 1947 (No. 81)³⁵⁹ (together with its Protocol of 1995),³⁶⁰

³⁵¹ Constitution, Art. 28.

³⁵² Constitution, Art. 39.

³⁵³ Law on Social Security, revised 27 June 2018. Not publicly available online. See further: ILO, External Collaborator-Social Security. Consultancy, No.: EXCOLL/VIENTIANE/2022/01, Job ID: 8826, 24 June 2022. This resource was a temporarily viewable vacancy announcement that is no longer publicly available online.

³⁵⁴ Labour Law, Art. 3(28).

³⁵⁵ Labour Law, Art. 141(2) and (9).

³⁵⁶ ILO Discrimination (Employment and Occupation) Convention (No. 111), Art 1.

³⁵⁷ ILO, ‘International Labour Standards on Labour inspection’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang-en/index.htm>.

³⁵⁸ ILO, ‘International Labour Standards on Labour inspection’. <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang-en/index.htm>.

³⁵⁹ ILO Labour Inspection Convention 1947 (No. 81). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C081.

³⁶⁰ Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81). <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang-en/index.htm>.

and the Labour Inspection (Agriculture) Convention (No. 129).³⁶¹ Lao PDR has not ratified either of these two conventions.³⁶² In Lao PDR, the Labour Law includes within the scope of labour inspection the “Implementation of policies, strategic plans, action plans, and laws on labour affairs e.g., inspection of environment and working condition, employment contracts, internal regulations, salary or wage, working hour, break hour, overtime work, social security, occupational safety and health and labour welfare”.³⁶³ The rights and responsibilities of labour inspection officials include the inspection of “every labour unit and workplace at all times”, including inspection of “employment contracts, internal regulations, records of timesheets, accounts for salaries or wages, calculation of overtime, subsidies, [and] environment and safety”.³⁶⁴ Labour inspectors have the right and responsibility to: “Make enquiries with employers and employees and other relevant individuals; ... Record images, sounds, copies of documents and collect examples; ... Issue warnings to employers and employees that violate [the Labour Law] and other laws in relation to labour; ... Order the suspension of machinery or equipment or other items in cases where machinery or equipment is unsafe for employees; ... Fine employers and employees that violate labour laws; ... Invite agencies representing employers and agencies representing employees, technical engineers, experts and relevant technical experts to participate in labour inspections; ... Create plans and procedures for labour inspections; ... Encourage, recommend and consult employers and employees; ... Encourage employers and employees to comply with the law; ... Cooperate with other sectors that are relevant to labour inspection ... [and] Evaluate, summarize and report results of inspections to higher authorities routinely”.³⁶⁵

Under the Labour Law, the Ministry of Labour and Social Welfare (MLSW) is the body directly responsible for the management of labour administration, including coordination of such management with the labour and social welfare division of each province and city, the labour and social welfare office in each district and municipality, and the Labour Units and Social Welfare at the village-level.³⁶⁶ The Labour Law sets out a range of rights and duties of the MLSW, including, *inter alia*, the development, dissemination, monitoring, supervision and inspection of implementation of labour laws, regulations, and strategic plans.³⁶⁷ One of the functions of the National Labour Committee, which is “comprised of representatives from major third-party organizations”, is to “research policy on minimum wage”.³⁶⁸ The CEDAW has noted Lao PDR’s “efforts to strengthen the labour inspection system”.³⁶⁹

In terms of institutional arrangements for social protection, the Legislation Division oversees developing the legislative and regulatory framework on social security, and of monitoring and supervising implementation, and inspecting the participation of labour units in the social security scheme.³⁷⁰ The Division plays a role of mediator, being responsible for the social security dispute resolution. Pursuant to the Law on National Health Insurance, under the oversight of the National Health Insurance Bureau of the Ministry of Health, the Lao Social Security Office (LSSO) retains the mandate of registering formal economy workers and their

³⁶¹ Labour Inspection (Agriculture) Convention, 1969 (No. 129).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C129.

³⁶² ILO, https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103060.

³⁶³ Labour Law, Art. 172.

³⁶⁴ Labour Law, Art. 175.

³⁶⁵ Labour Law, Art. 175.

³⁶⁶ Labour Law, Art. 155.

³⁶⁷ Labour Law, Art. 156.

³⁶⁸ Labour Law, Art. 161.

³⁶⁹ Committee on the Elimination of Discrimination against Women (hereinafter, ‘CEDAW’), Concluding observations on the combined eighth and ninth periodic reports of the Lao People’s Democratic Republic, Convention on the Elimination of All Forms of Discrimination against Women, 14 November 2018, CEDAW/C/LAO/CO/8-9, para 37. <https://www.ohchr.org/en/documents/concluding-observations/cedawclao8-9-concluding-observations-combined-eighth-and-ninth>.

³⁷⁰ ILO, External Collaborator-Social Security. Consultancy, No.: EXCOLL/VIENTIANE/2022/01, Job ID: 8826, 24 June 2022. This resource was a temporarily viewable vacancy announcement that is no longer publicly available online.

dependants, and of collecting contributions accordingly.³⁷¹ The roles of the LSSO vis-à-vis social security inspection include nominating inspectors, developing inspection guidelines and related sub-legislation, and conducting inspection visits. The Prime Minister's Decree on Organizations and Functions of National Social Protection Commission was promulgated in December 2021.

Recommendations

Working time

- Ratify International Labour Standards (ILS) on working time and ensure their effective implementation.
- Monitor and improve the working conditions of women in the informal and private sectors, especially through regular labour inspections to combat exploitative labour practices that women face, including to address the concern of the CEDAW “that women generally work longer hours than men”.³⁷²

Wages

- Ratify and effectively implement the ILO Minimum Wage Fixing Convention (No. 131) in line with the Minimum Wage Fixing Recommendation (No. 135).³⁷³
- Ratify and implement the ILO Protection of Wages Convention, 1949 (No. 95).³⁷⁴
- Ratify and effectively implement the ILO Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173).³⁷⁵
- Ensure effective implementation of the ILO Equal Remuneration Convention (No. 100).
- Adopt a dedicated minimum wage law aligned to international standards, including ILO Conventions No. 131, No. 95 and No. 100 and ILO Recommendation No. 135.
- Ensure effective implementation of the obligations of the State under Article 7(a) of the ICESCR on the remuneration of workers.
- Regularly review the minimum wage, in close tripartite consultation with the social partners, using criteria and processes established in International Labour Standards and international human rights law.
- Monitor and improve the working conditions of women in the informal and private sectors, in particular monitoring the implementation of the minimum wage in all sectors, including through regular labour inspections to combat exploitative labour practices that women face, in line with the recommendation of the CEDAW.³⁷⁶

³⁷¹ ILO, External Collaborator-Social Security. Consultancy, No.: EXCOLL/VIENTIANE/2022/01, Job ID: 8826, 24 June 2022. This resource was a temporarily viewable vacancy announcement that is no longer publicly available online.

³⁷² CEDAW, para 38(b) and para 38(d).

³⁷³ ILO Minimum Wage Fixing Recommendation, 1970 (No. 135).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312473#:~:text=I.&text=1,all%20workers%20and%20t heir%20ofamilies.

³⁷⁴ ILO Protection of Wages Convention (No. 95). https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312240.

³⁷⁵ ILO Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312318.

³⁷⁶ CEDAW, para 38(b) and para 38(d).

Maternity protection

- Ratify the ILO Maternity Protection Convention, 2000 (No. 183) and ensure its effective implementation in line with the ILO Maternity Protection Recommendation, 2000 (No. 191).
- Ensure effective implementation of the obligations of the State under Article 10(2) of ICESCR on special protection to mothers before and after childbirth.
- Ensure effective implementation of the obligations of the State to Article 5(b) of CEDAW regarding ensuring that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children.
- Expand maternity protection beyond formal workers to include workers in the informal economy.

Violence and harassment

- Ratify the ILO Violence and Harassment Convention, 2019 (No. 190) and ensure its effective implementation in line with the ILO Violence and Harassment Recommendation, 2019 (No. 206).³⁷⁷
- Amend the Labour Law to include a definition of sexual harassment and impose sanctions for perpetrators, in line with the recommendation made by the CEDAW.³⁷⁸
- Adopt measures to prevent sexual harassment in the workplace, including by developing a system for filing complaints and ensuring that victims have effective access to redress, in line with the recommendation made by the CEDAW.³⁷⁹
- Implement long-term awareness-raising campaigns, targeting employers, to eliminate discriminatory gender stereotypes and harmful practices, with the active participation of women and women's organizations, and monitor the implementation of the measures taken and assess their impact on the eradication of discriminatory gender stereotypes and harmful practices, in line with the recommendation made by the CEDAW.³⁸⁰

Social protection

- Ratify the ILO Social Security (Minimum Standards) Convention (No. 102) and ensure its effective implementation.
- Ratify the ILO Equality of Treatment (Social Security) Convention (No. 118) and ensure its effective implementation.
- Ratify the ILO Maintenance of Social Security Rights Convention (No. 157) and ensure its effective implementation in line with the ILO Maintenance of Social Security Rights Recommendation (No. 167).³⁸¹

³⁷⁷ ILO Violence and Harassment Recommendation, 2019 (No. 206).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R206.

³⁷⁸ CEDAW, para 38(d).

³⁷⁹ CEDAW, para 38(d).

³⁸⁰ CEDAW, para 24(b) and para 24(d).

³⁸¹ ILO Maintenance of Social Security Rights Recommendation (No. 167).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312505.

- Implement the ILO Social Protection Floors Recommendation (No. 202).³⁸²

Discrimination in Employment and Occupation

- Ensure effective implementation of ILO Discrimination (Employment and Occupation) Convention (No. 111).
- Bring the definition of discrimination under the Labour Law in line with Article 1 of the ILO Convention No. 111.
- Improve enforcement of prohibitions against employment discrimination and requirements for equal pay.

³⁸² ILO Social Protection Floors Recommendation, 2012 (No. 202).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202.

ENVIRONMENT AND LAND LAWS

Environmental Laws

International commitments

The UN Special Rapporteur on Human Rights and the Environment proposed a right to a safe, clean, healthy, and sustainable environment based on the current obligations and responsibilities states and businesses have under international human rights law, and the commitments made by states under international environmental instruments. He proposed that the right could be modelled after the right to water and sanitation, which is also not explicitly enshrined in any international human rights treaty.¹ On this basis, the procedural elements of this right would include access to environmental information, public participation in environmental decision-making, and access to an effective remedy.² The substantive elements would include: a safe climate; clean air and water; adequate sanitation; healthy and sustainably produced food; non-toxic environments for habitation, work, study, and play; and healthy biodiversity and ecosystems.³ In October 2021, the UN Human Rights Council adopted Resolution 48/13 recognising the right to a safe, clean, healthy, and sustainable environment as a human right which is important for the enjoyment of human rights as a whole and is related to other rights.⁴

The government of Lao PDR has signed several international treaties, conventions and protocols dealing environmental issues and climate change, including: UN Convention on Combat Desertification; UN Framework Convention on Climate Change; Kyoto Protocol on the UN Framework Convention on Climate Change; Montreal Protocol on Substances that Deplete the Ozone Layer; Vienna Convention for the Protection of the Ozone Layer; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; Stockholm Convention on Persistent Organic Pollutants.⁵

States' substantive obligations are drawn from the general obligation under international human rights law to protect the human rights of those within their territory or jurisdiction from any interference which threatens or infringes their enjoyment of a right. This general obligation includes protecting against interferences with rights from environmental harm, which would consequently give rise to the state obligation to adopt and implement legal frameworks to protect against environmental harm.⁶ The implementation of frameworks to protect from

1 UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018); UN Human Rights Council: Geneva, Switzerland, 2018, para 14.15. UN General Assembly. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/74/161 (15 July 2019); UN General Assembly: New York, NY, USA, 2019, para 43.

2 UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment—Right to a Healthy Environment: Good Practices; UN Doc A/HRC/43/53, (30 December 2019); UN Human Rights Council: Geneva, Switzerland, 2019, para 2.

3 UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment—Right to a Healthy Environment: Good Practices; UN Doc A/HRC/43/53, (30 December 2019); UN Human Rights Council: Geneva, Switzerland, 2019, para 2.

4 UN Human Rights Council. Resolution 48/13: The Human Right to a Clean, Healthy and Sustainable Environment; UN Doc A/HRC/RES/48/13 (18 October 2021); UN Human Rights Council: Geneva, Switzerland, 2021.

5 Based on its commitment as a signatory to the Convention on Biological Diversity at the 1992 Earth Summit in Rio, Lao PDR developed a National Biodiversity Strategy and Action Plan in 2002. This strategy clearly states Lao PDR's goal of maintaining the country's biodiversity. In 2004, Lao PDR became a member of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which aims to protect certain plants and animals by regulating and monitoring their international trade.

6 UN Human Rights Committee. General Comment No. 36—Article 6: Right to Life; UN Doc CCPR/C/GC/36, (3 September 2019); UN Human Rights Committee: Geneva, Switzerland, 2019, para 26. UN Human Rights Council. Report of the Independent Expert on the Issue of Human Rights

environmental harm should be applicable to regulating state actors as well as non-state actors such as corporations, as has been established under international human rights law.⁷ This would involve the utilisation of both international environmental and international human rights standards in the adoption and implementation of such frameworks, so that states can ensure that human rights and environmental impacts (including those arising from corporate activities) are adequately addressed in an integrated manner, rather than in isolation from each other.⁸ Businesses' substantive responsibilities would not differ from those established under the corporate responsibility to respect in the responsible business framework and could simply be applied to the environmental context. This would mean that businesses should comply with environmental laws, by adopting policy commitments to meet their responsibility to respect human rights through environmental protection, implementing human rights due diligence processes regarding their environmental impacts on human rights, and enabling the remediation of the environmental and human rights abuses that they cause or contribute to.⁹

The UNGPs explains that States “should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights” and that such laws include environmental laws.¹⁰ This section assesses environmental laws in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent corporate law in Lao PDR encourages or impedes responsible business practice. In particular, this section examines the regulatory framework for state and business responsibility for environmental and climate change impacts, including environmental impact assessment, and public participation. Remedy for environmental harm is discussed in Chapter 8 on Access to Remedy.

Regulatory framework

The Environmental Protection Law, which was first established in 1999 and lastly amended in 2020, is the principal environmental legislation relevant to Lao PDR at the national level. It specifies the necessary measures and regulations for managing, restoring and protecting the environment with the intention of protecting human health, natural resources and the richness of nature, and enabling sustainable socio-economic development of the nation. In addition, the following laws are relevant to the management and protection of natural resources and the environment in Lao PDR: Forestry Law (amended in 2019); Law on Agriculture (1998); Law on Water and Water Resources (amended in 2017).¹¹ To support the implementation of these environmental and related laws and policies, Lao PDR has developed and implemented a number of decree and regulations, including in particular the Decree on Environmental Impact Assessment (revised in 2019).

Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, John, H. Knox—Mapping Report; UN Doc A/HRC/25/53 (30 December 2013); UN Human Rights Council: Geneva, Switzerland, 2013, paras 44-46.

7 UN Human Rights Council. Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, John, H. Knox—Mapping Report; UN Doc A/HRC/25/53 (30 December 2013); UN Human Rights Council: Geneva, Switzerland, 2013, para 58. UN Committee on Economic, Social and Cultural Rights. General Comment No. 24 (2017) on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the context of Business Activities; UN Doc E/C.12/GC/24 (10 August 2017); UN Committee on Economic, Social and Cultural Rights: Geneva, Switzerland, 2017, para 14.

8 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018., Principle 12, Commentary para 34. UN Human Rights Committee. General Comment No. 36—Article 6: Right to Life; UN Doc CCPR/C/GC/36, (3 September 2019); UN Human Rights Committee: Geneva, Switzerland, 2019, para 62.

9 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018., Principle 12, Commentary para 35.

10 UNGPs, Principle 3, Commentary.

11 Forestry Law (No. 08/NA of 13 June 2019), Law on Agriculture (No. 01-98/NA of 10 October 1998); Law on Water and Water Resources, No. 23/NA of 11 May 2017.

State responsibility for environmental protection

The Environmental Protection Law applies to natural; and legal persons based in Lao PDR, both local and foreign.¹² The law sets up the key principles for environmental protection as follow: i) socio-economic development aligned with sustainable protection of social and natural environment; ii) prevention of social and natural environment as key tasks and rehabilitation of social and natural environment as significant tasks; iii) active participation and consultation of people and organizations into protection of social and natural environment; iv) utilization of natural resources, raw materials and energy with economical and rational manners, utmost benefits and the least impacts on the environment; and v) liabilities in damages of social or natural environment resulted by an offender's action.¹³ Environmental prevention is described as “prevent[ion] against impacts on people's lives, health, shelters and productions” and “against impacts on forests, water resources, animals and natural biodiversity and resources, including climate change”.¹⁴ The law includes specific chapters on pollution control, toxic chemical control and waste disposal.

The Decree on Ethnic Affairs of 2020 provides for natural resources and environment policies, which include improving the management and sustainable use of natural resources and the environment in rural areas, establishing procedures to conserve the environment, for mining and use of natural resources and environment, promoting and supporting sustainable use of natural resources and environmental conservation in rural areas by providing stable work opportunities for ethnic groups.¹⁵

Business responsibility for environmental impacts

The corporate responsibility to respect has procedural dimensions in the environmental context. This is apparent in the context of businesses' due diligence processes and the provision of remedies for environmental harm. For example, the adoption of a due diligence process ensures that businesses can identify, prevent, mitigate, and account for how they address their human rights and environmental impacts.¹⁶ Therefore, just like States, businesses must also ensure that they assess their environmental and human impacts. As a part of their due diligence, businesses must also communicate how they identify and address their human rights and environmental impacts.¹⁷ This is particularly important because individuals and communities face significant challenges to their participation in environmental decision-making or even seeking redress for environmental business impacts without access to such information.

To meet their responsibility to respect human rights, business enterprises should conduct human rights due diligence that addresses the adverse environmental impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products, or services by its business relationships. On an ongoing basis, business enterprises should identify and assess how their environmental impacts may lead to environmental harms. Impact assessments should prioritise the most severe risks and focus on the impacts on individuals and groups at heightened risk of vulnerability and marginalization. This process should include meaningful consultation with potentially affected stakeholders, including local communities. Businesses should take the necessary steps across their activities and supply chains to cease or prevent any contribution

12 Environmental Protection Law (2020), Article 8.

13 Environmental Protection Law (2020), Article 6.

14 Environmental Protection Law (2020), Article 15.

15 Decree on Ethnic Affairs (No. 207 of 2020), Article 11.

16 UNGPs, Principles 17-21.

17 UNGPs, Principles 21.

they make to environmental harms. Further, they should use (and seek to increase) leverage to influence businesses with which they have relationships to prevent or mitigate any environmental harms (for instance to ensure compliance with climate and environmental standards). Tracking should draw on a range of expert sources so businesses can understand whether environmental impacts are being properly addressed. Businesses should publicly provide information that is sufficient to evaluate the adequacy of their response to environmental harms.

Whilst the adoption of a due diligence process remains an inherent element of the corporate responsibility to respect,¹⁸ less attention has been given to it in environmental contexts. The UNGPs clearly establish transparency in the form of external communication, and due diligence as the cornerstone of corporate responsibility, but they are silent regarding environmental harm. The OECD Guidelines define the notion of due diligence generally with respect to businesses' harmful activities and specifically in the context of human rights, employment, industrial relations, bribery, and extortion, but not explicitly as such regarding the environment. Moreover, even though they describe processes of risk identification, mitigation, and transparency which are closely related to the definition of due diligence, they do not do so explicitly. In regard to human rights risks, businesses are required to carry out 'human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts',¹⁹ but with regard to environmental risks businesses' responsibilities are to: 'Assess, and address in decision-making, the foreseeable environmental, health, and safety related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them'²⁰ and maintain 'contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities'.²¹ Lao PDR has not adopted yet a national law that establish an obligation for corporations to disclose non-financial information, including environmental information. Whilst environmental reporting has long been demanded and voluntarily produced by some companies, amalgamating these different aspects of non-financial information is more recent. Several regulatory systems impose a range of obligations based on the premise that when investors and consumers understand corporate activity and its impact, they will make informed choices which would then pressure corporations to act responsibly.

The Environmental Protection Law describes an impact on social environment as "an adverse impact on human life and health, properties and livelihoods, including shelters of people, and on cultural and historical heritages"²² and an impact on natural environment as "an adverse impact on natural ecological fundamentals, natural resources, biodiversity, arable land, water sources, climate change and natural heritages."²³

Natural and legal persons, both local and foreign, including business enterprises, are shall be prohibited from the following: i) logging/deforestation, mining operations with fragmenting manners, and land uses with infringement to laws; ii) import, export, transit, sell, store, use, reproduce and demolish toxic and ozone depleting chemicals, equipment with ozone depleting chemicals, radiation, hazard wastes and persistent organic pollutants without permissions; iii) Generate impacts on social and natural environment exceeding the National Environmental Quality Standards (NEQS) and the National Pollution Control Standards (NPCS), and pollutants

18 UNGPs, Principles 17-21.

19 The OECD Guidelines for Multinational Enterprises (2011), Human Rights, para 5.

20 The OECD Guidelines for Multinational Enterprises (2011), Environment, para 3.

21 The OECD Guidelines for Multinational Enterprises (2011), Environment, para 5.

22 Environmental Protection Law (2020), Article 10.

23 Environmental Protection Law (2020), Article 11.

including water, air and soil, radiation, toxic chemicals, hazard wastes, smoke, dust, disturbance such as noise, light, colour, odour, vibration, heat; iv) burn, bury, dispose and demolish wastes, release and discharge waste water into canals, rivers, natural water sources or any sites without treatment based on the technical standards; v) transport of sand, soil, gravel stone and rubbish with infringement to regulations; vi) discharge of toxic chemicals, smoke, dust, vapour or odour that exceeds the NEQS and the NPCS; vii) generate vibration, noise and light exceeding the enacted limitations.

Environmental Impact Assessment (EIA)

A key part of the business responsibility to carry out a corporate due diligence process is the development, implementation, and communication of an environmental impact assessment (EIA) prior to start any operation that could potentially impact on the environment. Regulation of the EIA process in Lao PDR is set up in the Environmental Protection Law and in the Decree on Environmental Impact Assessment, amended in 2019.

The Decree on Environmental Impact Assessment describes an EIA as the “process of studying, surveying, analysing and evaluating positive and negative impacts on social and natural environment caused by investment projects and activities both in short and long terms, including setting appropriate methods and measures to protect, avoid, and mitigate those impacts.”²⁴ Results of the EIA is one of the Government’s conditions for the review and approval of investment projects and activities. The Decree also prescribes that an EIA should be carried out according to the following principles: i) compliance with regulations, socio-economic development plan, international treaties and agreements to which Lao PDR is a party; ii) centralized and unified management throughout the country; iii) transparency, openness, and fairness; iv) public participation; v) reliable, concise, and verifiable information; and vi) responsibility for damages.²⁵

The Environmental Protection Law describes the EIA as a process of addressing an issue in order to anticipate impacts that may affect the environment, society and nature, derived from investment projects or activities, along with considerations related to climate change in Lao PDR, and development of reports.²⁶ In addition to reporting, the development of environmental social management and monitoring plans are also prescribed.²⁷ This process is in line with a HRDD process detailed in the UNGPs. The law provides that a strategic environmental assessment is a process of anticipating an impact that may affect social and natural environment, while developing policies, strategic plans, and programs, including considerations towards impacts of climate change.²⁸ This impact assessment shall determine methods and measures to avoid or mitigate impacts on social and natural environment in order to accomplish sustainable development goals.²⁹ The law establishes that a strategic environmental assessment should be conducted in particular while developing the policies, strategic plans, and programmes in the energy and mining, agriculture and forestry, industry and commerce, public works and transportation, post-telecommunication and communication, information-culture and tourism sectors.³⁰

EIA regulation in Lao PDR has many strengths, but also some weaknesses: Inadequate planning procedures, no secondary regulations, few trained and skilled personnel, inadequate public

24 Decree on Environmental Impact Assessment (amended 2019), Article 2.

25 Decree on Environmental Impact Assessment (amended 2019), Article 5.

26 Environmental Protection Law (2020), Article 22.

27 Environmental Protection Law (2020), Article 22.

28 Environmental Protection Law (2020), Article 19.

29 Environmental Protection Law (2020), Article 19.

30 Environmental Protection Law (2020), Article 19.

consultation, lack of environmental data, weak follow-up and monitoring, and no enforcement machinery. Additionally, the EIA approval procedure is very bureaucratic and easily derailed by political and economic pressures. In addition, coordination among EIA proponents, consultants, concerned ministries, local authorities, planners, and decision-makers is generally weak. This delays decision-making and hinders implementation of environmental regulations. Thus, procedures and evaluation are not always performed well. EIAs are more a project justification tool than a project planning tool for sustainable development. Recommendations to strengthen the system, such as improving capacity building, implementing an EIA consultants' accreditation system, ensuring effective public participation and access to EIA reports, applying systematic EIAs, reviewing criteria, and promoting environmental awareness.

Climate change

The link between climate change and business responsibility had become evident in the past decade and now several national and regional regulations around corporate human rights due diligence include climate change.³¹ In 1995, Lao PDR joined the UN Framework Convention on Climate Change and the Kyoto Protocol in 2003. In 2008, the Lao PDR government established the National Steering Committee on Climate Change.

Lao PDR faces significant sustainability and environmental challenges that are amplified by climate change. Limited economic resources create challenges for disaster management and climate change adaptation. Hydrological hazards such as flooding, droughts, and storms frequently impact rural areas, affecting the agricultural livelihoods on which most of the population relies. They also cause disease outbreaks, threaten food security, and force communities to migrate due to concerns for personal safety and the security of their livelihoods. Most of the land in the Lao PDR is degraded due to the impacts of droughts, flooding, and landslides, as well as the unsustainable use of natural resources, which has been accelerated by the marketization of agriculture. As a country with approximately 60% forest cover, Lao PDR aims to strike a balance between the economic benefits of the forestry industry and the climate change mitigation and adaptation benefits of forest conservation.

Nearly three-quarters of households in Lao PDR are engaged in agriculture, a sector highly vulnerable to the impacts of climate change and disasters. Climate change projections indicate more frequent and destructive droughts, storms, and floods in the future due to longer hot and dry periods and an increase in average rainfall that may likely cause more intense periods of rainfall in the wet season. Due to a complex topography, Lao PDR has over 40 unique livelihood groups, each with different vulnerabilities to the impacts of natural hazards and climate change. The most vulnerable groups are those dependent on highland rice paddies, as the rugged terrain in these areas limits access to productive land and opportunities to diversify livelihoods. Climate change will bring challenges for Lao PDR including rural impoverishment, food insecurity, migration, and changes in work and education opportunities that also impact family relations and work-related gender roles.

Key areas of socioeconomic development are likely to be exacerbated further with the rise in climate and disaster-related risks. Therefore, alongside the challenges of combating disaster and climate impacts, it is crucial to ensure that women's socioeconomic resilience is increased so that women and men move forward with increased equality of outcomes. This requires a focus, not only on how climate and disaster-related laws and policies can be more gender

³¹ See for example European Commission's proposal for a Corporate Sustainability Due Diligence Directive, Feb 2022 https://ec.europa.eu/info/publications/proposal-directive-corporate-sustainable-due-diligence-and-annex_en

responsive but also on improving gender equality in key socioeconomic areas that impact women's resilience.³²

The Decree on Environmental Impact Assessment prescribes an Environmental and Social Impact Assessment (ESIA) as a process of data analysis to evaluate potential environmental and social impacts generated by investment projects or activities, including consideration on the issues related to climate change impacts.³³ The Decree on Ethnic Affairs of 2020 is also relevant as in relation to natural resource and environmental policies include the education, research, and assessment of climate change impacts on the livelihoods of ethnic groups.³⁴

The Environmental Protection Law mentions the issue of climate change also in relation to business responsibility in several articles. An impact of climate change is considered an impact on the natural environment³⁵ and prevention against impacts on climate change is considered part of environmental prevention.³⁶ In relation to business responsibility the law requires a Strategic Environmental Assessment (SEA), described as a process of anticipating an impact that may affect social and natural environment, while developing policies, strategic plans, and programmes, including considerations towards impacts on climate change.³⁷ The law also requires an Initial Environment Examination (IEE), described as a data examination, exploration and analysis to anticipate possible minor environmental impacts, while identifying appropriate methods and measures to prevent, avoid or mitigate environmental impacts from investment projects or activities including considerations of climate change.³⁸ Finally, the Environmental Impact Assessment (EIA), in line with the HRDD process detailed in the UNGPs, shall be a process of addressing an issue in order to anticipate impacts that may affect the environment, society and nature, derived from investment projects or activities, along with considerations related to climate change.³⁹

Public participation

The procedural environmental obligations of the government of Lao PDR consist of duties to assess environmental impacts and make such environmental information publicly available, to facilitate public participation in environmental decision-making, and to provide access to remedies for environmental harm.⁴⁰ The fulfilment of these duties is also crucial to guaranteeing for all individuals and communities the full enjoyment and exercise of their substantive rights. For example, it would be difficult for individuals and communities to participate in environmental decision-making processes and for victims of environmental impacts of business operations to seek redress without access to environmental information such as environmental impact assessments. The recognition of this difficulty has culminated in a range of regional agreements seeking to guarantee access to information in environmental contexts, along with ongoing efforts in a range of communities in low- and middle-income countries with the support of civil society seeking to respond to the lack of information and access to formal environmental impact assessments.⁴¹ As a part of these duties, states must also provide education and public

³² See, Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, 2018.

³³ Decree on Environmental Impact Assessment (amended 2019), Article 19.

³⁴ Decree on Ethnic Affairs, Article 11.

³⁵ Environmental Protection Law (2020), Article 11.

³⁶ Environmental Protection Law (2020), Article 15.

³⁷ Environmental Protection Law (2020), Article 19.

³⁸ Environmental Protection Law (2020), Article 21.

³⁹ Environmental Protection Law (2020), Article 37.

⁴⁰ UN Human Rights Council. Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, John, H. Knox—Mapping Report; UN Doc A/HRC/25/53 (30 December 2013); UN Human Rights Council: Geneva, Switzerland, 2013.

⁴¹ Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 2161 UNTS 447, 38 ILM 516 (1998); Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (adopted 4 March 2018, Entered into Force 22 April 2021).

awareness on environmental matters, both of which are prerequisites to understanding environmental information and thus fully exercising one's right to express their views on environmental issues, participate in decision-making, and seek remedies for violations of their rights.⁴²

Chapter 5 of the Environmental Protection law is about promotion and public participation. In relation to environmental education and awareness the law provides that the government shall promote public participation and/or involvement in protecting the environment with the development of formal and non-formal education at all levels of school and university; it should also support natural and legal persons, including business, to build environmental awareness and campaigns.⁴³ The natural resources and environmental sector shall develop the systems for environmental information management and services to ensure the public information provision based on regulations.⁴⁴ Natural and legal persons, including business, shall be able to access environmental information.⁴⁵

In line with the UNGPs which consider meaningful stakeholder consultation an integral part of any HRDD process, the Environmental Protection law also include public participation in the development of business environmental impact assessment. It establishes that when conducting the SEA, there shall be participations by organizations, local concerned authorities and people, who are directly or indirectly affected by the sectoral policies, strategic plans and programmes.⁴⁶ And also that any SEA, environmental action plan, social and natural environmental impact assessment, environmental management and monitoring shall be developed with participations by organizations, local authorities and people, who are directly or indirectly affected by investment projects or activities.⁴⁷

The EIA Decree stipulates public participation through “public involvement”.⁴⁸ According to the decree, public involvement is the “process of consultation, information provision, and public comments on investment projects and activities during the development phase and review” of the Initial Environmental Examination (IEE) report, the Environmental and Social Impact Assessment (ESIA) report, and the Environmental Management and Monitoring Plan (EMMP) including the implementation of monitoring of environmental management in each phase of the investment projects and activities to ensure transparency, fairness, and effectiveness.⁴⁹ Public involvement is required during all phases of investment project: i) preparation and planning; ii) construction and operations; and iii) completion.⁵⁰ The project owner is required to develop a public involvement plan for the assessment in each phase and the analysis of public involvement especially in relation to issues related to the ethnicity, gender and vulnerability of people affected by the project. This is in line with the UNGPs, which establish that the process of identifying and assessing actual or potential adverse human rights impacts of business activities should “involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.”⁵¹

42 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018, Principle 6, Commentary paras 15–16.

43 Environmental Protection Law (2020), Article 46.

44 Environmental Protection Law (2020), Article 47.

45 Environmental Protection Law (2020), Article 47.

46 Environmental Protection Law (2020), Article 19.

47 Environmental Protection Law (2020), Article 48.

48 Decree on Environmental Impact Assessment (amended 2019), Chapter 4.

49 Decree on Environmental Impact Assessment (amended 2019), Article 36.

50 Decree on Environmental Impact Assessment (amended 2019), Article 36.

51 UNGPs, Principle 18.

Institutional framework

The Government manages environmental activities with centralization and unity throughout the country, by assigning MONRE to take direct responsibilities and leading roles in coordinating with line sectors and local authorities to study and identify policies, strategies, regulations, methods, and measures of environmental protection. Environmental management organizations consist of i) MONRE, ii) provincial or capital DONRE, iii) district or municipality office of natural resources and environment; and iv) village unit of natural resources and environment.⁵²

With regards to environmental management, especially in relation to business responsibility, MONRE's rights and duties include: i) develop directions, strategies, policies into programmes, detailed projects and regulations regarding environmental management; ii) disseminate legal acts on the environment to the entire population with the aim of education and awareness; iii) supervise environmental management implementation, natural disaster related works, climate change as well as allocating and resettling villagers affected by investment projects and operations; iv) regulate investment projects based on environmental impacts assessment and environmental management and monitoring plans; v) issue certificates regarding social and natural environmental impact assessment reports and environmental management and monitoring plans; vi) issue permits regarding technical services on the environment; vii) receive reports on environment from people and related parties; viii) issue order to suspend or withdraw certificates on social and natural environmental impact assessment reports, and environmental management and monitoring plans, and permissions on technical services of the environment when legal violation is found.⁵³ Both the EIA report and the plan shall be approved by MONRE prior to functioning investment projects and activities.⁵⁴

Environmental inspecting agencies are also established with the duty to i) develop environmental inspection programmes or annual plans to ensure that investment projects or activities do not create environmental impacts exceeding the standards, ii) inspect pursuance of environmental policies, strategies, programmes, projects and regulations, iii) inspect environmental state of investment projects or activities based on environmental management and monitoring plans via sector-wide coordination and collaboration with local authorities.⁵⁵

The Government manages the EIA process with centralization and unity throughout the country by assigning MONRE to take direct responsibilities and leading roles in coordinating with ministries, agencies, local authorities, and other relevant entities. The EIA management organizations consist of MONRE; PONRES; and DONREs.⁵⁶ Natural Resources and Environment (NRE) sector agencies, the sector agencies responsible for investments, local administrations, and the project owner have a joint responsibility to ensure and facilitate public involvement in the EIA process.⁵⁷

Recommendations

Adopt “a smart mix of measures” to make business respect human rights in the context of climate change: In discharging their duty to protect human rights, Lao PDR should set out clearly the expectation that all business enterprises respect human rights throughout their operations

⁵² Environmental Protection Law (2020), Article 78.

⁵³ Environmental Protection Law (2020), Article 79. Article 80 lists the rights and duties of provincial/capital DONRE, Article 81 the rights and duties of district/municipality offices of Natural Resources and Environment, Article 82 the rights and duties of natural resources and environmental village unit.

⁵⁴ Environmental Protection Law (2020), Article 22.

⁵⁵ Environmental Protection Law (2020), Article 85.

⁵⁶ Decree on Environmental Impact Assessment (amended 2019), Article 74.

⁵⁷ Decree on Environmental Impact Assessment (amended 2019), Article 36.

and prevent and mitigate adverse impacts related to climate change. To do so, Lao PDR should adopt and enforce a smart mix of laws, regulations and policies that encourage or oblige business to reduce emissions and to take other measures to prevent adverse impacts resulting from climate change. This may include requiring companies to exercise human rights due diligence, conduct environmental and climate impact assessments, and/or disclose greenhouse gas emissions and climate change impacts. States should also consider measures to encourage business to prioritize low-carbon and zero-carbon investments.

- Address the State/business nexus: Lao PDR should take additional steps to protect against rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies, including in the context of climate change. For instance, States and State-owned enterprises could employ strict sustainability requirements in their procurement contracts.
- Guarantee access to information and transparency including through climate disclosure and reporting processes: States have the obligation to guarantee all persons the right to access to information, including climate-related information. This is critical for transparent, accountable, and rights-based climate action. Lao PDR should set out mandatory climate disclosure and reporting obligations for businesses operating within their territories and/or jurisdictions through environmental, securities, corporate governance and other laws and regulations, as appropriate. Businesses should ensure adequate and accurate disclosure and reporting of their climate impacts in an accessible manner.
- Strengthen the EIA system, improving capacity building, implementing an EIA consultants' accreditation system, ensuring effective public participation and transparency with access to EIA reports, applying systematic EIAs, reviewing criteria, and promoting environmental awareness. Improve coordination among EIA proponents, consultants, relevant ministries, local authorities, planners, and decision-makers is generally weak. Increase institutional capacity including numbers of suitably qualified and experienced personnel and in monitoring equipment and resources. Improve expertise and awareness among decision-makers and the public concerning the importance of appropriate environmental management. Strengthen enforcement of environmental legislation and EIA regulations and establish adequate monitoring programs.
- Make public participation and consultation mandatory at various EIA stages, such as screening, scoping, report preparation, and decision-making.

Land Laws

International commitments

Land is a cross-cutting issue that impacts directly on the enjoyment of several rights. For many people, land is a source of livelihood, and is central to economic rights. Land is also often linked to peoples' identities, and so is tied to social and cultural rights. The rights aspects of land affect a range of issues including poverty reduction and development, peacebuilding, humanitarian assistance, disaster prevention and recovery, and urban and rural planning. Food insecurity, climate change and rapid urbanization have also refocused attention on how land is being

used, controlled, and managed by States and business Measures to protect the environment may also at times conflict with the interests of populations that depend on land for subsistence and survival. At the same time, failure to effectively prevent and mitigate environmental degradation and the negative impact of climate change could drastically reduce access to land, especially for marginalized groups.⁵⁸

Like all States, the government of Lao PDR may expropriate land for a public purpose within its eminent domain. This can include the lawful eviction of persons living on that land. For an eviction to be lawful, it must be carried out in accordance with national laws and the State's international law obligations. UN human rights treaties and International Financial Institution (IFI) safeguard policies provide principles and guidance for States to ensure that population displacement occurring due to economic development does not interfere with the enjoyment of rights and livelihoods.

The UN Basic Principles and Guidelines on Development-Based Evictions and Displacement⁵⁹ set out standards to be followed by States and other parties responsible for displacement, reaffirming the following requirements: fully exploring alternatives to displacement; ensuring an appropriate planning process with sufficient opportunities for meaningful participation and informed participation; ensuring displaced persons do not experience a deterioration in living standards, including by ensuring appropriate compensation and alternative livelihood options; and prohibiting all forced evictions.

International financial institutions have also developed standards on involuntary resettlement, in the recognition, based on experience with major development projects, that involuntary resettlement may result in severe, long-term hardship and impoverishment for affected persons. Involuntary resettlement can involve displacement from property, land, assets, and housing. The term refers to a process of displacement that is involuntary, and always applies when land is acquired through the exercise of State powers. Safeguard policies of the Asian Development Bank (ADB), the International Finance Corporation (IFC) and the World Bank Group provide commonly accepted standards. Each safeguard policy shares specified policy objectives: first, to avoid involuntary resettlement where possible; and second, to minimize, where involuntary resettlement does occur, adverse impacts including by exploring alternatives.⁸⁶ All three policies state that the livelihoods of persons affected by displacement should improve, or at a minimum, be restored to pre-project levels.

A significant body of international law establishes the rights of people affected by development projects to access timely and transparent information, have opportunities to be involved meaningful consultations, and to participate in decision-making related to project developments and the resulting changes for the population. By conforming with these procedural obligations, States can avoid or mitigate adverse project impacts, community grievances and human rights violations. This may enable issues to be addressed to avoid subsequent litigation before the courts. Access to timely and relevant information, and opportunities to engage in meaningful consultations, are required to enable people to be involved in decision-making processes as informed participants where such decisions affect communities and their surrounds. Effective participation in decision-making means that those who are likely to be impacted upon by a decision have a right to be involved and seek to influence that decision. Affected communities and individuals must be included in the analysis of impacts and the development decision-making process. For decisions that affect communities and their environment, the established international best practice is to have a

⁵⁸ OHCHR, OHCHR and land and human rights <https://www.ohchr.org/en/land>

⁵⁹ Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.

process of meaningful consultation in which: the public is provided with access to relevant information in a timely manner (e.g., proposed plans, alternatives, impact assessments, proposed eviction, and resettlement plans); and the public has an opportunity to present comments, objections and propose alternatives. UN treaty bodies including the ESCR Committee, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination have recommended that States ensure consultation with affected communities prior to conducting development projects or other land acquisitions or concessions.⁶⁰ The safeguard policies of the ADB, the IFC and the WBG also affirm the rights to information, consultation and participation in projects – in addition to other rights.

Article 27 of the ICCPR provides that in States with ‘ethnic, religious or linguistic minorities,’ those minorities ‘shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.’ In interpreting this provision, the UN Human Rights Committee has stated in its General Comment No. 23 that the rights of individuals protected under this article ‘may consist in a way of life which is closely associated with territory and use of its resources.’

The UNGPs clarify that it is important for States to review whether their laws “provide the necessary coverage considering evolving circumstances and whether, together with relevant policies, they provide an environment conducive to business respect for human rights. For example, greater clarity in some areas of law and policy, such as those governing access to land, including entitlements in relation to ownership or use of land, is often necessary to protect both rights-holders and business enterprises.”⁶¹ In ensuring the protection of land rights of minority groups, appropriate human rights due diligence must be carried out by businesses in a manner that effectively considers issues of gender, vulnerability and/or marginalization given the “specific challenges that may be faced by...national or ethnic minorities, religious and linguistic minorities”.⁶²

When companies acquire land for their business activities, it can lead to relocation of communities or individual households. Involuntary resettlement occurs when affected people do not have the right to refuse land acquisition and are displaced. Involuntary resettlement for development projects can give rise to economic, social, and environmental risks, and result in loss of shelter or livelihoods and long-term hardship and impoverishment of affected people if it is not managed well. While the UNGPs do not specifically address the issues of resettlement, other international standards provide a framework. For example, the Asian Development Bank (ADB)’s involuntary resettlement safeguards aim to avoid involuntary resettlement wherever possible, to minimize involuntary resettlement by exploring project and design alternatives, to restore the livelihoods of all displaced persons to pre-project levels.⁶³ The safeguards call for meaningful consultation with affected people, compensation of losses and provision of assistance to displaced persons, and special measures for the poor and vulnerable, as well as the preparation, implementation, and monitoring of resettlement plans. Similarly, the Performance Standards on Land Acquisition and Involuntary Resettlement of the World Bank’s International Finance Corporation (IFC) advises companies to avoid involuntary resettlement wherever possible, to carry out active community engagement throughout the process, and to

⁶⁰ For example, CESCR, Concluding observations on Cambodia (E/C.12/KHM/CO/1, 2009); UN OHCHR “Land and Human Rights: Standards and Applications,” June 2015.

⁶¹ UNGPs, Principle 3, Commentary.

⁶² UNGPs, Principle 3, Commentary.

⁶³ ADB, Involuntary Resettlement Safeguards <https://www.adb.org/who-we-are/safeguards/involuntary-resettlement>.

minimize its impact on those displaced through mitigation measures such as fair compensation and improvements to and living conditions.⁶⁴

This section assesses land laws in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent land law in Lao PDR encourages or impedes responsible business practice. This section examines the regulatory framework for land management, use and acquisition, customary land rights, expropriation and compensation, resettlement, and issues related to Special Economic Zones.

Regulatory framework

In Lao PDR, the principles and policy framework for land management, acquisition and resettlement are mainly governed by the Constitution (amended in 2015), the Land Law (amended in 2019), the Forestry Law (amended in 2019), the Law on Resettlement and Vocation (2018), the Decree on Special Economic Zones (amended in 2018) and the Decree on Ethnic Affairs (2020).

Land management, use and acquisition

Article 16 of the Constitution declares that “the State protects and promotes all forms of property rights: State, collective, and private domestic and foreign investment” in Lao PDR.⁶⁵ Article 17 reaffirms that “the State protects the property rights (such as the rights of possession, use, exploitation and disposition) and the inheritance rights of individuals, legal entities and organizations”.⁶⁶ It also states that land (together with minerals, water, air, forests and forest products, aquatic life, wildlife and other natural resources) belong “to the nation’s community with the Lao government as the centralized and unified representative to manage those resources under laws of Lao PDR.”⁶⁷

The Land Law (amended in 2019) is the principal legislation by which the government of Lao PDR exercises its constitutional responsibility for tenure, access, use, management, and preservation of land.⁶⁸ The Land Law is a significant improvement from the previous 2003 law addressing new points, such as principles for land administration and management, strategic and land use planning and responsibilities of government officials and land inspection.

The Land Law reaffirms that all land in Lao PDR is the “ownership of the national community” (as stated in the Constitution) for whom the State is “the ownership holder and manages lands in a centralized and uniform manner across the country with land allocation plans, land use planning and land development.”⁶⁹ The State can grant long-term land use rights Lao citizens as well as Lao legal persons.⁷⁰

For the business community and investors, the new or amended Articles on leases and concessions bring clarity to the area of investments involving land. Foreign persons have the rights to lease, receive concession of State land or purchase allocated State land use rights with determined timeframe and to lease the land of Lao citizens, while their organizations only have the right to lease or receive concession of State land and lease land of Lao citizens.⁷¹

64 IFC, Performance Standard 5, Land Acquisition and Involuntary Resettlement, 2012
https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps5.

65 Constitution of Lao PDR (amended in 2015), Article 16.

66 Constitution of Lao PDR, Article 17.

67 Constitution of Lao PDR, Article 17.

68 Land Law (No. 70/NA amended in 2019).

69 Land Law, Art. 3.

70 Land Law, Art. 3.

71 Land Law, Art. 3.

The Land Law classifies land into three regions and eight categories. The three regions are: plain, plateau; and mountainous regions.⁷² The eight categories are: agricultural, forest, water area, industrial, communication, cultural, defence and security, and construction land.⁷³ Subsequent sections of the Law are concerned with the management of each land category.⁷⁴

The government can acquire State land in the following cases: i) the State has allocated and reserved land as State Land; ii) individuals, legal entities, organizations lose their land use right;⁷⁵ iii) cessation of land use rights of individuals, legal entities, organizations;⁷⁶ or iv) voluntary transfer of the land use rights to the State.⁷⁷ The State “protects the rights and lawful interests of the holder of land use rights including assets on the land surface in an effective, peaceful, regular and long-term manner”.⁷⁸

In relation to the use of land of people and corporations, the State manages the use of land of Lao individuals, legal entities, and organizations by making land records, certifying the land use, issuing land titles, and registering activities and changes of land use rights.⁷⁹ Those natural and legal persons who are granted land use rights shall use their lands in accordance with their purposes and in consistency with the Land Allocation Master Plan, land use strategy and land use plan adopted by the State.⁸⁰ The State also manages the land use by foreign nationals and their organizations “who have been legally living, making their living and doing businesses in Lao PDR for a long time” through leasing, concessions of State lands, or purchase of allocated State land use rights by issuing land use certificates or State Land titles.⁸¹

Land title registration is the issuance of first edition of land title to individuals, legal entities, and organizations for certifying legal rights to use different land categories.⁸² A land title, which is copied from the land register, is the only document that provides evidence of land use rights.⁸³

The Land Law establishes the right of the State to terminate use rights for State investment purposes (rather than public purposes).⁸⁴ This means, in practice, that the State can acquire privately owned land so that it can issue a lease or concession to a developer or investor. While the State is obliged to compensate, a committee will determine the value.⁸⁵ The State can also authorise land concessions to use state allocated lands in certain areas to conduct concession investment activities, “for example in the sector of agriculture, tree plantations, tourist sites,

72 Land Law, Art. 20.

73 Land Law, Art. 21.

74 Land Law, Part IV, Sections 1-8.

75 As prescribed in Article 144 (amended) “Loss of Land Use Rights”: “Holder of land use rights will lose such rights in any of the following cases: 1. has not paid land use fees for three consecutive years; 2. has made no development nor production from the second year after receiving the land use right. In addition to paying full land use fees, the holder will be subject to written warning. In the third year, the holder will be fined fifty percent the land use fee amount. In the fourth year, the holder will be fined a hundred percent of the land use fee amount. In the fifth year, the holder will be fined five percent of the land value base on the land valuation rates in the area. In the sixth year, the holder will lose the land use rights if no actions are taken; 3. has not paid for the lease or concession of State land fees according to the contract for two consecutive years; 4. use allocated State land not in accordance with the objectives, after written warning; 5. failed to claim the land use right within the terms allowed to claim; 6. land use rights are lost by court decision; 7. cases as prescribed in Article 147 of this Law and other cases”.

76 As prescribed in Article 147 (amended) “Cessation of Land Use Rights” except the case No. 4: “Land use rights of the land use right holder will be ceased in the following cases: 1. Voluntary relinquishment of land use rights; 2. Reacquisition of the land by the State for public purposes or for State development projects; 3. Revocation of land use rights in accordance with Articles 145 and 146 of this Law; 4. Transfer of land use rights to another person; 5. Loss of Lao nationality; 6. Death without any heir; 7. Transfer of the land use rights by the Government or local administrative authorities to people during the period of country's struggle for liberation; 8. The holders of land use rights who did not claim their rights before the year 1994 according to the Decree of the Council of Ministers on the Land and House of the former regime personnel subjected to court decision, the Lao who fled the country and those sent to re-education No 129/PM dated 18 November 1989; and before 1996 according to Prime Minister's Decree on Land No 99/PM dated 19 December 1992; 9. The holders transferred their rights to become a collective property during the period of country's struggle for liberation as well as at current time; 10. The holder has not claimed the rights from the person who has honestly, openly, peacefully and continuously occupied the land for more than 20 years from the date of the occupation.”

77 Land Law, Art.79.

78 Land Law, Art. 7.

79 Land Law, Art. 85.

80 Land Law, Art. 86.

81 Land Law, Art. 87.

82 Land Law, Art. 94.

83 Land Law, Art. 99.

84 Land Law, Art. 147(2).

85 Land Law, Art. 154.

industrial zones or industrial estates, Special Economic Zones, development of new cities, development of power source, mining.”⁸⁶

In relation to the acquisition of land use rights by Lao citizens and legal entities, they can acquire land use rights on one of the four following bases: 1) allocation by the State; 2) transfer; 3) inheritance; or 4) sale of allocated State land use rights with determined timeframe.⁸⁷ Instead, foreign nationals and their organizations who receive the authorization from the State to legally reside, invest or operate business in Lao PDR are granted the right to use land through lease or concession of State lands, purchase of allocated State land use right with determined timeframe; if they receive to permanently reside in the country are granted the right to use land through lease of land use rights from Lao natural and legal persons.⁸⁸ The holder of land use right has the rights to i) protect the land; ii) use the land; iii) gain benefits from the land; iv) transfer land use right; and v) the rights related to inheritance of land use right.⁸⁹

The Land Law also recognises the acquisition of customary land use right as “the acquisition by Lao citizens of their occupied and used lands through clearance, development, protection and regular use of the land for more than twenty years before this Law becomes effective and without document certifying the acquisition of the land but subjected to certification from village administrative authorities and the owners of adjacent land parcels regarding the continuous land occupation and use without any disputes or with disputes which have been already settled.”⁹⁰ This article also explains that “[w]hile land registration has yet to conduct for issuing individual land titles, the State acknowledges and protects the customary land use rights of the person and proceeds with land title registration”.⁹¹

Particular attention is given in Lao PDR to forestland recognising that forests are “invaluable national resources with a unique ecology, comprising biodiversity, water sources and land with various tree species”.⁹² The Forestry Law (amended in 2019) is a substantial improvement over the previous law of 2007. The new Law is a more practical, business-focused document, which recognises use of private property rights – although limited to forest resources.

The Law determines the principles, regulations and measures for the management, protection, development, utilization and inspection of forests and forestland.⁹³ The law clarifies that natural forest and forestland is the property of the Lao nation and that the State is the designated authority to centrally manage forest and forestlands.⁹⁴ It is provided, however that plantations and planted trees in designated areas by “individuals, legal entities, organizations, and investors, using their own labor or funds, are legally recognised by the Forest and Forestland Management Agency, and shall become the property of the planters or investors”.⁹⁵

In relation to business activities, the government encourages individuals, legal entities and organizations to carry out the management and development of all forests categories in degraded and barren forestland areas “to become rich and fertile forests...for raw material supply to industrial and handicraft processing factories”.⁹⁶ For those activities the government also provides incentives such as the provision of credit, exemption or reduction of taxes and duties.⁹⁷ The State also encourages and promotes the utilization of forests as sites for tourism

86 Land Law, Article 118.

87 Land Law, Article 126.

88 Land Law, Article 131.

89 Land Law, Article 133.

90 Land Law, Article 130.

91 Land Law, Article 130.

92 Forestry Law (No 08/NA, amended in 2019), Article 2.

93 Forestry Law, Article 1.

94 Forestry Law, Article 4.

95 Forestry Law, Article 4.

96 Forestry Law, Article 5.

97 Forestry Law, Article 5.

and forest carbon trading, and it acknowledges legal operation of forestry-related businesses by establishing certification systems and wood and wood product legality assurance systems, in accordance with internationally recognized forest management standards.⁹⁸

Use of forests, timber, and non-timber forest products (NTFPs) is classified into four categories: i) for public benefit; ii) for household use; iii) customary use and iv) for business purposes.⁹⁹ Forestland use is classified into three categories: i) for public benefit; ii) for household use; and iii) for business purposes.¹⁰⁰ In line with business responsibility under the UNGPs the Forestry Law establishes that use of all those categories or forests and forestland shall avoid negative impacts on the natural environment and society.¹⁰¹ Use of forestland for business purposes is allowed only on forestlands which are allocated by the State and in accordance with the Enterprise Law.¹⁰² The law also regulates the lease or concession of forestland for ecotourism activities¹⁰³ and for large scale mineral extraction projects,¹⁰⁴ which are discussed in Chapter 7 on Industry Sectors.

Importantly in terms of business responsibility, the Forestry Law establishes that forestry business operations will be suspended if the business is causing socio-economic damage or to the environment¹⁰⁵ and that it will be cancelled if the operator violates laws and forest-related regulations and causes serious damage to society, the economy, or the environment.¹⁰⁶

Customary land rights

Customary land use rights are mentioned under the Land Law in two Articles¹⁰⁷ limited to authorizing the State to transfer land use rights to customary users in recognition of their rights and rules on how the rights can be acquired. Article 30 sets out the criteria for legal recognition of the act of acquiring land use rights by custom. These include exploration, development, protection, and regular land use for more than 20 years before this Law becomes effective. This can take place without the need to provide documentation certifying acquisition of the land, but it does need a certificate from the village administrative authorities and from the owner of nearby land certifying continuous land acquisition and use without any disputes or with disputes being already settled. Article 127(1) deals with allocation of land by the State, including based on “the acknowledgement of customary land use rights”.

It is not clear what “customary rights” cover and how customary land rights status would be treated in cases of expropriation and compensation. Procedures for expropriation and compensation for land under collective use are omitted from the current legislation. In addition, there is insufficient provisions that require equal treatment for land holders with formal Land Titles and for those who have other documentation or no documents at all to prove their rights to the land. The Land Law provides for the recognition of customary land without documents, the recognition of this in cases of expropriation is often left to the discretion of government officials.¹⁰⁸

The Land Law affirms that the State acknowledges the use of land by people who have been living and earning a living on forest land in the past, and to whom land use certificates should

98 Forestry Law, Article 5.

99 Forestry Law, Article 61.

100 Forestry Law, Article 77.

101 Forestry Law, Articles 61 and 77.

102 Forestry Law, Article 80; Article 65 regulates the use of forest, timber and NTFPs for business purposes.

103 Forestry Law, Article 88.

104 Forestry Law, Article 91.

105 Forestry Law, Article 106.

106 Forestry Law, Article 106.

107 Land Law, Articles 127 and 130.

108 Land Law, Article 130.

be issued.¹⁰⁹ Customary land use rights are, however, not mentioned under the Forestry Law. The Law provides for four categories of forest utilization including customary utilization¹¹⁰ omits customary utilization as a category of utilization of forest lands. The Law merely defines “customary utilization of forests, timber and NTFPs” as the use in “a manner that people have practised for a long time within village forest areas in accordance with the allocation plan and the law”.¹¹¹ The statement is a definition of customary use with no consequential action. The Law is missing provisions to explain the consequences of such use rights, how allocation plans are to approach them, whether they can be formalized, and what transactions are possible (if any) with customary use rights.

Land expropriation and compensation

Amendment to the legislation related to compensation in development represents a significant improvement in the rights of citizens when their livelihoods, possessions and society are affected by development projects.

Compensation is treated in Part IX of the Land Law. The Land Law of 2019 has brought forward some policy improvements about expropriation and compensation.¹¹² (Art.147-154). For example, a major step towards safeguarding people’s land rights is the obligation to pay compensation prior to the act of expropriation. Compensation is an indemnity of damages and losses for those who are impacted by violation of laws, legal servitude and reacquisition (expropriation) of land use rights.¹¹³ Compensation is implemented in form of provision of a new parcel of land, materials or money and other means based on land valuation undertaken in each region and for each land category.¹¹⁴ Causes for payment of compensation are: i) loss caused by violation of laws; ii) loss caused by legal servitude; and iii) loss caused by the reacquisition (expropriation) of land use rights.¹¹⁵

The State’s power to exercise expropriation is limited to public purpose or state development projects. “State investment” implicitly exclude expropriation for private investments. Compensation for losses caused by land reacquisition comprises: i) compensation for loss caused by public purpose projects; and ii) compensation for loss caused by State investment projects.¹¹⁶ When it is necessary to use land of natural and legal persons for State investment projects (such as agriculture, tree plantations, mining exploitations, development of power sources, roads, industrial zones or industrial estates, or Special Economic Zones), the State will re-acquire those land use rights but shall pay compensation to the landowners.¹¹⁷

Expropriation and compensations provisions in the Land Law do not fully address some fundamental matters that would provide procedural safeguards to the community, even in case of State investment. In particular, the Law should include a requirement to assess alternative means to deliver the public infrastructure, such as an alternative site, a requirement to buy the land use right at the market price, an obligation to follow a clear process, which has several stages, such as preliminary notification, community consultation, negotiated agreement, and final notice.

109 Land Law, Article 44.

110 Forestry Law, Chapter IV Forestry Activity, Section 4. Forest Utilization.

111 Forestry Law, Article 64.

112 Land Law, Articles 147-154.

113 Land Law, Art. 148.

114 Land Law, Art. 148.

115 Land Law, Art. 149.

116 Land Law, Art. 152.

117 Land Law, Art. 154.

The provisions of the Forestry Law 2019 on requisition and compensation¹¹⁸ are vague and give the government no specific right to requisition forest use rights or the land on which those rights exist. There is for example a lack of detail about the basis for requisitioning land. Article 129 is unclear about what is a public benefit, which would form the basis for the rights to use the forest being terminated. It would be useful to clarify, for example, if it extends to significant economic activities such as a timber plantation. In the Land Law, this type of private activity is specifically included as a basis for requisition.¹¹⁹

The 2018 Law on Resettlement and Vocation¹²⁰ stipulate provisions for adequate and fair compensation. It does not provide, however, safeguards in respect of the actual expropriation, as well as the appropriate provision of grievance mechanisms for the land rights holders who are affected. Under the Law on Resettlement and Vocation, depending on the nature of the land use right and the documents (if any) held by the possessor, different compensation rules apply. The owner of “lawful documents” or customary rights is to receive full compensation while no compensation will be provided without such documents.¹²¹

The Law on Electricity 2011¹²² also covers the use and compensation of land for electricity projects. The Law establishes that the project developer “shall clearly determine the limits of land use and methods of compensation for land use in the course of conducting the technical, economical, and financial feasibility study, and the environmental, social and natural impacts from the project”.¹²³

Resettlement

Resettlement has been a special area of concern in Lao legislation, such as Prime Ministerial Decree No 84 of 2016 on Compensation and Resettlement Management in Development Projects, replaced in 2018 by the Law on Resettlement and Vocation of 2018, which deals comprehensively with this matter.

The Law on Resettlement and Vocation regulates the resettlement of people where a development project is underway or where the government considers that they should be moved. It creates a relatively clear structure and set of steps to be taken in relation to resettlement and vocational training of those being resettled. The primary aim of the law is to regulate the impact of development projects on the population by providing rules on the process for dealing with them and identifying the benefits that they should receive, particularly compensation, resettlement, and training. The law covers both projects funded by the government and private sector projects.

Resettlement is defined as the relocating of displaced persons or those who have migrated, although it is unclear if this covers voluntary migration.¹²⁴ The government ensures the right to resettlement and vocation, a strategic measure for development and poverty reduction.¹²⁵ The government is to allocate a budget, staff, and materials to facilitate resettlement and vocation, and encourages the private sector to contribute. There are four categories of resettlement areas: i) areas with difficult access and lacking conditions for development; ii) high-risk living areas; iii) special areas; or iv) areas affected by development projects.¹²⁶ This categorization is

118 Forestry Law, Articles 60, 82 and 129.

119 Land Law, Art. 147(2).

120 Law on Resettlement and Vocation (No. 45/NA, 2018). The law replaced PM Decree No 84 of 2016 on Compensation and Resettlement of the Development Project, which deals with similar subject matter.

121 Law on Resettlement and Vocation, Art 24.

122 Law on Electricity No. 03/NA (amended 2011).

123 Law on Electricity, Article 40.

124 Law on Resettlement and Vocation, Art 2.

125 Law on Resettlement and Vocation, Art 4.

126 Law on Resettlement and Vocation, Art 12.

quite broad and could include most areas of the country. Eligibility for resettlement includes agreeing to the resettlement, which provides a way of safeguard against involuntary resettlement.¹²⁷ In relation to areas where resettled people are moved the Law lists five requirements, such as suitability of land, not over-populated, areas where labour is needed, and specially designated areas.¹²⁸ It also sets out the eight steps in the resettlement process: the study, compensation, building infrastructure for resettlement, relocation, development, livelihood rehabilitation, handover and completion.¹²⁹

Ethnic groups' land and resettlement

General business responsibility issues related to ethnic groups are treated in Chapter 5 on Vulnerable Groups. Specifically in relation to resettlement, the 2020 Decree on Ethnic Affairs provides for the resettlement of “ethnic groups that live in the hardship and undeveloped areas, risky livelihoods areas, development project-affected areas, and special areas, to areas where can be developed and create appropriate permanent jobs and employment”.¹³⁰ This may consist of an involuntary resettlement that may conflict with international standards as well as with Conflict with Article 40 of the Lao PDR Constitution, which establishes that Lao citizens have the freedom of settlement and movement as provided by the laws. Note also that the Decree prohibit individuals, legal entities, and organizations to “divide, discriminate, initiate conflicts, segregate, insult ethnic groups, which can cause misunderstanding within the same ethnic group and between different ethnic groups.”¹³¹ However, resettlement to areas where there is less available land available may result in conflict within the ethnic group.

Special Economic Zones land management

The Decree on Special Economic Zones (SEZs) includes promotion policies for land use giving the right to SEZ developers to use land within the SEZ and lease, handover or transfer such right to investors after reaching at least 45% completion of the total development plan.¹³² Investors have the right to use land they have rented, as well as sub-lease, handover or transfer such right to other investors for a maximum duration not exceeding the remaining development contract period.¹³³ SEZ developers and investors can only use up to 80% of the total land area to conduct their business activities, while the remaining 20% should be used as public recreation areas - such as public parks and green areas.¹³⁴

In relation to compensation, if a designated SEZ area “overlaps a piece of land that the state has allocated to other individuals, legal entities or organizations, compensations shall be paid based on a development contract, laws and regulations. Local authorities where the SEZ is located is obliged to allocate, survey, address and assess any land issue occurred to pay compensations to those affected by the SEZ project.”¹³⁵

Land survey investment requirements

The policy framework around land investments has been adapted and improved in Lao PDR to cater for the increase in domestic and foreign investment interests. For example, the 2021 Instruction 0457 on Investment Approval and Land Management Mechanisms for Land Leases

127 Law on Resettlement and Vocation, Art 17.

128 Law on Resettlement and Vocation, Art 18.

129 Law on Resettlement and Vocation, Art 20.

130 Decree on Ethnic Affairs (No. 207 of 2020), Art. 10(2).

131 Decree on Ethnic Affairs, Art. 22(1).

132 Decree on Special Economic Zones (revised 2018) No.188/GOV, Art 41.

133 Decree on Special Economic Zones, Art 44.

134 Decree on Special Economic Zones, Art 52.

135 Decree on Special Economic Zones, Art 53.

or Concessions of the Ministry of Planning and Investment (MPI) provides requirements for investors to conduct land surveys and mapping, and to develop a written agreement with the land rights holders, based on consent in respect of the proposed project and land deals. The Land Law lacks such requirements for public purpose and State investments, which presents the same possible risks for the land rights holders who are affected as private investment projects.

Institutional framework

The Government of Lao PDR oversees the management of land in the entire country in a centralized and uniform manner.¹³⁶ The government assigns the Ministry of Natural Resources and Environment (MoNRE) to coordinate with other relevant line Ministries, organizations, and local administrative authorities. Similarly, the Government manages forest and forestland activities in a centralized and uniform manner throughout the country by assigning the Ministry of Agriculture and Forestry (MAF) as the central agency to coordinate with the MoNRE, and other relevant ministries and authorities.¹³⁷ The Land Law makes clear the central and coordinating role that MoNRE has in land management and its central role in land administration.

In particular, the MoNRE has, among others, the specific tasks to elaborate policies, Land Allocation Master Plan, strategies, land use plans, related laws and regulations; to coordinate with line ministries and local administrative authorities to conduct surveys, data collection on each land category; to assess the results of the implementation of strategies and land use plans; to examine the proposals for conversion of one land category to another in order to ensure the nation's maximum benefits and the people's livelihood in consistency with the laws, Land Allocation Master Plan, strategies, sectoral and local land use plans and to minimize the adverse impacts on social and natural environment; to make proposals to the Government with respect to the sale of allocated State land use right to Lao and foreign natural and legal persons; to supervise land title registration, to issue land use certificates, land development certificate, land category conversion; to monitor and inspect the land uses and the land related business.¹³⁸

The Forestry Law concentrates authority and power to the MAF, with many Articles making it clear that the MAF has the primary (although not always ultimate) decision-making power. MAF manages forestland use, cooperate with other relevant ministries, organizations and local administration authorities to formulate management plans for each forestland category, conduct studies and formulate regulations governing the management, protection, development and utilization of these types of forestlands, including utilization for the purpose of protection of the environment, and then submit these to the Government for consideration and approval.¹³⁹ MAF has also, under the Land Law, the responsibility to administer the use of land by people who have been living and earning a living on forest land in the past, and to whom land use certificates should be issued.¹⁴⁰

The Law on Resettlement and Vocation sets up a clear coordinating role for MAF both within government and in relation to developers.¹⁴¹ It assigns responsibility to develop the strategy to

¹³⁶ Land Law, Article 167.

¹³⁷ Forestry Law, Article 148. Land management agencies comprises: Ministry of Natural Resources and Environment; Provincial Department of Natural Resources and Environment; District Office of Natural Resources and Environment; and Village Unit of Natural Resources and Environment

¹³⁸ Land Law, Article 168.

¹³⁹ Forestry Law, Article 67.

¹⁴⁰ Land Law, Article 44.

¹⁴¹ Law on Resettlement and Vocation, Arts. 66 to 75.

MAF, in coordination with numerous other ministries, including MoNRE, and institutes.¹⁴² It is submitted to the government and the National Assembly. The law also sets up a supervisory system that is intended to monitor compliance with the law.

The rights and obligations of other ministries, such as the duties of the Ministry of Agriculture and Forestry (MAF) under the Land Law and the duties of the Ministry of Natural Resources and Environment (MONRE) under the Forestry Law

Recommendations

- Customary land rights: Clarify in the Land Law and in the Forestry Law the recognition of customary land rights and what entitlements arise from such rights and provide clear guidance in the decrees and regulations addressing practical issues about identifying the nature and extent of customary use, how to record the related rights, and how customary rights are to be reconciled with other uses and rights.
- Land expropriation and Compensation: Develop clear procedural provisions for requirements to provide compensation and how to assess it, so that there is a clear pathway for officials to follow which would protect people's land rights. Expand on the few provisions on expropriation and define a mandatory step-by-step process with respective time periods, including preliminary notification, community consultation, negotiated agreement, final notice and recording of the requisition in the land register. Include provisions for safeguards and grievance mechanisms for land rights holders who are affected prior, during and after expropriation takes place. Include the requirement for people's participation in expropriation decisions, if applicable, in line with the requirements of the Decree on Environmental Impact Assessment (2019). Include provisions requiring compensation at market prices, independent of the land rights status of the land rights holder who is affected. Align with legislation from other sectors, especially regarding environmental impact assessments, resettlement and vocation, and investments, leases, and concessions. Revise and improve instructions and guidelines on land management processes (Land Use Planning, Village Forest Management Planning, etc.) to enhance and ensure access to data and information.
- Resettlement: In accordance with UPR review,¹⁴³ improve planning of development and investment projects to avoid forced displacement, and improve resettlement and compensation plans for land expropriation.

¹⁴² Law on Resettlement and Vocation, Art 9.

¹⁴³ Universal Periodic Review Lao PDR, third cycle, Jan 2020 <https://www.ohchr.org/en/hr-bodies/upr/la-index>

LAWS RELATED TO MARGINALISED AND VULNERABLE GROUPS

Certain people face a heightened threat to their human rights which is also reflected in the impact that environmental harm has on them and their livelihoods. This has given rise to a category of state obligations that give due consideration to the situations of such persons that suffer disproportionate impacts in the discharge of states' duties under international human rights law. State obligations to persons in vulnerable situations arise out of the recognition that despite a general obligation to non-discrimination¹ in the discharge of state duties under international human rights law, there are persons who suffer the disproportionate impacts of environmental degradation owing to factors such as an unusual susceptibility to certain types of environmental harm or being denied their human rights.²

This could include women, children, indigenous peoples, persons living in poverty, older persons, persons with disabilities, ethnic, racial, or other minorities and displaced persons.³ Many of these persons are recognised as being in vulnerable situations due to being historically subjected to societal discrimination which continues today and manifests itself in the lack of recognition of their political autonomy, rights, and a lack of concentration of political power into their hands. For instance, women are often excluded from participation in environmental decision-making processes, despite key roles in natural resources management and agriculture.⁴ This has resulted in the recognition of the requirement for states to adopt gender-responsive approaches in the discharge of their obligations to guarantee and protect the rights of women and girls in the environmental context⁵, including protecting and guaranteeing a safe environment in which women and girls can express their views free from the risk or threat of violence and reprisal.

Persons in poverty and ethnic, racial, and religious minorities are commonly excluded from environmental decision-making processes, resulting in their communities becoming the sites of a disproportionate number of waste dumps and power plants, thus exposing them to higher levels of air pollution and hazardous substances.⁶ Moreover, indigenous peoples are also particularly impacted by an absence of the recognition of their rights. This is true as well for local communities whose livelihoods depend on their access to land and specific natural resources. For example, a lack of formal land and tenure rights makes local communities, including indigenous peoples, more susceptible to displacement and struggles to defend their

1 UN Human Rights Council. Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, John, H. Knox—Mapping Report; UN Doc A/HRC/25/53 (30 December 2013); UN Human Rights Council: Geneva, Switzerland, 2013, para 69. UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/31/52 (1 February 2016); UN Human Rights Council: Geneva, Switzerland, 2016, para 81.

2 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018., Principle 14, Commentary para 40.

3 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018., Principle 14.

4 UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/40/55 (8 January 2019); UN Human Rights Council: Geneva, Switzerland, 2019, para 32. UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment—Human Rights and the Global Water Crisis: Water Pollution, Water Scarcity and Water-Related Disasters; UN Doc A/HRC/46/28 (19 January 2021); UN Human Rights Council: Geneva, Switzerland, 2021, para 48. UN General Assembly. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/74/161 (15 July 2019); UN General Assembly: New York, NY, USA, 2019, para 38.

5 Committee on the Elimination of Discrimination against Women. General Recommendation No. 37 (2018) on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change; UN Doc CEDAW/C/GC/37 (13 March 2018); UN: New York, NY, USA, 2018.

6 UNGPs, Principle 14, Commentary para 41(c),(g).

lands and waters from environmental degradation due to actions such as land acquisitions, industrial resource extraction, and private sector projects such as the creation of new parks and shopping centres.⁷

Certain social groups may also be deemed to be in vulnerable situations as a result of their being more likely to suffer from the severe effects of environmental harm directly or indirectly in comparison to other groups. In the context of direct effects, this could include children⁸ and older persons who may be more susceptible to heat, pollutants, and vector-borne diseases as a result of environmental degradation such as climate change⁹ whilst those suffering indirect effects could include persons with disabilities who are vulnerable to natural disasters and extreme weather conditions as a result of barriers to receiving emergency information in an accessible format and accessing means of transport, shelter and relief.¹⁰

Corporations would therefore need to pay particular attention to their environmental impacts on persons in vulnerable situations (as has been explicitly recognised regarding gender-responsive approaches)¹¹ including ensuring that their consultations with affected persons provide opportunities for those in vulnerable situations to express their views and that such views are considered in decision-making.¹²

This chapter provide a preliminary assessment of the regulatory framework and policy coherence in Lao PDR with respect to women (Section 5.1), children, adolescents, and youth (Section 5.2), persons with disabilities (Section 5.3), national or ethnic, religious or linguistic minorities (Section 5.4), migrant workers (Section 5.5) and other vulnerable group (Section 5.6, including people living with HIV/AIDS, internally displaced persons, and LGBTIQ people).

Women

International commitments

Women and girls experience business-related human rights abuses in unique ways and are often affected disproportionately. Women also face multiple forms of discrimination. They experience additional barriers in seeking access to effective remedies for business-related human rights abuses.

Lao PDR ratified Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981, the second country in Southeast Asia after the Philippines, but it the first state report was only submitted to the CEDAW Committee for review in 2005. The Convention requires States parties to take all appropriate measures to eliminate discrimination against

7 UN Human Rights Council. Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya—Extractive Industries Operating Within or Near Indigenous Territories; UN Doc A/HRC/18/35 (11 July 2011); UN Human Rights Council: Geneva, Switzerland, 2011. UN General Assembly. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, David, R. Boyd—Human Rights Depend on a Healthy Biosphere; UN Doc A/75/161 (15 July 2020); General Assembly: New York, NY, USA, 2020.

8 UN Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/58 (24 January 2018); UN Human Rights Council: Geneva, Switzerland, 2018, paras 15-21.

9 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018, Principle 14, Commentary para 41(e).

10 UN Human Rights Council. The Framework Principles on Human Rights and the Environment. In Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; UN Doc A/HRC/37/59 (24 January 2018), Annex; UN Human Rights Council: Geneva, Switzerland, 2018, Principle 14, Commentary para 41(f).

11 Committee on the Elimination of Discrimination against Women. General Recommendation No. 37 (2018) on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change; UN Doc CEDAW/C/GC/37 (13 March 2018); UN: New York, NY, USA, 2018, para 48.

12 UNGPs, Principle 18.

women by any person, organization, or enterprise.¹³ This may include adopting temporary special measures (also known as affirmative action) to achieve substantive equality.¹⁴

The Committee on the Elimination of Discrimination against Women has elaborated further on the implication of several provisions of the Convention. Particularly important in relation to responsible business conduct, in its general recommendation No. 13 on equal remuneration for work of equal value, the Committee suggests ways to overcome the gender-segregation in the labour market, which remains a concern in certain male-dominated sectors, such as the extractive sectors, as well as in, for example, the garment industry, where most workers are women.¹⁵ The situation of unpaid women workers in family enterprises and unremunerated domestic activities are dealt with in, respectively, the Committee's general recommendations No. 16 on unpaid women workers in rural and urban family enterprises and No. 17 on the measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product.¹⁶ In general recommendation No. 26 on women migrant workers, the Committee makes several recommendations for countries of origin and destination to protect the rights of women migrant workers.¹⁷

The standards contained in the CEDAW apply to all businesses as part of their responsibility to respect human rights under the UNGPs. For example, all business enterprises should eliminate discrimination against women in every aspect of employment, including regarding the gender pay gap, pregnancy-based discrimination, and a lack of work-family life balance.¹⁸

The International Labour Organization (ILO) has developed several gender equality standards, including the principle of equal remuneration for men and women workers for work of equal value,¹⁹ the prohibition of discrimination based on, among others, sex,²⁰ the provision of equal opportunities and equal treatment for workers with family responsibilities to engage in employment,²¹ and the provision on supporting women's reproductive rights.²² The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, revised most recently in 2017, offers guidance to multinational enterprises and governments in areas such as employment, training, conditions of work and life, and industrial relations. Although the Declaration does not embed gender as a cross-cutting issue, governments are asked to "promote equality of opportunity and treatment in employment" and eliminate discrimination based on, among other things, sex²³, "promote equal remuneration for men and women workers for work of equal value"²⁴ and take "steps to combat workplace violence against women and men".²⁵ Multinational enterprises should also be "guided by the principle of non-discrimination throughout their operations".²⁶ Other relevant ILO Conventions, which have not been ratified yet by Lao PDR include the ILO Domestic Workers Convention, 2011 (No. 189), Maternity Protection Convention, 2000 (No. 183) and Workers with Family Responsibilities Convention, 1981 (No. 156).

13 UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 18 December 1979, UN Treaty Series, vol. 1249, 13, Article 2(e).

14 CEDAW, Article 4.

15 UN Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendation No. 13: Equal remuneration for work of equal value, 1989.

16 UN Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendations Nos. 16, 17 and 18 (contained in Document A/46/38), 1991.

17 UN Committee on the Elimination of Discrimination Against Women, CEDAW General recommendation No. 26 on women migrant workers, 5 December 2008, CEDAW/C/2009/WP.1/R.

18 In accordance to CEDAW, Article 11.

19 ILO Equal Remuneration Convention, 1951 (No. 100).

20 ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

21 ILO Workers with Family Responsibilities Convention, 1981 (No. 156).

22 ILO Maternity Protection Convention (Revised), 1952 (No. 103) and Maternity Protection Convention, 2000 (No. 183).

23 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, revised March 2017, para 28.

24 ILO Tripartite Declaration, para 29.

25 ILO Tripartite Declaration, para 43.

26 ILO Tripartite Declaration, para 30.

In addition to international obligations under the CEDAW and ILO Conventions, there are other international standards relevant to responsible business conduct in relation to women's rights. The Beijing Declaration and Platform for Action invite governments, the private sector and civil society organizations to take concrete actions to achieve gender equality and empower women in all spheres of life.²⁷ In particular, governments and the private sector, are called on to take strategic action in areas of concern such as the persistent and increasing burden of poverty on women, inequalities and inadequacies in and unequal access to education and training, inequality in economic structures and policies, and gender inequalities in the management of natural resources and in the safeguarding of the environment.²⁸ The 2030 Agenda for Sustainable Development, in which gender is considered both as a stand-alone and cross-cutting issue, seeks, among other things, to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls.²⁹ Goal 5 operationalizes this collective aspiration through targets 5.1 and 5.2, aimed at ending all forms of discrimination and violence against all women and girls everywhere in the public and private spheres. Other targets under the goal include target 5.4, to recognize the value of unpaid care and domestic work, often done by women and girls, and 5.5, to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life. A critical role for businesses is envisioned in the 2030 Agenda.³⁰ A gender perspective should be integrated in realizing all the goals and targets under the 2030 Agenda. For example, measures aimed at ending poverty and hunger (Goal 1), promoting decent work for all (Goal 8), reducing inequality within and among countries (Goal 10), combating climate change (Goal 13), providing access to justice (Goal 16) and strengthening public-private partnerships (Goal 17) should be gender-responsive.

The UNGPs acknowledge the importance of gender in several passages. Commentary to Principle 3 provides that States should provide appropriate guidance to businesses on "how to consider effectively issues of gender, vulnerability and/or marginalization". Principle 7 underlines that States should provide adequate assistance to business enterprises operating in conflict affected areas "to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence". Commentary to Principle 20 underlines that business enterprises "should make particular efforts to track the effectiveness of their responses to impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization", underlining the importance of "using gender-disaggregated data where relevant". In 2019, the UN Working Group on Business and Human Rights published a report on the gender dimensions of the UNGPs, which provides practical recommendations for what it means to "protect, respect and remedy" the rights of women in a business context in line with the UNGPs.³¹

This section assesses women's rights laws in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent women's rights laws in Lao PDR encourages or impedes responsible business practice. Being women's rights both a stand-alone and a cross-cutting issue, these are also embedded across the entire report in other chapters such as Chapter 3 on labour rights and Chapter 4 on environment and land laws.

27 UN, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995.

28 Beijing Declaration and Platform of Action, para 44. Also note the Women's Empowerment Principles, launched in 2010, comprise seven principles aimed at promoting gender equality in the workplace, marketplace, and community. In 2017, the Women's Empowerment Principles Gender Gap Analysis Tool was launched to assist companies in assessing their policies and practices vis-à-vis the principles and, in turn, enable them to design further measures to achieve gender equality.

29 General Assembly resolution 70/1, Preamble.

30 Paras. 28, 39, 41, 52, 60, 62 and 67, and Goal 17.

31 Report of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, 'Gender dimensions of the Guiding Principles on Business and Human Rights' A/HRC/41/43, 23 May 2019.

Regulatory framework

Women's rights in Lao PDR are included in several laws and regulations, including generally in the Constitution and in the Law on Development and Protection of Women of 2004³², the Resistance and Prevention of Violence against Women and Children Law of 2014,³³ and the Women's Union Law of 2012.³⁴

The Constitution of 2015 recognise women as a disadvantaged group in areas such as education and health.³⁵ In both areas the state promotes private sector investment. Lao PDR laws provide equal rights for women and men and equal pay for equal work, but in some regions traditional attitudes about gender roles kept women and girls in subordinate positions and prevented them from equally accessing education, employment, and business opportunities.

The Law on the Development and Protection of Women guarantees and promotes the roles of women, defines the fundamental contents of, and measures for developing and protecting, the legitimate rights and interests of women, and defines the responsibility of the State, society, and family towards women. The law aims at promoting the knowledge, capability of women, promoting gender equality, eliminating all forms of discrimination against women, and preventing and combating trafficking in women and children and domestic violence against women and children, to create conducive conditions for women to participate and to be a force in national defence and development. The law recognises the importance of the women development as "necessary in order to enable women to participate actively in all aspects of politics, the economy, culture and society, environmental protection, national defence and security, and foreign affairs so as to increase the effectiveness of national defence and development".³⁶

Educational, professional and skills development and included are part of such development.³⁷ Educational development focuses on creating conditions for women to receive basic education and to receive education in physical and social sciences "with the aims of upgrading their knowledge and capability in all aspects and of promoting those who have talent".³⁸ Professional and skills development focuses on creating conditions for women to receive professional training, to acquire skills and experience, and to have employment discipline so that women can have the same employment opportunities in society as men.³⁹

The law defines "equal rights for women and men" as "equality in self-development, and that women and men have the same value and opportunities in politics, the economy, society and culture, family affairs, national defence and security, and foreign affairs".⁴⁰ The State promotes the right of women to engage in production, business, and services.⁴¹ Women have the rights to choose their professions, to be employed, to be remunerated and to receive other benefits from their work.⁴² Women who have the same position, task, work, and responsibility as men shall have the right to remuneration and benefits on an equal basis with men.⁴³ Society and family should create conditions for women to exercise the economic rights and to receive economic benefits.⁴⁴ Women have rights and interests in the context of employment, such as

32 Law on Development and Protection of Women (No.08/NA of 2004).

33 Resistance and Prevention of Violence Against Women and Children Law (No. 56/NA of 2014).

34 Women's Union Law (No. 31/NA of 2012).

35 Constitution of Lao PDR (amended in 2015), Articles 22 and 25.

36 Law on Development and Protection of Women, Article 7.

37 Law on Development and Protection of Women, Article 8.

38 Law on Development and Protection of Women, Article 11.

39 Law on Development and Protection of Women, Article 12.

40 Law on Development and Protection of Women, Article 13.

41 Law on Development and Protection of Women, Article 15.

42 Law on Development and Protection of Women, Article 15.

43 Law on Development and Protection of Women, Article 15.

44 Law on Development and Protection of Women, Article 15.

the rights to work in safe conditions and environments, to social security, and to remuneration and other benefits.⁴⁵

In relation to sexual harassment in the workplace, the Labour Law provides that an employee has the right to request cancellation of an employment contract and receive compensation “in the event there is any molestation, harassment, or sexual harassment on the part of the employer, or the employer ignores the occurrence of such actions”.⁴⁶ There is, however, no definition of sexual harassment and no sanctions for perpetrators or the provision of system for filing complaints and ensuring that victims have effective access to redress.

The Resistance and Prevention of Violence Against Women and Children Law deals with property and economic violence defined as “an act, negligence or neglect that results in damaging property of...individual women and children, or results in damaging the opportunity to earn an income or other economic benefits”.⁴⁷ Example of such damaging act include “paying low wages for labour or apply the policy unequally compared to men, preventing women from participation or operation in any work or activity that women are able and capable to do”.⁴⁸

Women in Lao PDR do occupy decision-making positions in the civil service and private business, and in urban areas their income is often higher than those of men. Poverty, however, affect women disproportionately, especially in rural and ethnic minority communities. In 2021, Lao PDR launched the National Action Plan on Gender Equality 2021–2025 (NAPGE) that includes a broad spectrum of gender positive targets, such as introducing quotas for women and girls over a broad spectrum of activities including leadership roles.

Lao PDR has increased the education rates of girls and has made progress in the representation of women in managerial and senior roles in both the public and private sectors. However, compared to men, women still have poor employment opportunities and working conditions, as well as limited access to land and financial capital. In relation to decent work for women, there are some areas of concern that are not explicitly addressed by sector law or policy. These include workplace sexual harassment, the gender pay gap, and barriers to women’s access to minimum wage and financial capital.

Women’s rights laws and policies address formal equality between men and women, but do not address gender inequality and gender differences in risks or needs or provide mechanisms for the collection of sex-disaggregated data, gender analysis, gender mainstreaming, or the specific engagement of women in their institutions and processes. A notable exception is the Decree on Environmental Impact Assessments 2019 (see Chapter 4), which mandates the collection of information and conduct of assessments relating to gender.

In relation to women’s access to land, no laws or policies include specific protection or concepts of equality and non-discrimination. The Land Law of 2003 included a provision that the land register book should give the names and of persons with land use rights, with the specific reference to the “names of the husband and wife who have received the land use rights if the land is matrimonial property”.⁴⁹ Such specific safeguard to women’s property rights was dropped in amendment of the Land Law in 2019, which uses the word “individual” throughout the document referring to both men and women. Similarly, the Forestry Law 2019 is drafted in a gender-neutral manner, so that its provisions apply to both men and women, as well as businesses and organizations. Gender-responsive laws and policies in the area of land tenure

45 Law on Development and Protection of Women, Article 19.

46 Labour Law (No. 43/NA of 2013), Art. 83(4).

47 Resistance and Prevention of Violence Against Women and Children Law, Article 16.

48 Resistance and Prevention of Violence Against Women and Children Law, Article 16.

49 Land Law (no. 61/PO of 2003, now amended), Article 43.

are crucial also to guarantee investments do not exacerbate women's disadvantaged situation. The Constitutional guarantee of equality should be included in the Land Law regarding protection of the interests of land use right holders: e.g. "in accordance with the Constitution, the State recognizes and protects the equal rights of men and women in relation to land". It would also be beneficial to clarify that land use and land allocation planning should involve "the whole village" including men and women, not just household representatives.

Finally, an analysis of agriculture sector laws and policies reveal a lack of integration of gender equality and non-discrimination principles and no mention of the gender dimensions of agriculture considered in related laws or policies. The one exception is the National Agro-Biodiversity Program and Action Plan 2021–2025, which goes some way towards gender sensitivity by acknowledging the different roles of men and women in managing and using agro-biodiversity resources and calls for their knowledge to be incorporated into management plans.

Institutional framework

The Government manages work to prevent and combat violence against women and children centrally and uniformly throughout the country by delegating and mandating the Lao Women's Union (LWU) and the National Commission for the Advancement of Women (NCAW) and the National Commission for Mothers and Children, line ministries and relevant organizations.⁵⁰ The LWU operates countrywide to promote the position of women in society, including by conducting programmes to strengthen the role of women.

In accordance with the Law on Development and Protection of Women, the government uniformly manages and monitors the implementation of activities relating to the development and protection of women.⁵¹ The government assigns concerned sectors such as public health, education, information and culture, labour and social welfare, national security, foreign affairs, and local administrations, together with the LWU, the Lao Front for National Construction, the Lao Federation of Trade Unions, the Lao People's Revolutionary Youth Union, and public prosecutors, to manage and monitor the development and protection of women.⁵² When it is deemed necessary, the government may establish a task force committee on the management and monitoring of the development and protection of women.⁵³

The NCAW established in 2003, serves as the country's national women's machinery. NCAW is tasked with formulating and implementing national policy for the advancement of women, as well as monitoring implementation of the CEDAW and the Beijing Platform for Action.

The LWU is a mass and social organization of women at all strata throughout Lao PDR. It was officially established in 1955. In the management and monitoring of the development of women, the LWU plays the central role in coordination with other concerned sectors.⁵⁴ The organizational system of LWU operates throughout the country at four levels: i) central; ii) provincial/ministerial, iii) district/municipal and iv) village ones.⁵⁵ The mandates of the LWU are to mobilize and unite Lao women to be actively involved in the national protection and development process, to protect the rights and interests of the Lao multi-ethnic women and children, to promote the implementation of the policy on gender equality and the advancement of women in the implementation of national socio-economic development, to educate women of all ethnic groups and social strata to have a proper understanding of the government's

⁵⁰ Resistance and Prevention of Violence Against Women and Children Law, Article 61.

⁵¹ Law on Development and Protection of Women, Article 43.

⁵² Law on Development and Protection of Women, Article 43.

⁵³ Law on Development and Protection of Women, Article 43.

⁵⁴ Law on Development and Protection of Women, Article 43.

⁵⁵ LWU's total membership is over 1 million women.

policies, constitution, laws and various international instruments concerning the legitimate rights and interests of women adhered to by Lao PDR.

In the management and monitoring of the development and protection of women, the central LWU's rights and duties include, among others: to study, formulate, and draft policies, programmes, projects, and laws and regulations relating to the development and protection of women; to disseminate and provide education on the Party's policies and the State's laws and regulations relating to such development and protection; to organise counselling on the rights and interests of women; to guide, monitor, oversee, and promote the implementation of the policies, laws, plans, programmes, and projects in the field of women development and the protection of rights and interests of women.⁵⁶

Recommendations

- Ratify the ILO Domestic Workers Convention, 2011 (No. 189), Maternity Protection Convention, 2000 (No. 183) and Workers with Family Responsibilities Convention, 1981 (No. 156).
- Amend article 83 of the Labour Law to include a definition of sexual harassment and impose sanctions for perpetrators and develop a system for filing complaints.
- Apply the gender framework and guidance in developing or revising all initiatives and measures, including national action plans on business and human rights, aimed at implementing the UNGPs.
- Encourage, through a range of effective incentives and disincentives, business enterprises to integrate the gender framework and guidance in discharging their human rights responsibilities under the UNGPs.
- Encourage business enterprises to apply the gender framework and guidance in all aspects of their responsibility to respect human rights, namely, making a robust policy commitment, conducting meaningful human rights due diligence, and providing for or cooperating in effective remediation, and in contributing to achieving substantive gender equality.
- Encourage business enterprises to ensure meaningful participation of potentially affected women, women's organizations, women human rights defenders and gender experts in all stages of human rights due diligence.
- Develop gender responsive guidance to accompany women's rights law to define key concepts and complement the National Action Plan on Gender Equality, laying the foundation for gender responsive implementation measures across all sectors.
- Support women's resilience through the right to live without violence with revisions to the Law on Preventing and Combating Violence against Women and Children 2014 and strong implementation of the National Plan of Action on Protection and Elimination of Violence against Women and Children (2021–2025).
- Enhance women's economic capacity through changes to the wage equality provisions in the Labour Law (2014), by making a new law on the prevention of harassment and violence in the workplace and investing in the development of women-led micro, small, and medium-sized enterprises.

⁵⁶ Law on Development and Protection of Women, Article 45.

- Integrate gender equality and non-discrimination principles and gender dimensions in sectoral laws.
- Improve women’s access to land and economic assets through gender mainstreaming the Land Law (2019), the Law on Forestry (2019) and the Law on Resettlement and Vocation (2018). Clarify that the provisions relate to both men and women.
- Include concepts of equality and non-discrimination in laws about land rights. For example, include the Constitutional guarantee of equality in the Land Law regarding protection of the interests of land use right holders: e.g. “in accordance with the Constitution, the State recognizes and protects the equal rights of men and women in relation to land tenure and allocation”; and clarify that land use and land allocation planning should involve “the whole village” including men and women, not just household representatives.
- Collect and analyse disaggregated data, address gender inequality and gender differences in risks or needs or provide mechanisms for the collection of sex-disaggregated data, gender analysis, gender mainstreaming, or the specific engagement of women in their institutions and processes.
- Address in relevant laws issues of workplace sexual harassment, gender pay gap, and barriers to women’s access to minimum wage and financial capital.
- Increase knowledge of CEDAW, and greater public advocacy and training of district officials, to encourage greater awareness of CEDAW and of women’s human rights in general.
- In line with the recommendations of the CEDAW Committee, improve access for women to formal employment by strengthening professional training for women, and ensuring that the principle of equal pay for work of equal value is adhered to in all sectors; monitor and improve the working conditions of women in the informal and private sectors, in particular through regular labour inspections; adopt a national scheme to finance the provision of maternity benefits in the private sector.
- In line with the recommendations of the CEDAW Committee, ensure that the prohibition of discrimination against women is accompanied by appropriate enforcement mechanisms and sanctions, and ensure the enforcement of legislation that prohibits gender-based discrimination against women and girls.

Children, Adolescents, and Youth

International commitments

Because of their unique situation, children have specific rights as set out in the 1989 UN Convention on the Rights of the Child (CRC). The CRC encompasses children’s civil, political, economic, social, and cultural rights, and is the most widely ratified legally binding international instrument in the world. National authorities have an obligation to protect children’s rights, and the CRC forms part of the legal framework in which businesses operate. The Government of Lao PDR ratified the CRC in 1991 and in 2006 the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography – Lao PDR has not ratified yet the Optional Protocol on a communication

procedure. In addition, children's rights are outlined in the ILO's Convention No. 138 on Minimum Age and Convention No. 182 on Worst Forms of Child Labour.

The Children's Rights and Business Principles, developed by Save the Children, the UN Global Compact and UNICEF, provide a comprehensive framework for understanding and addressing the impact of business on the rights and well-being of children.⁵⁷ The Principles set out business actions to respect and support children's rights.

Article 3 of the CCR sets out the principle that, "In all actions concerning children...the best interests of the child shall be a primary consideration." For the purposes of the Children's Rights and Business Principles, actions for all business include: i) the corporate responsibility to respect (avoiding any infringement of the human rights of others, including children, and addressing any adverse human rights impact with which the business is involved. The corporate responsibility to respect applies to the business's own activities and to its business relationships, linked to its operations, products or services) and ii) the corporate commitment to support (in addition to respecting human rights, voluntary actions that seek to advance human rights, including children's rights, through core business activities, strategic social investments and philanthropy, advocacy and public policy engagement, and working in partnership and other collective action).⁵⁸

Respect for children's rights is the minimum required of business. Actions to support children's rights are strongly encouraged even if not required. All business should: meet their responsibility to respect children's rights and commit to supporting the human rights of children; contribute to the elimination of child labour, including in all business activities and business relationships; provide decent work for young workers, parents and caregivers; ensure the protection and safety of children in all business activities and facilities; ensure that products and services are safe, and seek to support children's rights through them; use marketing and advertising that respect and support children's rights; respect and support children's rights in relation to the environment and to land acquisition and use; respect and support children's rights in security arrangements; help protect children affected by emergencies; and reinforce community and government efforts to protect and fulfil children's rights.⁵⁹

In 2013, the Committee on the Rights of the Child adopted General Comment 16 on state obligations regarding the impact of the business sector on children's rights.⁶⁰ General Comment 16 is addressed to all states that have ratified the CRC, and its optional protocols – therefore including Lao PDR - and broadly covers all national and transnational business enterprises, irrespective of their size, sector, location (where they are based and where they operate), ownership (whether they are state-owned or privately owned) and structure. The main thrust of General Comment 16 is that states have a legal obligation to ensure that private sector enterprises respect the rights of the child; that they do not hinder efforts to realize and advance children's rights, whether directly or indirectly, intentionally, or inadvertently; and that they engage positively in the realization of those rights. General Comment 16 says that states have obligations, arising from the CRC and the two Optional Protocols, regarding the impact of business activities and operations on children's rights. The General Comment provides states with guidance on how to ensure that business operations do not adversely impact on children's rights and ensure access to effective remedy and reparations. Because Lao PDR is party of the CRC, this General Comment provide guidance on how the Lao PDR government should put in

57 Save the Children, the UN Global Compact and UNICEF, The Children's Rights and Business Principles, 2012.

58 Save the Children, the UN Global Compact and UNICEF, The Children's Rights and Business Principles, 2012.

59 Save the Children, the UN Global Compact and UNICEF, The Children's Rights and Business Principles, 2012.

60 Committee on the Rights of the Child, General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, adopted by the Committee at its sixty-second session (14 January – 1 February 2013) CRC/C/GC/16, Committee on the Rights of the Child, report on its thirty-first session, CRC/C/121, annex II.

place adequate legal and institutional frameworks to respect, protect and fulfil children's rights, and to provide remedies.

The Children's Rights and Business Principles, released in 2012, place a child rights lens on the UNGPs.⁶¹ These ten principles call on all businesses to respect and support children's rights in the workplace, marketplace, community, and environment. They aim to help businesses better understand their responsibilities towards children in a variety of contexts, including the employment of young workers, advertising practices, land use and operation in emergency situations. The Children's Rights and Business Principles call on businesses to: 1) meet their responsibility to respect children's rights and commit to supporting the human rights of children; 2) contribute towards the elimination of child labour, including in all business activities and business relationships; 3) provide decent work for young workers, parents and caregivers; 4) ensure the protection and safety of children in all business activities and facilities; 5) ensure that products and services are safe and seek to support children's rights through them; use marketing and advertising that respect and support children's rights; 7) respect and support children's rights in relation to the environment and to land acquisition and use; 8) respect and support children's rights in security arrangements; 9) help protect children affected by emergencies; and 10) reinforce community and government efforts to protect and fulfil children's rights

Businesses have a responsibility to put child safeguarding policies in place to protect children from harm and provide for remedial mechanisms where this harm has occurred. Child-safeguarding policies provide a way for any organization to strengthen their commitment to prevent harm and abuse to children. In the corporate context, child safeguarding looks at how business operations and work practices impact on the welfare of children. Child safeguarding requires a clear approach to address specific child protection concerns about children at risk of significant harm from contact with corporate actors, business partners, products or services. Any company whose employees or business partners engage directly or indirectly with children has a legal and moral duty of care to protect children from harm. A Child Safeguarding Policy provides companies with a formal approach to managing this duty of care and can also be extended to cover suppliers and other business relationships.

This section assesses children's rights laws in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent children's rights laws in Lao PDR encourages or impedes responsible business practice. Being children's rights both a stand-alone and a cross-cutting issue, these are also embedded across the entire report in other chapters such as Chapter 3 on labour rights and Chapter 4 on environment and land to address issues such as child labour, climate change and environment, land acquisition, which all relate to business impacts on children. On industries sectors, this session prioritises those mentioned in the CRC Committee concluding observations on the business sector in Lao PDR: construction, excavation, farming, and tourism.⁶²

Regulatory framework

With the ratification of the CRC Lao PDR made progresses in strengthening the legal and policy framework related to children's rights and incorporating the provisions of the Convention into its national laws. For example, it has integrated the principle of the best interests of the child into several laws and as a basis for action in several key sectors such as health, education, and

61 UNICEF, the UN Global Compact and Save the Children, The Children's Rights and Business Principles, 2012 <https://www.unicef.org/documents/childrens-rights-and-business-principles>

62 Committee on the Rights of the Child, Concluding observations on the combined third to sixth periodic reports of the Lao PDR, 2018, para 13(b).

justice. The revisions to the Law on Education in 2015 introduced equal rights to education for all Lao children.⁶³

Children's rights in Lao PDR are included in several laws and covered specifically in the Law on the Protection of the Rights and Interests of Children of 2007⁶⁴ and the Lao People's Revolutionary Youth Union Law.⁶⁵

Like for women, the Constitution of 2015 recognise children as a disadvantaged group in areas such as education and health.⁶⁶ In both areas the state promotes private sector investment.

The Law on the Protection of the Rights and Interests of Children defines principles, rules and measures relating to the administration, monitoring, and inspection of the implementation of the protection of the rights and interests of multi-ethnic children. The State considers the importance of children in the protection and development of the nation and shall formulate policies on education and building the capacity of children.⁶⁷ In particular in relation to child labour, the law establishes that any person using child labour in hazardous sectors, and who has been subject to administrative measures but has repeated the offence, shall be punished by imprisonment from three months to one year and fined from 1,000,000 Kip to 2,000,000 Kip.⁶⁸ If such use of child labour causes disability or death to the child, such person shall be punished by imprisonment from three years to seven years and fined from 3,000,000 Kip to 7,000,000 Kip.⁶⁹

The amended Labour Law sets the minimum age for employment at 14, but this age is still lower than the compulsory schooling age and an exception is made for light work from the age of 12 without defining it.

Lao PDR has also adopted a National Plan of Action for Mothers and Children (2016–2020), but a comprehensive national strategy and policy on all the rights of the child, including a comprehensive child protection system, is still missing.

Institutional framework

The State has policies to prevent and combat acts of child violence or exploitation, by adopting protective measures and assistance to children at risk of violence or exploitation, by assigning the Ministry of Labour and Social Welfare to actively collaborate with other relevant sectors, such as organisations in public health, education, justice, foreign affairs, public security, the Office of the Public Prosecutor, mass organisations and other concerned organisations.⁷⁰ The Ministry of Labour and Social Welfare shall issue regulations and instructions on protection and assistance to children, and establish the Committee for Protection and Assistance to Children, aimed at implementation, including monitoring, inspecting and encouraging such implementation.⁷¹

The Lao People's Revolutionary Youth Union (LPRYU) is a mass organization in Lao PDR dedicated to mobilizing young people to contribute to the national development in accordance with the term of reference of the LPRYU as the foundation for its activities.

63 Law on Education (No. 133 of 2015).

64 Law on the Protection of the Rights and Interests of Children (No. 05/NA of 2007).

65 Lao People's Revolutionary Youth Union Law (No. 06 of 2013).

66 Constitution of Lao PDR, Articles 22 and 25.

67 Law on the Protection of the Rights and Interests of Children, Article 8.

68 Law on the Protection of the Rights and Interests of Children, Article 87.

69 Law on the Protection of the Rights and Interests of Children, Article 87.

70 Law on the Protection of the Rights and Interests of Children, Article 35.

71 Law on the Protection of the Rights and Interests of Children, Article 35. Article 36 lists the rights and duties of the Committee for Protection and Assistance to Children.

Recommendations

- Ratify the CRC Optional Protocol on a communication procedure.
- Establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environmental and other standards, particularly regarding children's rights, in line with CRC general comment No. 16 and the CRC Committee 2018 concluding observations.
- Establish a clear regulatory framework for the industries operating in Lao PDR, in particular the construction, excavation, farming, and tourist industries, to ensure that their activities do not negatively affect children's rights or endanger environmental and other standards, in line with the CRC Committee 2018 concluding observations.
- Require companies operating in Lao PDR to undertake assessments, consultations, and full public disclosure of the environmental, health-related and children's rights impacts of their business activities and their plans to address such impacts in line with due diligence expectations set up in the UNGPs.
- Align the definitions of child labour contained in the Labour Law with international standards and raise awareness in schools and communities about the harmful effects of child labour and the value of education, to prevent child labour.
- Adopt a comprehensive children rights national strategy.
- Require in national laws business to develop and implement a child safeguarding policy.

Persons with Disabilities

Businesses have a central role, responsibility, and opportunity to foment change in fulfilling the human rights of persons with disabilities through their employment practices and by leveraging their economic power to fulfil other aspects of disability-based human rights. Doing so requires the development and self-enforcement of disability specific HRDD processes, and creating a general culture of diversity, equity and inclusion that encompasses disability.

In addition to improving their employment practices, companies can leverage their economic power to fulfil other aspects of the human rights of persons with disabilities within their purview by: making physical and virtual environments accessible; ensuring that vendors, distributors and supply chains require equal employment opportunity for workers with a disability, produce accessible products and services, and take affirmative actions to employ and advance in employment workers with a disability; acknowledging the existence and value of customers with disabilities and their households and friends; marketing to such individuals; developing data accumulation and accountability instruments, including human rights impact assessments; and creating a general culture of diversity, equity, and inclusion of differences that includes disability. Acting in this manner would also bolster diversity schemes and position the business sector to become human rights change agents.

International commitments

Lao PDR ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2009. In September 2022, the Committee on the Rights of Persons with Disabilities published its

concluding observations of the initial report of Lao PRD on its implementation of the Convention.⁷²

Regulatory framework

The government of Lao PDR has taken several legislative measures to promote the rights of persons with disabilities, in particular the adoption of the Law on Persons with Disabilities in 2018⁷³ replacing Decree No. 137 with a more detailed and expansive protection of the rights of persons with disabilities.⁷⁴

The Constitution of 2015 recognise disabled people as a disadvantaged group in areas such as education and health.⁷⁵ In both areas the state promotes private sector investment. In addition, the Constitution also recognises that “working people have the right to rest, to receive medical treatment in times of illness, [and] to receive assistance in the event of incapacity or disability”.⁷⁶ Although constitutional protections against discrimination do not apply specifically to persons with disabilities, the Law on Persons with Disabilities spells out the rights of persons with disabilities to education, health care, and public transportation, while also providing tax exemptions for small businesses owned by persons with disabilities.

The Law on Persons with Disability defines “principles, regulations and standards on the management and monitoring of works related to disabled persons in order to safeguard their legitimate rights and interests, eliminate all forms of discrimination against disabled persons, create the environment that enables self-development, self-reliance and social participation for disabled persons, while ensuring political, legal, economic, cultural and social equality for them, and helping them integrating with the region and making contributions to the national socio-economic development.”⁷⁷ Disabled persons are defined as persons “having physical, visual, hearing, speaking, intellectual and memorizing impairment, as well as other forms of obstacles that hinder their full engagement in daily works, learning and social activities”.⁷⁸ The law broadly defined the rights of such persons but did not indicate how outcomes, such as accessible facilities or increased employment opportunities, would be achieved.

The law clarifies that the Government “highly values works related to disabled persons by making contributions in terms of budget, materials and facilities to help strengthening the works, while ensuring that they are carried out in an effective and efficient manner.”⁷⁹ The Government “supports and promotes jobs for disabled persons, allows the establishment of civil society organizations and funds that tailored specifically for their needs, while educating and raising awareness among the publics in order to better their understanding in helping and protecting rights of disabled persons.”⁸⁰ The Government “supports and encourages individuals, legal entities and organizations, both domestic and international, to help and develop basic facilities, while making financial and technical contribution to the development of disabled persons.”⁸¹ Little information is available regarding discrimination of persons with disabilities in the workplace.

72 Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of the Lao PDR, CRPD/C/LAO/CO/1, 30 September 2022.

73 Law on Disabled Persons (No. 57/NA of 2018).

74 Rights of people with disabilities in Lao PDR are also covered in the Law on sport and physical activities (No. 74 of 2019), the Law on performing arts (No. 16 of 2017).

75 Constitution of Lao PDR, Articles 22 and 25.

76 Constitution of Lao PDR, Article 39.

77 Law on Disabled Persons, Article 1.

78 Law on Disabled Persons, Article 2.

79 Law on Disabled Persons, Article 4.

80 Law on Disabled Persons, Article 4.

81 Law on Disabled Persons, Article 4.

The law establishes that works related to disabled persons should be implemented in compliance with the following principles: “Align with national directions, policies, Constitution, laws and socio-economic development plan; Managed in a harmonized and unanimous manner throughout the country; Ensure political, legal, economic, cultural and social equality for disabled persons; Ensure that there is no discrimination; violence; sexual, physical and psychological harassment hurting their dignity, including exploitation of disabled persons; Respect gender equality, abilities and differences, while accepting disabilities as part of human diversity; Engage disabled persons and all social parties in the protection, assistance and development of disabled persons; Implement international agreements and treaties partied by the Lao PDR.”⁸²

The law guarantees economic, cultural, and social equality by establishing that “[d]isabled persons, as equal to other people, can engage in any economic, cultural and social activities, such as education; public health; business operation; trade; service; sport and acrobatic activities; art and literature activities; cultural and traditional activities; research, innovative, technological and scientific activities based on their actual conditions and capabilities.”⁸³ The law also establishes that disabled persons can participate in any vocational training and skill development at both public and private vocational and skill development centres.⁸⁴

In relation to job application, the law establishes that disabled persons can apply for a job with any labour unit, both public and private organization, including international organization active in Lao PDR based on their qualifications, and must be given wage, salary, promotion, position, and welfare as equal to other people.⁸⁵ Labour units, public and private organizations, including international organizations active in Lao PDR must ensure that disabled persons are given favourable conditions supporting their job application and priority for being recruited in a position matching their qualifications, while providing necessary facilities for disabled persons at a workplace.⁸⁶

The law also provides for the promotion of business run by disabled persons: “Disabled persons who run their own business, production or service group will be provided with policies easing their access to financial sources, investment expansion, customs, and tax exemption, including transfer of knowledge, technology, production, service, and marketing technique as seen appropriate. Disabled persons running their own business, production or service group can access to financial sources via commercial banks and other financial institutes operated in the Lao PDR as stipulated by applicable laws. Disabled persons who run their own business, production or service group will be subject to customs exemption for importing raw materials, equipment, components, and vehicles to directly serve their production. Disabled persons will also be exempted from profit tax, income tax and excise tax as stipulated by laws.”⁸⁷

Finally, Lao PDR has developed a public policy framework for promoting the rights of persons with disabilities, including the adoption or establishment of the national policy, strategy, and action plan on disabled persons for the period 2020–2030, which defines eight key areas, including work and employment. In addition, the national action plan on disabled persons for the period 2026–2030 is aimed at increasing the employment rate of persons with disabilities.

82 Law on Disabled Persons, Article 5.

83 Law on Disabled Persons, Article 22.

84 Law on Disabled Persons, Article 36.

85 Law on Disabled Persons, Article 38.

86 Law on Disabled Persons, Article 38.

87 Law on Disabled Persons, Article 39.

Institutional framework

The Government of Lao PDR manages works related to persons with disability in a centralised manner throughout the country by assigning direct responsibility to the Ministry of Labour and Social Welfare (MoLSW), which should also collaborate with other relevant authorities such as the Ministry of Health and Ministry of Education and Sports, relevant local to implement such works.⁸⁸ MoLSW has primary responsibility for protecting the rights of persons with disabilities. The Ministry of Health is also involved in addressing health-related needs of persons with disabilities and continued to coordinate with international NGOs.

Particularly relevant to business conduct, the MoLSW has among others the following duties in managing works related to persons with disability: guide and manage vocational training and skill development for disabled persons, including how to find suitable jobs for them; build, support, enhance, manage and make use of available personnel in implementing works related to disabled persons; accept and consider settling any request from individuals, legal entities or organizations pertaining to works related to disabled persons.⁸⁹

The National Committee for Disabled Persons (NCDP) is a non-standing organization, has a duty to collaborate with domestic and international authorities in promoting works related to disabled persons to make sure that the people are served by effective, convenient, swift and advanced services, while contributing to the national socio-economic development.⁹⁰ NCDP consists of the National, Provincial and District CDP. NCDP is appointed by the Prime Minister as proposed by the Minister of Labour and Social Welfare. Department of Policy to Devotees, Disability and the Elderly will serve as a main office for the NCDP Secretariat.⁹¹

NCDP has among others, the following duties relevant to business conduct: disseminate policy directions, strategic plans, laws and regulations pertaining to disabled persons, in order to help whole society better their perception and understanding of works related to disabled persons; seek mechanisms to promote works related to disabled persons at both central and local level; and collaborate with concerned sectors, both public and private, in implementing treaties, agreements, protocols, declarations and other international instruments partied by the Lao PDR.⁹²

A Disability-Inclusive Development Working Group was established in 2018. The government of Lao PDR continues to implement its strategic plan to protect the rights of children with disabilities and enable them to study alongside other children in schools countrywide.

Recommendations

- In line with the recommendations of the CRPD, take effective measures to increase employment of persons with disabilities, in public and private sectors.
- Consider implementing an affirmative action programme to ensure job placement and job retention for persons with disabilities in the public and private sectors.

⁸⁸ Law on Disabled Persons, Article 66.

⁸⁹ Law on Disabled Persons, Article 4. Articles 68-76 cover the rights and duties of Vientiane/Provincial Labor and Social Welfare Department, District/Municipal/City Labor and Social Welfare Office, the Ministry of Health (MoH), the Ministry of Education and Sports (MoES), the Ministry of Public Works and Transport (MPWT), the Ministry of Information, Culture and Tourism (MoICT), and of the Ministry of Finance (MoF), Ministry of Planning and Investment (MPI).

⁹⁰ Law on Disabled Persons, Article 48. The NCPD personnel structure is detailed in Article 49.

⁹¹ Law on Disabled Persons, Article 49.

⁹² Law on Disabled Persons, Article 50.

- Guarantee non-discrimination in employment, including by raising awareness among employers, and ensure that the open labour market is inclusive and accessible and that there are decent labour conditions for all persons with disabilities, including equal pay for work of equal value.
- Ensure access to inclusive and quality professional training and vocational programmes.
- Improve persons with disabilities' access to basic services and employment opportunities.
- Collect disaggregated data on the employment of persons with disabilities in the public, private and informal sectors.

National or Ethnic, Religious or Linguistic Minorities

International commitments

The rights of national or ethnic, religious, and linguistic minorities have traditionally been accorded particular attention in international human rights law. The foundational international human rights treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), provide for respect for the rights of persons without distinction or discrimination “of any kind” as to, among other grounds, race, colour, language, religion, and national origin.⁹³ In addition to the protection against discrimination, “ethnic, religious or linguistic minorities” “in community with the other members of their group,” have the right “to enjoy their own culture, to profess and practice their own religion, or to use their own language”.⁹⁴

In addition, Article 27 of the ICCPR provides that in States with “ethnic, religious or linguistic minorities”, those minorities “shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”. Article 30 of the Convention on the Rights of the Child provides a nearly identical right for children belonging to an ethnic, religious, or linguistic minority. The particular attention attributed to minorities under international human rights law is further evidenced by the 1965 UN Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and the mandate and reports of the Special Rapporteur on Minority Issues. Lao PDR accessed the Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1974 but did not ratify it.

The UNGPs list “national or ethnic, religious and linguistic minorities” as one of the groups of persons that require special attention. They even note that businesses may need to consider United Nations instruments that “have elaborated further on the[ir] rights”,⁹⁵ which include the CERD and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The UNGPs notes that businesses may need to consider human rights standards contained in United Nations instruments on ‘national or ethnic, religious and linguistic minorities.’ The UNGPs also refer to the need to consider the specific concerns of national or ethnic minorities,

⁹³ See articles 2.1 and 2.2, respectively.

⁹⁴ ICCPR, article 27

⁹⁵ UNGPs, Principle 2, Commentary

religious and linguistic minorities in connection with the due diligence process. The Committee on Economic, Social and Cultural Rights, in General Comment No. 24, specifically noted that “ethnic or religious minorities where these minorities are politically disempowered” “are often disproportionately affected by the adverse impact of business activities.”

Minority rights can be particularly affected by business operations. Members of minorities can be negatively impacted by the discriminatory policies and practices of businesses. The ILO Declaration on Fundamental Principles and Rights at Work contains principles concerning fundamental rights that businesses should respect, as provided in Principle 12 in the UNGPs. The ILO Declaration specifically includes the elimination of discrimination in respect of employment and occupation and references the 1958 Discrimination (Employment and Occupation) Convention (no. 111). Under this Convention, discrimination based on race, religion, and national or social origin is specifically prohibited. The CERD similarly prohibits discrimination in its Article Discrimination by businesses does not require a demonstration of discriminatory intent. The phrase “purpose or effect” in Article 1 of CERD refers to actions or policies that may be textually neutral but are interpreted in a manner that results in discrimination.

The UN Human Rights Council has recognised the need to address caste-based employment discrimination in employment, vulnerability to slavery and slavery like practices and the relegation of these groups to degrading and hazardous work. The UN Secretary-General, in 2013, endorsed the Guidance Note on Racial Discrimination and Protection of Minorities that sets forth recommendations and guidance for the UN system on addressing racial discrimination and protection of minorities and includes the recommendation of support for “reforms that advance minority participation and full equality in...employment.” The 2002 General Recommendation No. 29 of the Committee on the Elimination of Racial Discrimination on descent-based discrimination acknowledges that such discrimination includes caste and analogous systems of inherited status, which are covered under CERD.

Minority communities have a fundamental right to meaningful participation in decisions concerning them, as aptly expressed in article 2(2) of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Principle 18(b) of the UNGPs also recognizes the importance of “meaningful consultation with potentially affected groups” and the commentary to this Principle notes the importance of paying attention to “individuals from groups or populations that may be at heightened risk of vulnerability or marginalization”, and thus, to minority groups.

Regulatory framework

Lao PDR is home to many different ethnic groups; most do not consider themselves indigenous. Lao PDR laws provide for equal rights for all members of national, racial, and ethnic groups and bars discrimination against them, including in employment and occupation.

In 2015 the Constitution of Lao PDR was amended to incorporate a policy of solidarity and equality between ethnic minorities. Ethnic groups – but not other minority groups – are mentioned in the Constitution of 2015: “the State and society attends to developing high quality national education, to create opportunities and [favorable] conditions in education for all people throughout the country, especially people in remote areas, ethnic groups...”⁹⁶ Similarly, no ethnic or other minority groups are mentioned in relation to health, “the State and society focus on building, improving disease prevention systems, providing health care to all people with quality, creating conditions to ensure that all people have access to health care,

⁹⁶ Constitution of Lao PDR, Article 22.

especially...poor people and people in remote areas.”⁹⁷ The areas of education and health are particularly important in relation to responsible business as the Lao government promotes private sector investment in both sectors “to advanced and modernize them.”⁹⁸

In addition to the Constitution, the Decree on Ethnic Affairs of 2020 “prescribes the principles, regulations, and measures for management, monitoring, and assessment of ethnic affairs in order to support ethnic groups in their progress with unity, equality, respect, and mutual support for each other; to ensure participation from all ethnic groups to contribute to the Lao PDR’s national protection and development; to protect their legitimate rights and benefits...”⁹⁹ The Decree defines an ethnic group as “a group of people with a commonly spoken language, origins, and history, which are linked to their respective names, traditions, and culture, strong heritage, and legacy.”¹⁰⁰

Of particular importance for responsible business conduct are the policies towards economy which include the “resettle[ment] [of] ethnic groups that live in hardship and undeveloped areas, which can pose a risk to the sustainability of their livelihoods, to the areas where they can have more opportunities for personal development, stable occupation, and suitable work prospects.”¹⁰¹ This provision may conflict with freedom of movement, which are also guaranteed in the Constitution: “Lao citizens have the freedom of settlement and movement as provided by the laws.”¹⁰² Another economic policy is the conversion of “the natural methods of production to a process that uses modern science and technologies to increase agricultural production; organize production groups and cooperatives if relevant; and expand or create new markets as economic centers in rural areas.”¹⁰³ This provision revers to moving from subsistence and forest-based livelihoods towards agricultural expansion and market-oriented production and may conflict with the right to work, also guaranteed in the Constitution: “Lao citizens have the right to work and engage in occupations which are not contrary to the laws...”¹⁰⁴

The Decree on Ethnic Affairs also include investment policies, including attracting investment towards “improving and creating an essential socio-economic framework...”, promoting the development of rural areas, and attracting investment in agricultural products “through strengthening the policies in finance, banking, sustainable agriculture, expansion of markets, market price control, food cultivation”.¹⁰⁵ The decree also provides for the establishment and improvement of clear private sector investment policies in rural areas and the promotion of local labour.¹⁰⁶

Natural resources and environment policies include improving the management and sustainable use of natural resources and the environment in rural areas, establishing procedures to conserve the environment, for mining and use of natural resources and environment, promoting and supporting sustainable use of natural resources and environmental conservation in rural areas by providing stable work opportunities for ethnic groups.¹⁰⁷

Individuals, entities, and organizations, including businesses, are prohibited to “divide, discriminate, initiate conflicts, segregate, insult ethnic groups, which can cause

97 Constitution of Lao PDR, Article 25.

98 Constitution of Lao PDR, Articles 22 and 25.

99 Decree on Ethnic Affairs (No. 207 of 2020), Article 1.

100 Decree on Ethnic Affairs, Article 2.

101 Decree on Ethnic Affairs, Article 10(2).

102 Constitution of Lao PDR, Article 40.

103 Decree on Ethnic Affairs, Article 10(7).

104 Constitution of Lao PDR, Article 39.

105 Decree on Ethnic Affairs, Article 11.

106 Decree on Ethnic Affairs, Article 11.

107 Decree on Ethnic Affairs, Article 11.

misunderstanding within the same ethnic group and between different ethnic groups.”¹⁰⁸ This provision may be difficult to apply as resettled people are often resettled in areas with less available land and more difficult access to resources which may create conflicts with other minority groups.

Institutional framework

The Ministry of Home Affairs is responsible for the management of ethnic affairs. Its obligations and duties include, among others: disseminating guidelines, policies, the Constitution, laws, regulations, and Decrees related to ethnic affairs; creating and improving legislation, strategies, plans, projects related to ethnic affairs; make recommendations to the Government and relevant parties on the measures to address ethnic conflicts; process proposals from individuals and legal entities related to the implementation of ethnic affairs; monitoring and evaluating organizations operating in the area of ethnic affairs.¹⁰⁹

Recommendations

- Include protection of all minority groups in Articles 22 and 25 of the Lao PDR Constitution.
- Amend the policies towards economy in Article 10 of the Decree on Ethnic Affairs of 2020 to bring them in line with the right to freedom of movement and freedom of work.
- Involve minority groups, including those in remote locations, in resettlement decisions and decisions affecting their lands and the allocation of natural resources from their areas.
- Effectively enforce non-discrimination laws and address societal and governmental discrimination against minority ethnic groups.

Migrant Workers

International commitments

A migrant worker is considered a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which they are not a national. Migrant labour is work undertaken by individuals, families or communities who have moved from abroad. While this session focuses on international migrant workers given their vulnerabilities to abuses, internal migrant workers also face similar challenges in securing adequate working and living conditions.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW) entered into force in 2003 – Lao PDR has not ratified the Convention yet. The Convention constitutes a comprehensive international treaty regarding the protection of migrant workers’ rights. It emphasizes the connection between migration and human rights. The Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families throughout the entire migration process.

¹⁰⁸ Decree on Ethnic Affairs, Article 22.
¹⁰⁹ Decree on Ethnic Affairs, Article 25.

Lao PDR has not yet ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which also contain provisions designed to protect migrant workers.

Migrant workers often face challenges to and abuse of their human and labour rights. This is often related to business responsibility. Migrant workers' rights related to business responsibility that are often at risk include: i) the right to equality of treatment and non-discrimination¹¹⁰ (migrant workers can be subject to unequal treatment when compared to nationals; this is likely to occur in recruitment processes, their treatment at the workplace as well as in terms of the legal protections that they are afforded in the workplace); ii) the right to freedom from slavery and forced labour¹¹¹ (migrant workers are at a higher risk of being subject to conditions that may amount to forced labour or modern slavery for example with the retention of identity documents, debt bondage and restriction of movement, which are some of the indicators of forced labour); iii) right to freedom of movement¹¹² (for example with the confiscation of passports or other travel documents); iv) right of migrants to form, join and participate in associations and trade unions¹¹³ in many situations, migrants may be denied the right to freedom of association); v) right to just and favourable conditions of work¹¹⁴ (migrant workers often experience lower pay and poorer working conditions than their domestic counterparts); vi) right to an adequate standard of living¹¹⁵ (for example companies may provide housing to migrant workers that are not of an adequate standard).

Regulatory framework

The rights of migrant workers in Lao PDR are not specifically protected in the Constitution or other legislation.

There are two decrees concerning Lao migrant workers abroad. Prime Minister Decree on Export of Lao Workers Abroad of 2002 establishes the process of labour migration from the Lao PDR to Thailand¹¹⁶ and Ministerial Decree No. 3824/LSW of 2002 prohibits Lao migrants from working in professions or locations that are illegal, toxic, or “disgraceful”; accordingly, Lao workers are not permitted to migrate to work as house maids and cleaners.

While the focus of migrant workers regulation in Lao PDR is on Lao migrants aboard, Lao PDR is also a receiving and transitory country – in addition to the internal migration of workers. There is a gap in legislation as there is no specific law on migrant workers that come into Lao, or the recruitment of foreign workers in Lao PDR.

The regulation of recruiting agencies, which are considered private sector, is also weak and workers are often recruited in informal basis, thus eliminating the responsibility of the employer. Article 37 of the CRMW establishes the right of migrant workers and members of their families who have the proper documentation or are in a regular situation to be informed before their departure, or at the latest at the time of their admission to the State of employment, of all conditions applicable to their admission, as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

110 ICRMW, Articles 43 and 45, ICCPR, Article 2, ICESCR, Article 2.

111 UDHR, Article 4, ICRMW, Article 11, ICCPR, Article 8.

112 ICRMW, Article 39, UDHR, Article 13.

113 ICRMW, Article 26 and 40; ICCPR, Article 22; ICESCR, Article 8.

114 ICRMW, Article 25; ICESCR, Article 7.

115 ICRMW, Articles 31 and 43, ICCPR, Article 27; ICESCR, Article 11.

116 Prime Minister Decree 68/2002 on 'Export of Lao Workers Abroad', guidelines No. 2417/MoLSW 'on Implementation of Decree on Export of Lao Workers Abroad' and document number 3824/MoLSW.

Migrant workers may be especially vulnerable to abuses in Lao PDR's SEZs as the laws that apply there lack protection for migrant workers. The characterization of migrants in an irregular situation as "illegal" may implicitly place them outside the scope and protection of the rule of law. Article 25 of the CRMW establishes that all migrant workers and their families shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work and terms of employment.

There are undocumented migrant workers in Lao PDR, particularly from Vietnam and Myanmar, who may be vulnerable to exploitation by employers in the logging, mining, and agricultural sectors. Migrants from China and Vietnam also work in construction, plantations, casinos, and informal service industries, all sectors where wage and occupational safety and health violations may be common.

Institutional framework

The government of Lao PDR has established employment agencies and resource centres dealing with Lao migrant workers, as well as institutional mechanisms, including a designated steering committee within the Ministry of Labour and Social Welfare and labour attachés in embassies, to support migrant workers.

Several recruitment agencies operate in Lao PDR – some are state-run enterprises and others operate as private businesses. All recruitment agencies are subject to the same regulations.

Recommendations

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW).
- Ratify the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).
- Reduce barriers to formal labour migration to reduce vulnerability of migrant workers, including by eliminating worker-paid recruitment fees.
- In line with the recommendations of the Committee on the Rights of the Child, strengthen access to services for migrant children regardless of their nationality, enhance awareness-raising and training for relevant sectors, including the Ministry of Labour and Social Welfare and recruitment agencies, to ensure that mechanisms are in place to prevent child labour and sexual exploitation in migration; strengthen the dissemination of knowledge for preventing trafficking and exploitation through Ministry of Labour and Social Welfare employment service centres and migration information centres, advocate for the development of a unified ASEAN policy on issues regarding migrant workers, refugees, stateless persons and unaccompanied and separated children.
- In line with the recommendations of the CEDAW Committee, adopt a comprehensive gender-sensitive migration policy to protect Lao migrant workers abroad effectively, review and renew, as appropriate, existing bilateral agreements and memorandums of understanding with countries to which Lao women migrate in search of work, strengthen efforts to raise awareness, through predeparture briefings and public information campaigns, among women migrant workers about their rights, the risks they may face and available remedies in case of violations of their rights, develop and implement regulations concerning employment agencies for migrant workers, with sanctions for non-compliance, to ensure that migrant

women are protected from exploitation, provide gender-sensitive support to returning women migrant workers for their reintegration.

Other vulnerable groups

People living with HIV/AIDS

The 2001 Declaration of Commitment on HIV/AIDS and the 2006 Political Declaration on HIV/AIDS both underscore the centrality of human rights and a rights-based approach in national responses to HIV. While there is no international treaty or covenant that specifically addresses HIV, there are several provisions from international human rights treaties and declarations that have been interpreted to have significant implications for the effectiveness of the AIDS response, in particular the right to the highest attainable standard of health.

Article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. As part of this obligation, States must take steps to prevent, treat and control epidemic diseases. According to general comment N° 1 of 2000 on the right to the highest attainable standard of health, the prevention, treatment and control of epidemic, endemic, occupational and other diseases “requires the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and those adversely affecting sexual and reproductive health, and the promotion of social determinants of good health, such as environmental safety, education, economic development and gender equity. The right to treatment includes the creation of a system of urgent medical care in cases of accidents, epidemics and similar health hazards, and the provision of disaster relief and humanitarian assistance in emergency situations.”¹¹⁷

In addition, the right to work, enshrined in Article 2 of the Universal Declaration of Human Rights and articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, entails the right of every person to access employment without any precondition except the necessary occupational conditions.

Lesbian, Gay, Bisexual, Transgender, Queer, Intersex (LGBTIQ) people

“Standards of Conduct for Business: Tackling Discrimination against LGBTI people” is a set of global standards to support the business community in tackling discrimination against lesbian, gay, bi, trans and intersex people.¹¹⁸ Produced with the Institute for Human Rights and Business and launched in 2017, the Standards build on the UNGPs. They reflect the input of hundreds of companies across diverse sectors, featuring case studies and best practices.

The five standards are: 1) respect the human rights of their LGBTI workers, customers and members of the public; 2) eliminate workplace discrimination against LGBTI employees; 3) support LGBTI staff at work; 4) prevent discrimination and related abuses against LGBTI customers, suppliers and distributors—and insist that business partners do the same; and 5) stand up for the human rights of LGBTI people in the communities where they do business.

¹¹⁷ General comment N° 4 on the right to the highest attainable standard of health, adopted by the Committee on Economic, Social and Cultural Rights on May 2000.

¹¹⁸ OHCHR, Tackling LGBTI discrimination in the private sector, Standards of conduct for business, 2017, <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/tackling-lgbti-discrimination-private-sector-standards-conduct-business>

Lao PDR laws prohibit discrimination based on sexual orientation or gender identity in housing, employment, or government services. LGBTQI people are becoming more integrated in Lao PDR, but some societal discrimination in employment still persist – for example most openly LGBTQI persons may not attempt to apply for government or high-level private-sector jobs because there may be a tacit recognition that employers would not hire them.

Internally displaced persons (IDPs)

According to the UN Guiding Principles on Internal Displacement, internally displaced persons (IDPs) are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.”¹¹⁹

¹¹⁹ The Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

ANTI-CORRUPTION LAWS

International commitments

The connection between human rights and corruption has long been acknowledged within the UN.¹ The Human Rights Council encourages its mechanisms to consider the negative impact of corruption on the enjoyment of human rights.² In June 2020, the UN Working Group on the issue of human rights and transnational corporations and other business enterprises prepared a report considering the connection between the business and human rights and anti-corruption agendas.³

While the UNGPs do not explicitly mention the issue of corruption, the Working Group explains that strong preventive measures are needed to prevent business-related human rights abuses alongside corruption, noting corruption's corollary effect on human rights.⁴ The Human Rights Council stresses that preventive measures were one of the most effective means of countering corruption and of avoiding its negative impact on the enjoyment of human rights.⁵ It calls for the strengthening of prevention measures at all levels, and underlines that one key aspect of preventive measures is to address the needs of those in vulnerable situations who might be the first victims of corruption.⁶ The preventive approach is embedded in the UNGPs – specifically under pillar I of the UNGPs, States have a duty to protect people and communities from potential and actual business-related human rights abuse.

While there is no universal definition, the UN Convention against Corruption addresses many different forms of corruption, such as bribery, trading in influence, abuse of functions and private sector corruption. The Convention, one of the most widely ratified international treaties, is the only legally binding universal anti-corruption instrument. In 2009, Lao PDR ratified the Convention Against Corruption.⁷

This section assesses anti-corruption law in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what extent anti-corruption in Lao PDR encourages or impedes responsible business practice. This section examines the regulatory framework related to public procurement and concessions, land acquisition, and beneficial ownership.

Regulatory framework

In Lao PDR, the subject of anti-corruption or anti-bribery is mainly governed by the Anti-Corruption Law (2012) and the Penal Code.

1 See, for example, Human Rights Council resolutions 35/25, 29/11, 23/9 and 21/13. See also A/HRC/41/20, A/HRC/32/22, A/HRC/28/73, A/HRC/26/42, A/HRC/23/26, A/HRC/4/71, and www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/GoodGovernanceIndex.aspx

2 Human Rights Council resolution 41/9.

3 Report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises.

4 Report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, page 8.

5 Human Rights Council resolution 41/9.

6 Human Rights Council resolution 41/9.

7 Another international standard to which Lao PDR is not party is the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Anti-Corruption Law⁸, amended in 2012, defines the principles, rules, and measures to counter corruption, “in order to ensure that the property of the State and society, and the rights and interests of citizens, are not damaged, embezzled, or swindled, and to subject offenders to legal proceedings, and to protect those who are innocent...” The 2012 amendment further criminalises activity that was only previously penalized under the Penal Code. The 2017 Penal Code⁹ has a chapter defining acts related to corruption and bribery. Lao PDR has also gradually implemented other legislation to address illegal activities related to corruption, such as the Law on Anti-Money Laundering and Counter-Financing of Terrorism of 2014.

Definition of corruption and subjects of legislation

Article 354 of the Penal Code defines corruption as the behaviour of any employee of an enterprise in the private sector, employees of the State, officials, persons entitled to represent these persons, persons vested with official functions, foreign employees, and employees of international organizations, which fall under the scope of corrupt acts listed as follow: i) misappropriation of Government property or collective property.; ii) deceit related to Government property or collective property; iii) to give a bribe; iv) to receive a bribe; v) abuse of designation powers, power and duty to take over Government property, collective property, or individual property; vi) use of Government property or collective property (for his/her own benefit); vii) overusing designation powers, power and duty to take over Government property, collective property, or individual property; viii) to steal, falsify technical construction standards, designs, calculations, and others; ix) defrauding a bid or a concession; x) document falsification or use of falsified documents; xi) disclose secrets for his/her own benefit; or xii) to hold documents or delaying the document process.¹⁰

Amended article 11 of the Anti-Corruption Law consider as corruption the following behaviours: i) embezzling public or collective assets; ii) defrauding public or collective assets; iii) offering bribes; iv) acquiring bribes; v) exploiting position, power, duty to acquire public, collective or individual assets; vi) exploiting public or collective assets; vii) abusing position, power, duty to acquire public, collective or individual assets; viii) secretly forging technical standards of construction, design, calculation and so on; ix) cheating in bidding or concession process; x) forging documents or using forged documents; xi) revealing secrets for private gains; xii) deliberately prolonging the documentation process.

The Penal Code targets employees who have a leading role, administrative role, and a specialist role, as well as a general employee of a company. Article 354, which sets out the persons who are subject to this legislation, also provides that foreign employees and employees of international organizations fall under the scope of the Penal Code. While public government officials and civil servants are the primary subjects of the legislation, individuals and entities who engage in prohibited behaviour can also be prosecuted under anti-corruption provisions.

Regarding the private sector, the Penal Code makes only a reference to “employees”, which may exclude persons who have an interest with a company, but who are not qualified as employees, such as company shareholders. Further clarification on this point may be needed

⁸ Anti-Corruption Law No.27/NA amended 18 December 2012.

⁹ The Penal Code (No. 46/NA), dated 17 November 2017, published in digital Lao PDR Official Gazette on 17 October 2018, https://www.ilo.org/dyn/natlex/natlex4.detail%3Fp_lang%3Den%26p_isn%3D107516%20

¹⁰ Article 357 of the Penal Code prohibits any person, as defined under Article 354, from giving, offering, giving on behalf of someone else, or promising to give money, any assets, or any type of benefit, in person, or through an intermediary, directly, or indirectly, to employees, in order to have said employee act, or to induce said employee to act, or to incite said employee not to act, for the benefit of the person giving the bribe. Furthermore, Article 358 focuses on accepting a bribe.

in future amendments. From a business responsibility point of view, it should be noted that the Penal Code includes a chapter dedicated to the liability of legal entities.

State responsibility

Article 25 of the Anti-Corruption Law states that in order to prevent and combat corruption, state has the following responsibilities: i) instil consciousness of respecting and implementing laws strictly; ii) improve public administration mechanism to ensure its effectiveness and transparency; iii) formulate clear policies and implement them upon officials at different level, while guaranteeing the proper improvement of people's living conditions; iv) exercise disciplinary measures, punish offenders of corruption in a strict and timely manner; and v) encourage people, Lao Front for National Development, mass organizations, civil society organizations and journalists to participate in efforts for preventing and combating corruption in compliance with applicable regulations.

The payment of a bribe to a domestic government official is prohibited. The amended Anti-Corruption Law criminalises both givers and receivers of the bribe. The law, however, still requires the act of corruption to cause damage to the interests of the State, or to the rights and interests of the citizens. This language may hinder the application of anti-corruption law and limits its effectiveness.

The Anti-Corruption Law refers expressly to domestic government officials. It only refers to employees of international organizations, and foreign employees, without mentioning whether foreign government employees are covered by the Anti-Corruption Law. Similarly, in the Penal Code there is not explicit reference to foreign government officials in Article 354. Clarification may be provided for the definition for a "foreign employee" and an "employee of an international organization" in future amendments.

Business responsibility

From a business responsibility point of view, one of the interesting additions brought by the Penal Code is the liability of a legal entity. Article 88 renders legal entities liable for acts committed under the Penal Code. According to Article 89, the act represents an offence triggering the liability of a legal entity if committed under the following circumstances: i) the offence was committed under the name of the legal entity; ii) for the benefit of the legal entity; or iii) following to the direction, supervision, or agreement of the legal entity.

The Penal Code provides that legal entities may be fined, or have their business license withdrawn, or be prohibited from carrying out some specific activities, or prohibited from mobilizing capital (from external sources out of the company), or prohibited from using checks - see assets seized, or prohibited from carrying out the activity again. There are defences that an entity can raise to rebut bribery charges, which are related to a compliance programme that a company may have. Individuals of companies, such as directors, managers, or employees, who violate anti-bribery or corruption laws can also raise defence. Article 146 of the Anti-Corruption Law provides that any person who gives bribes under force or threat, and who thereafter notifies the authorities, will not be considered an offender in respect to the charge of bribery. Additionally, if the offender willingly reports their own wrongdoing, and returns the assets in the same manner, it would only face education measures and a warning.

In the construction sector specifically the Construction Law of 2009 provides that any individual or business organisation carrying out construction work is prohibited from, among other things, “conspire to bribe or receive bribes”.¹¹

Public procurement and concessions

Public procurement – the purchase by governments and State-owned enterprises of goods, services and works and the award of government concessions – is susceptible to corruption, often in the forms of bribery, embezzlement and abuse of functions and price-fixing, cartels, and other anti-competitive practices. Public procurement, and corresponding opportunities for corruption, may involve multiple sectors. The risks are exacerbated by the volume of transactions, the financial interests at stake and “the complexity of the process, the close interaction between public officials and businesses, and the multitude of stakeholders”.¹² Some businesses may pay bribes to win a contract or concession, sometimes following demands from government officials. This may result in States not receiving value for money and not being able to deliver vital public services such as health care, education, and housing. As such, from a business responsibility point of view, it is important that laws and policies specifically cover the issue of corruption in public procurement, which is currently lacking in Lao PDR’s regulations.

Land acquisition

Corruption may be particularly prevalent in land-acquisition contexts, for example when officials accept bribes from companies for access to or to register land. Corruption also takes place where the police, judiciary or other State authorities permit or enable land to be misappropriated.¹³ As such, to ensure business responsibility it is important that anti-corruption regulations target specifically large-scale land acquisition required for many business activities, such as agribusiness and infrastructure projects.

Beneficial ownership

To ensure responsible business practice the issue of beneficial ownership should be addressed. Shell companies and trusts may be registered while the true “beneficial” owner behind the shell, or corporate veil, is unknown. The use of shell companies and trusts is often a means for corrupt officials and individuals to hide their assets and identities. The practice may also allow anonymous businesses or individual investors to avoid liability for abuses connected to a particular business or project.¹⁴

¹¹ Law on Construction (No. 159 of 2009), Article 59(9).

¹² Report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, page 5

¹³ report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, page 5-6

¹⁴ Report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, page 11.

Institutional framework

The State Inspection and Anti-Corruption Authority is the main institution in Lao PDR dealing with anti-corruption.

The ten principles issued by the Ministry of Finance also prohibits officials from the Ministry of Finance from accepting any type of benefit, to incite acting, or not acting, in favour of the person offering the bribe. It should be noted that most of the provisions in these principles are a reiteration of what already exists in the existing regulations.

For a government official guilty of an offence under the Anti-Corruption Law sanctions may amount to just a “be criticized and be admonished by recording a note in his biographical file” to be removed from his/her position. Under the Penal Code, sanctions depend on the amount of damages resulting from the act of bribery – e.g. below LAK 20 million imprisonment for one to two years, and a fine of 1 percent of the damage costs, up to sentenced to life imprisonment and a fine of 1 percent of the damage costs above LAK 2,000 million.

Following the Decision on Prohibitions and Disciplining State Employees in the Finance Sector No. 1124/MOF of April 2017, the Ministry of Finance has enacted ten prohibitions applicable to its own officials and civil servants. These prohibitions aim to sanction reporting which is false or incorrect, which would prevent the true and proper collection of tax and prohibit any acts that delay the consideration and approval of documents for direct or indirect personal gain or to enable family or relatives to receive gains or to enable collective gains. Officials and civil servants who breach these prohibitions may be subject to a range of sanctions, ranging from educational measures to imprisonment.

Recommendations

- Penal Code reform: Consider amending the provisions regarding the private sector that make only a reference to “employees”, which may exclude persons who have an interest with a company, but who are not qualified as employees, such as company shareholders. Consider providing a definition of a “foreign employee” and an “employee of an international organization”.
- Anti-Corruption Law reform: Consider amending the provisions requiring damages for State interests, or a citizen’s rights and interests as this language may hinder the application of the anti-bribery and corruption law and limit its effectiveness. Consider expressing referring to foreign government employees are covered by the Anti-Corruption Law.
- Public procurement reform: Reform public procurement to fully implement anti-corruption obligations; integrate anti-corruption in guidance materials on public procurement and criteria for awarding contracts - guidance should include steps required to conduct risk assessments and adopt appropriate measures at each stage of the procurement process.
- Beneficial ownership reform: Reform beneficial ownership disclosure to help countering corruption and promote responsible business practice, primarily by enabling transparency and accountability - beneficial ownership reform would enable public awareness of an asset’s true owner.
- Policy coherence: Give effect to greater coherence in policy integration, incorporate business responsibility when addressing corporate corruption - any focus on responsible business conduct should include corruption-related factors.

INDUSTRY SECTOR-SPECIFIC LAWS

International commitments

The UNGPs clarify that “the responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure.”¹ The means through which companies meet such responsibility, however, may vary according to these factors. This would be proportional to the business size. The UNGPs recognise that small and medium-sized enterprises (SMEs) “may have less capacity as well as more informal processes and management structures than larger companies, so their respective policies and processes will take on different forms” while also noticing that some SMEs can have severe human rights impacts, which will require corresponding measures regardless of their size.² This is important for Lao PDR where most of the business are SMEs.

While the UNGPs and other international standards for business responsibility apply to all sectors, there are several high-risk sectors for which sector-specific standards have been developed. For example, sets of guidelines and principles that apply to particular industries or sectors include: the Extractive Industries Transparency Initiative (EITI) - a global standard for the oil, gas, and mining sectors to ensure transparency and accountability in natural resource governance; the Equator Principles - a risk management framework adopted by financial institutions for project finance and advisory services in the infrastructure, energy, and extractive industries; or the Forest Stewardship Council (FSC) - a certification system for responsible forest management in the forestry industry.

Regulatory framework

In addition to general corporate regulation in Lao PDR³ discussed in Chapter 2 on corporate and investment law, this chapter focuses on industry sectors considered of particular importance for business responsibility in Lao PDR: i) agriculture; ii) extractive; iii) hydropower; iv) construction; and v) tourism.

Agriculture

The legal framework on agriculture in Lao PDR is mainly governed by the Law on Agriculture of 1998.⁴ The law provides a comprehensive legal framework for agriculture and rural development in the country. Under the Agriculture Law, the Lao government aims to promote sustainable agricultural development, enhance food security, and improve the livelihoods of farmers. The law establishes a range of policies, regulations, and institutions to support these goals.

One of the key components of the Agriculture Law is the promotion of sustainable agriculture practices, including the use of natural resources in a way that protects the environment and supports long-term productivity. The law also provides for the development of agricultural infrastructure, such as irrigation systems and roads, to support agricultural productivity and facilitate market access.

¹ UNGP Principle 14.

² UNGP Principle 14, Commentary.

³ Including the Law on Enterprises (No. 46/NA of 2013), the Law on Investment Promotion (No. 14 of 2016); the Law on Processing Industry (No. 48/NA of 2013, and the Promotion of Small and Medium Sized Enterprises Law (No. 011/NA of 2011).

⁴ Law on Agriculture (No. 01-98/NA of 1998).

Overall, the legal framework on agriculture in Lao PDR seeks to promote sustainable and inclusive agricultural development, while also protecting the environment and ensuring the rights of farmers and other stakeholders are respected. In particular, the Agriculture Law provides that business organisations undertaking agricultural production are obligated to protect the environment⁵ – clarifying that this includes “the social and natural environment, such as people, animals, soil, water, forests, and the air.”⁶ In addition business that undertake agricultural activities have among others the obligation to avoid damage to people's production or the social and natural environment.⁷

In addition to the Agriculture Law, there are several other laws and regulations that govern agriculture in Lao PDR. These include the Land Law, the Forestry Law, the Fisheries Law, and the Law on Plant Protection and Quarantine. These laws provide for the management and regulation of land, forests, fisheries, and plant protection, respectively.⁸

Note that in the agriculture sector, there are several international principles and guidelines for responsible business conduct that should be reflected in national regulation. These include, the FAO's “Principles for Responsible Investment in Agriculture and Food Systems” (RAI principles) according to which “responsible investment in agriculture and food systems requires respecting, protecting, and promoting human rights, including the progressive realization of the right to adequate food in the context of national food security, in line with the Universal Declaration of Human Rights and other relevant international human rights instruments.”⁹ Agriculture could be a major driver for sustainable development, food security and poverty reduction in Lao PDR. To guarantee that investment in agriculture addresses rural poverty and creates decent jobs for all, including women and youth, it is fundamental that it is “responsible”, following the guidance of the CFS Principles for Responsible investment in agriculture and food systems (CFS-RAI Principles)¹⁰ and the ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (ASEAN RAI).¹¹

Other guidelines include the Fair Labor Association (FLA) Workplace Code of Conduct, a set of labour standards that applies to companies that produce or source agricultural products, including fair wages, safe working conditions, and the prohibition of child labour and forced labour; the Roundtable on Sustainable Palm Oil (RSPO) standards, which apply to companies that produce or source palm oil, and include requirements for environmental protection, social responsibility, and transparency; and the Rainforest Alliance Sustainable Agriculture Standard, a certification programme that promotes sustainable farming practices, including environmental conservation, worker rights, and community development.

The establishment of large-scale, foreign-financed agricultural plantations may lead to displacement of local farmers. Unable to continue traditional practices of subsistence

5 Law on Agriculture, Articles 6 and 65.

6 Law on Agriculture, Article 65. Part IV of the Law is dedicated to Environmental Protection.

7 Law on Agriculture, Article 10.

8 The Land Law of 2019 classifies land into eight categories: agricultural land, forest land, water area land, industrial land, communication land, cultural land, defence and security land, and construction land (Article 21), the Forestry Law of 2019 specifies types of forestry business including production of tree and NTFP seedlings, tree and NTFP planting, wood processing, charcoal production, processing of NTFPs, export of timber, wood products, tree species and NTFPs, import and transit of timber, wood products, tree species and NTFPs, sale of NTFPs, sale of wood products, ecotourism, and trade in forest carbon (Article 92).

9 FAO, Principles for Responsible Investment in Agriculture and Food Systems”, <https://www.fao.org/3/au866e/au866e.pdf> In 2021 a Capacity Assessment for Responsible Agricultural Investment (RAI) in Lao PDR was carried out by the Department of Planning and Finance of the Ministry of Agricultural and Forestry (MAF) with the FAO and Helvetas. As a result of the workshop the following conclusions were made: a legal framework is already in place that covers the scope of the ASEAN RAI Guidelines, but there is weak implementation, particularly at the local level; communities are not adequately consulted about planned investments, they have weak bargaining position when contracts are negotiated, they are poorly equipped to protect their health and the local environment, and often lack the ability to take advantage of employment opportunities created by investment; at the same time, some investors do not comply with the terms and conditions of the approved business, particularly with regard to land use; participants of the workshop expressed particular concern about the low level of consultation with village women and youth during the planning and implementation of investment projects.

10 FAO, CFS Principles for Responsible investment in agriculture and food systems (CFS-RAI Principles), <https://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/1151242/>

11 ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (ASEAN RAI), <https://asean-crn.org/asean-guidelines-on-promoting-responsible-investment-in-food-agriculture-and-forestry/>

agriculture, many farmers may seek employment as day laborers through local brokers, many of whom operated informally thus leaving workers vulnerable to exploitation. The ILO estimates that more than 93 percent of workers in Lao PDR are employed in the informal economy, mostly in plantation agriculture, construction, mining, and hospitality work.

Construction

The construction sector in Lao PDR is governed by the Law on Construction of 2009.¹² The Construction Law defines the rules, regulations and measures on the management, permission, control, monitoring, and inspection of all types of construction. In addition to the quality, safety, economy, and comfort of the constructed structures, it aims to ensure the national socio-economic development.¹³

The government encourages all local and foreign economic sectors to invest in the construction, repair, protection, and utilization of structures. It promotes all types of construction to be carried out according to, in addition to technical standards, also to environmental protection and the promotion of local material usage.¹⁴ The government promotes and encourages all local construction companies to ensure accessibility to the funds so that they can strengthen their companies in parallel with upgrading the labour skills in order to compete with foreign companies.¹⁵ Any individual or business organisation carrying out construction work is prohibited from, among other things, “conspire to bribe or receive bribes”.¹⁶

Construction companies should follow, among others, the following principles: “ensur[ing] the quality, the safety, and will not cause excessive negative impacts on the living of local people, infrastructure, natural landscape, and environment” and “not caus[ing] any over-limit annoyance to the people living close to the construction site”¹⁷; “promot[ing] the development in parallel with the conservation and protection of cultural, historical and natural heritage including the conservation of the national characteristic”¹⁸; “ensur[ing] the sustainability and the highest benefit for the socio-economy and extend facilities to the disabled and elderly people primarily in the construction of buildings, roads and other public facilities”¹⁹; and carrying out an “impact assessment to the natural environment and the society has to be made, especially the health of the people”.²⁰ All such principles are in line with responsible investment standards and HRDD expectations under the UNGPs.

Extractive

The UN working Group on business and human rights has highlighted the extractive sector as an area in which significant corrupt activities take place, often regarding gaining access to profitable government concessions.²¹

12 Law on Construction (No. 159 of 2009).

13 Law on Construction, Article 1.

14 Law on Construction, Article 4.

15 Law on Construction, Article 4.

16 Law on Construction (No. 159 of 2009), Article 59(9).

17 Law on Construction, Article 5(2).

18 Law on Construction, Article 5(3).

19 Law on Construction, Article 5(4).

20 Law on Construction, Article 5(6).

21 Report to the 44th session of the Human Rights Council (A/HRC/44/43) Human Rights Council Forty-fourth session 15 June–3 July 2020 Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Connecting the business and human rights and the anticorruption agendas Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, page 7.

The extractive sector in Lao PDR is governed by sector-specific regulation, the Mining Law of 1997, and the Law on Minerals of 2017. Additional provisions are included in other regulation, such as the Forestry Law of 2019 and the Ethnic Decree of 2020.

The Mining Law of 1997 aims at “defining the system of management, preservation, exploration, exploitation and processing of minerals for local consumption and export with the use of natural resource potentials in the industrial process and upgrading the population’s quality of life.”²² All mineral resources “under land and water within the territory of the Lao PDR are the property of the national community and under centralized and unified management by the State”.²³ The State applies “a policy of promotion towards persons and organizations both domestic and foreign in efficiently preserving and developing mineral resources.”²⁴ In relation to environmental protections, persons, including business, licensed to conduct commercial mineral operations “shall abide by the procedures and measures for the mitigation of natural resource loss and negative environmental impacts.”²⁵

The Law on Minerals of 2017 defines the principles, rules, and regulations relating to managing, monitoring, and inspecting protection, trading, mineral resource and minerals utilization.²⁶ It aims to ensure “the protection of health, life, and safety of effected community, workers, and social and environment protection” and to “contribute to national socio-economic development, improve the livelihoods of Lao people.”²⁷ Minerals on the ground, underground, and underwater of Lao PDR’s territory are under ownership of national communion which centrally administrated by government, and as unity over country.²⁸

In addition, the Ethnic Decree of 2020, includes among natural resources and environment policies the establishment of procedures to conserve the environment, for mining and use of natural resources and environment.²⁹

Hydropower and other form of energy

Lao PDR is abundant in water resources with high potential for hydropower development. Demand for electricity for the purpose of socio-economic development in the country as well as the neighbouring countries has increased in recent years, providing opportunities for hydropower development in Lao PDR. Lao PDR has a policy on electricity generation mainly from hydropower. The Policy on Sustainable Hydropower Development aims at providing policy guidance and reference to the agencies responsible for overseeing the implementation of investment projects in the hydropower sector as well as to inform and encourage project investors to be aware of the government policy on sustainable development in Lao PDR.³⁰ The policy is not catered only for large scale projects but to all scales as necessary.

The objective and implementing principles of the policy follow standards for responsible business conduct. Hydropower development shall be implemented based on the principles of economic, social, and environmental sustainability.³¹ In order to achieve economic, social, and environmental sustainability in hydropower development, detailed data collection, planning

22 Mining Law of 1997 (No. 04-97/NA of 1997), Article 1.

23 Mining Law of 1997, Article 3.

24 Mining Law of 1997, Article 4.

25 Mining Law of 1997, Article 5.

26 Law on Minerals (No. 063/NA of 2017), Article 1.

27 Law on Minerals, Article 1.

28 Law on Minerals, Article 4.

29 Ethnic Decree of 2020, Article 15(3).

30 Policy on Sustainable Hydropower Development in Lao PDR, approved through the Decree of 12 January 2015, supersedes the 2006 National Policy on Environment and Social Stability of the Hydropower Sector (No. 561/CPI). During the implementation of this policy, a number of laws, regulations, and institutional structures of the government have been updated and amended including: revision of the Electricity Law, Environmental Protection Law, EIA Decree, Decree on Compensation and Resettlement of People Affected by Development Projects; a number of Guidance Notes are being updated as well.

31 Policy on Sustainable Hydropower Development in Lao PDR, 1.

and implementation is required.³² All hydropower projects shall undertake a comprehensive Environmental and Social Impact Assessment. Any project with large impacts and which is trans-boundary, a cumulative impact assessment and a trans-boundary impact assessment shall be undertaken. Environmental and Social Impact Management and Monitoring Plans shall also be developed before the construction and implementation of a project.³³ In order to safeguard the statutory interests of the project affected people due to resettlement and compensation cases, the hydropower project developer shall provide a progress report on the social impact assessment, develop a resettlement and livelihoods' improvement plan, an ethnicity development plan, a gender development plan and so forth before the construction and implementation of the project to ensure that any potential negatives impacts to the people and other social related impacts are mitigated.³⁴ Finally, the policy states that "reasonable, honest, accurate and transparent consultations will be implemented based on the provision of adequate data and information provided, as this would help to effectively listen or hear the public voices before making a decision to approve a hydropower project".³⁵

While regulation of the energy sector in Lao PDR focuses on hydropower, it may be necessary to establish legislation covering renewable energy, as well as to enact a specific law to ensure the safety of dams, as part of the Lao government's efforts to achieve sustainable energy development – as there are regulations and guidelines in place governing the construction and operation of hydropower plants, but there is no law that specifically relates to safety measures. The lack of a law in relation to dam safety management hinders the standardized inspection of dams to prevent accidents. All fields of development, including the construction of dams, need to be better regulated through rigorous law enforcement, while greater capacity is especially needed with respect to dam safety and inspections.

In addition to hydropower the Law on Electricity of 2011³⁶ lists as forms of energy produced from natural resources "wind power, solar energy, fuel, lignite, biomass energy, thermal, gas, palm oils and nucleus energy".³⁷ The Law determines the principles, rules and measures on the organization, operation, management and inspection of electrical activities "with the aims to use the natural resource potentials in economical and sustainable manner, to encourage the implementation of the national socio-economic development plan and to improve the living conditions of the multi-ethnic people".³⁸ The State centrally manages all sources of energy in the country and grants the right of use to individuals and legal entities.³⁹ The State promotes investment in electricity activities, particularly the hydropower, "in junction with the protection of forest-protected water sources" and "with mitigation of social and environmental impacts".⁴⁰

In conformity with the concept of human rights due diligence detailed in the UNGPs, the Law on Electricity requires a Social, Environmental and Natural Assessment consisting of the assessment of environmental impact with "methods and measures for solving or mitigating any adverse impacts on the environment, water sources, land...", an "estimate of the damage and resettlement of peoples affected by the electricity project", "means to mitigate the impacts to water volume".⁴¹ The Law also regulates the use of land for electricity project and requires the project developer to "clearly determine the limits of land use and methods of compensation for land use in the course of conducting the technical, economical and financial feasibility study,

32 Policy on Sustainable Hydropower Development in Lao PDR, 2.

33 Policy on Sustainable Hydropower Development in Lao PDR, 7.

34 Policy on Sustainable Hydropower Development in Lao PDR, 8.

35 Policy on Sustainable Hydropower Development in Lao PDR, 9.

36 Law on Electricity No. 03/NA (amended 2011).

37 Law on Electricity, Article 2.

38 Law on Electricity, Article 1.

39 Law on Electricity, Article 4.

40 Law on Electricity, Articles 5 and 6.

41 Law on Electricity, Article 31.

and the environmental, social and natural impacts from the project”.⁴² Individuals and legal entities operating the electricity business are also required to “regularly submit their report on the design, construction, operation and safety relating to electricity to the Energy and Mines sector and relevant local administrations”.⁴³

Tourism

While there is no specific regulation governing the tourism sector in Lao PDR, some provisions related to business development in the tourism sector are included in other regulations. For example, the Forestry Law provides that lease or concession of forestland for ecotourism activities in national Protection and Conservation Forest areas and Production Forest areas is allowed only in areas which are allocated by the State and must be approved by the Government based on a proposal from the Ministry of Agriculture and Forestry with the agreement of relevant ministries and provincial administration authorities.⁴⁴

Institutional framework

In relation to the agriculture sector, the Agricultural Administration Agency comprises: the Ministry of Agriculture and Forestry (MAF); the provincial, municipal, and special zone agriculture and forestry divisions; the district agriculture and forestry offices; and village administrative authorities.⁴⁵

In relation to the construction sector, the Construction Management Authority consists of the Ministry of Public Works and Transport, the Department of Public Works and Transport, and the Office of Public Works and Transport, as well as other relevant offices, at the district or municipal level. The Government of LAO PDR oversees the centralized and integrated construction management throughout the country. It assigns the Public Works and Transport sectors to act as the centre of coordination with relevant sectors, such as: the energy and mining sectors, the agriculture and forestry sectors, the industry and commerce sectors, the authority of science and technology and relevant local authorities, each of which must make the construction management under its own jurisdiction.⁴⁶

In the forestry sector, the National Assembly shall approve the concession of forestland for large scale mineral extraction projects based on a proposal from the Government.⁴⁷ Concessions for other mining projects are based on the decision of Government. Procedures and timeframes for the concessions shall be governed by the Law on Minerals. The Ministry of Information, Culture and Tourism (MoICT) is responsible of the regulation of the tourism industry in the country.

In the energy and extractive sector, the Ministry of Energy and Mines (MEM) was established in 2006 and was restructured in 2011-2012; the Water Resources and Environment Administration was established in 2007 and was upgraded to the Ministry of Natural Resources and Environment in 2011-2012; the Ministry of Agriculture and Forestry was also re-organized in 2011-2012. the Inter-ministerial Committee at the Ministry level formed by Ministry of Energy and Mines provides guidance to different agencies to ensure implementation of the policy. The Government centrally and manages the electrical activities throughout the country by assigning the energy and mines sector to be the principal in coordinating with other relevant sectors,

42 Law on Electricity, Article 40.

43 Law on Electricity, Article 42.

44 Forestry Law of 2019, Article 88.

45 Agriculture Law, Article 69.

46 Law on Construction, Article 69

47 Forestry Law, Article 91.

such as the sectors of planning and investment, water resources and environment, national defence, public security.⁴⁸

Recommendations

- Establish legislation covering renewable energy.
- Enact a specific law to ensure the safety of dams, as part of the Lao PDR government's efforts to achieve sustainable energy development.
- Ensure standardized inspection of dams to prevent accidents.
- Better regulate the agriculture, energy, construction, extractive and tourism sectors through rigorous law enforcement and greater capacity with respect to safety and inspections.
- Ensure better implementation, particularly at the local level, of the legal framework already in place covering the scope of the ASEAN RAI Guidelines.
- Adequately consult communities – including representation from women and youth about planned investments in the agriculture, energy, construction, extractive and tourism sectors.
- Ensure investor compliance with the terms and conditions of the approved business in the agriculture, energy, construction, extractive and tourism sectors, particularly regarding land use.
- Screen for human trafficking indicators among vulnerable groups, including Lao and foreign workers on large infrastructure, mining, and agricultural projects, as well as Lao communities displaced by these projects, and Lao and foreign nationals employed in SEZs.

⁴⁸ Law on Electricity, Article 63.

LAWS RELATED TO ACCESS TO REMEDY

International commitments

A general principle of international law is that every right must be accompanied by the availability of effective remedies and reparation in the event of any violation or abuse of rights.¹ Remedies must be prompt and effective, and they must be simple and accessible for all. They must address abuses either by judicial mechanisms provided by the States, or by or non-judicial mechanisms provided States and or business enterprises. In accordance with the Universal Declaration on Human Rights and international human rights treaties, States are obliged to provide effective remedies to victims of human rights abuses including when third party actors, such as a business enterprise, are responsible for rights violations or abuses. Non-judicial mechanisms – remedial procedures undertaken outside of the judicial process – may also provide effective access to remedy and should be established as a means of complementing the availability of judicial mechanisms to provide for redress. The UNGPs make clear that, where persons may be adversely affected by business activities, business enterprises too have a responsibility to provide or facilitate access to remedy. Set apart from State-based mechanisms, a business may establish non-State-based procedures to facilitate or provide access to remedies and reparation.² Th UNGPs state that businesses should provide for or cooperate in legitimate remediation processes in response to instances in which they have caused or contributed to adverse impacts.³

Under international human rights law, States have the obligation to provide effective remedies to victims of human rights violations. This includes the obligation to provide remedies for human rights violations associated with business activities. This is a general principle of law that is also reflected in the Universal Declaration on Human Rights and international human rights treaties. Effective remedy is a form of access to an independent authority, which has the power to decide whether a human rights violation has taken place or is taking place and the power to offer a remedy in the sense of ordering cessation or reparation. Access to remedy includes both judicial and non-judicial mechanisms. Any victim of a human rights violation should have access to effective judicial and non-judicial remedies at both the national and the international level. Judicial processes are processes that are made available through a state’s judicial system and can refer both to civil remedies and to criminal processes. The UNGP also state that “effective judicial mechanisms are at the core of ensuring access to remedy”⁴ and that “States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing human rights-related claims against business, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.”⁵ Non-judicial remedies refer to dispute resolution mechanisms that operate outside the domestic judicial system, such as administrative processes, national human rights commissions, and ombudspersons. For administrative processes to provide an effective remedy they must enjoy independence, have the competence to adjudicate complaints, and order appropriate redress.

1 Universal Declaration of Human Rights (Art. 8); International Covenant on Civil and Political Rights (Article 2 (3)); Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (Articles 13 and 14); International Convention on the Elimination of All Forms of Racial Discrimination (Article 6); Convention on the Rights of the Child (Article 39).

2 UNGPs Principles 29-31.

3 UNGPs Principle 22.

4 UNGPs, Commentary to Principle 26.

5 UNGPs Principle 26.

In addition to the responsibility of the State, do businesses also have responsibilities to provide remedies? The UNGPs establish that both states and business have responsibility to guarantee effective remedy for victims of human rights violations and distinguish between “state-based” and “non-state-based” mechanisms.⁶ The UNGPs says that “[w]here business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.⁷ Non-state-based mechanisms include company-based grievance mechanisms designed to help facilitate resolutions of disputes, for instance at site or project level. Corporations are required to “establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.”⁸ While the State-based system is governed by international law, the company-based system, is anchored on voluntary initiatives, codes of conduct and CSR principles - unless there are national laws that require for companies to provide such remedies.

Access to remedy constitutes the third pillar of the UNGPs, and the component of the principles on which States, companies and rights-holders continue facing some of the biggest challenges. The State’s duty to protect includes the responsibility to investigate, punish and redress those abuses.⁹ States must take steps to ensure that when business-related human rights abuse occurs within their territory and/or jurisdiction, those affected have access to effective remedy.¹⁰ Those steps, which can be procedural as well as substantive, may include legislative, judicial, administrative or other appropriate means.¹¹ Companies having contributed to human rights abuses should “provide for or cooperate in their remediation through legitimate processes”¹² and ensure that grievances are “addressed early and remediated directly”.¹³

Remedy includes apologies, restitution, rehabilitation, financial or non-financial compensation, punitive sanctions, injunctions or guarantees of non-repetition. Procedures should be impartial, protected from corruption and free from political influence.¹⁴ States have a variety of possible grievance mechanisms to choose from, including those available in labour tribunals, national human rights institutions, National Contact Points under the OECD guidelines, or ombudspersons. It is their responsibility not only to ensure the independent and effective functioning of those mechanisms, but also to raise public awareness of them.¹⁵

States should take steps to ensure that effective domestic judicial mechanisms are in place to address business-related human rights abuses, and to reduce barriers to access remedies.¹⁶ The UNGPs describe judicial mechanisms as being “at the core of ensuring access to remedy”.¹⁷ Those mechanisms should be protected by due process standards, and not threatened by corruption or political pressure. Impartial judges and protection of human rights defenders are key to ensure the proper functioning of those mechanisms.¹⁸ State should also provide effective and appropriate non-judicial grievance mechanisms for those abuses,¹⁹ including administrative and legislative mechanisms and access to support from national human rights institutions.²⁰ Such state-based non-judicial mechanisms are described in the

6 UNGPs, Principles 25 to 31.

7 UNGPs Principle 22.

8 UNGPs Principle 29.

9 Commentary to UNGPs Principle 25.

10 UNGPs Principle 25.

11 UNGPs Principle 25 and Commentary.

12 UNGPs Principle 22.

13 UNGPs Principle 29.

14 Commentary to UNGPs Principle 25.

15 Commentary to UNGPs Principle 25.

16 UNGPs Principle 26.

17 Commentary to UNGPs Principle 26.

18 Commentary to UNGPs Principle 26.

19 UNGPs Principle 27.

20 Commentary to UNGPs Principle 27.

UNGPs as playing “an essential role in complementing and supplementing judicial mechanisms’ and should not be understood as an alternative to judicial remedies.”²¹

In addition, States should consider ways to facilitate access to effective non-State-based grievance mechanisms, such as regional human rights bodies, or operational-level dialogue or mediation processes, through awareness raising or other measures.²²

The UNGPs set several effectiveness criteria for non-judicial grievance mechanisms that States and companies should take into consideration. They should enable trust from stakeholder groups for whose use they are intended, accessible, predictable, equitable, transparent, aligned with internationally recognized human rights, and a source of continuous learning.²³

Businesses should put processes in place to address adverse human rights impacts they cause or to which they contribute. Operational-level grievance mechanisms make up a key component of these processes and can directly provide redress to affected individuals and communities. Operational-level grievance mechanisms offer a process for receiving, evaluating, and addressing operations-related grievances from affected communities at the level of the company, or project. These mechanisms can be effective as they promise a relatively informal, flexible, accessible, expedient, cost-effective way to address human rights concerns. The UNGPs set out effectiveness criteria for non-judicial grievance mechanisms, and call for these mechanisms to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and – for operational-level mechanisms based on engagement and dialogue.

Foreign companies operating in Lao PDR have the responsibility to “provide for or cooperate in their remediation” where they identify that they have caused or contributed to adverse impact.²⁴ They should also ensure that grievances are “addressed early and remediated directly”.²⁵

Regulatory framework

The Constitution of Lao PDR (2015) and the Penal Code are the main instrument regulating access to remedy in general terms.

This section assesses access to remedy in Lao PDR from the perspective of the UNGPs, seeking to identify whether, how, and to what access to remedy in Lao PDR encourages or impedes responsible business practice. This section examines the regulatory framework related to i) remedy for environmental harm, ii) compensation for land expropriation, and iii) labour dispute resolution.

Remedy for environmental harm

When environmental harms occur, all those affected must have access to effective remedies. To meet their responsibility to respect human rights, businesses must address the environmental harms with which they are involved. They should establish or participate in effective operational-level grievance mechanisms that can remediate climate and environmental concerns raised by affected persons. Business enterprises should participate in good faith, and not undermine, proceedings before legal or non-legal tribunals that promote

21 Commentary to UNGPs Principle 27.

22 UNGPs Principle 28 and Commentary.

23 UNGPs Principle 31 and Commentary.

24 UNGPs Principle 22.

25 UNGPs Principle 29.

accountability for environmental harms. In the context of the environment, particularly where businesses have contributed to severe impacts (such as large businesses involved in the generation of electricity and heat, transportation, industrial agriculture, and other high emitting sectors), each business should provide for remediation appropriate to its share in responsibility for the harm.

Part V of the Environmental Protection law is about environmental rehabilitation, which is described as “a reversal action of damaged or degraded social and natural environment to recover and to maintain for good state and ecological balance.”²⁶ In relation to the responsibility for environmental rehabilitation, natural and legal persons, including business, implementing investment projects or activities that create environmental and social impacts, “shall correct, improve, rehabilitate and remunerate damages within the affected areas.”²⁷ The law also establishes that natural and legal persons have the obligation to contribute their capitals, human and material resources to the rehabilitation of a damaged or degraded environment.²⁸ In case of any damage those entities, including business, are responsible for resolving and rehabilitating damaged areas, natural sites, cultural heritages, historical and archaeological sites under the monitoring by the local authorities.²⁹

The Decree on Environmental Impact Assessment also lists rights of people affected by a project as follows: i) receive and access to information on the benefits and environmental impacts of investment projects and activities; ii) fair compensation, resettlement and job opportunities; iii) health care support through diagnosis and treatment; iv) promotion of culture, religion and gender equality; v) participation in the field visit and consultation workshops to provide comment on the EIA; vi) right to submit recommendations to project owner or complaints to concerned government organizations on the improper and unfair mitigation of environmental impact generated by the investment projects and activities.³⁰

Compensation for land expropriation

Amendment to the legislation related to compensation in development represents a significant improvement in the rights of people in Lao PDR when their land is affected by development projects.

The Land Law of 2019 has brought forward some policy improvements about expropriation and compensation.³¹ For example, a major step towards safeguarding people’s land rights is the obligation to pay compensation prior to the act of expropriation. Compensation is an indemnity of damages and losses for those who are impacted by violation of laws, legal servitude and reacquisition (expropriation) of land use rights.³² Compensation is implemented in form of provision of a new parcel of land, materials or money and other means based on land valuation undertaken in each region and for each land category.³³ Causes for payment of compensation are: i) loss caused by violation of laws; ii) loss caused by legal servitude; and iii) loss caused by the reacquisition (expropriation) of land use rights.³⁴

The State’s power to exercise expropriation is limited to public purpose or state development projects. “State investment” implicitly exclude expropriation for private investments. Compensation for losses caused by land reacquisition comprises: i) compensation for loss

26 Environmental Protection Law (2020), Article 54.

27 Environmental Protection Law (2020), Article 55.

28 Environmental Protection Law (2020), Article 56.

29 Environmental Protection Law (2020), Article 57.

30 Decree on Environmental Impact Assessment (amended 2019), Article 56.

31 Land Law, Articles 147-154.

32 Land Law, Art. 148.

33 Land Law, Art. 148.

34 Land Law, Art. 149.

caused by public purpose projects; and ii) compensation for loss caused by State investment projects.³⁵ When it is necessary to use land of natural and legal persons for State investment projects (such as agriculture, tree plantations, mining exploitations, development of power sources, roads, industrial zones or industrial estates, or Special Economic Zones), the State will re-acquire those land use rights but shall pay compensation to the landowners.³⁶

Expropriation and compensations provisions in the Land Law do not fully address some fundamental matters that would provide procedural safeguards to the community, even in case of State investment. In particular, the Law should include a requirement to assess alternative means to deliver the public infrastructure, such as an alternative site, a requirement to buy the land use right at the market price, an obligation to follow a clear process, which has several stages and mandated time periods, such as preliminary notification, community consultation, negotiated agreement, and final notice.

Generally, there is a lack of data transparency and access to information by the public. This adds to the overall difficulty for people in challenging decisions taken on expropriation and compensation, which can be costly if cases are escalated to higher levels of the justice system – district, province, or central level courts. A lack of knowledge and awareness, especially among the rural population, as well as limited access to legal support, provide further barriers to a fair protection of people’s rights to their land and related livelihoods.

While the Land Law refers to the acquisition of customary land rights,³⁷ it is unclear how customary land rights status would be treated in cases of expropriation and compensation. Procedures for expropriation and compensation for land under collective use are omitted from the current legislation.

Part 12 of the Land Law cover the provisions on the settlement of land disputes.³⁸ It is commendable that the law acknowledges the multiple non-court-based options that are available for both administrative and private disputes. The text, however, provides little more than a directive on the types of dispute resolution options and the order in which they should be followed, with the ultimate forum being the court. As multiple laws suffer from this lack of meaningful detail, it would perhaps be preferable for a single law on administrative disputes and alternate dispute resolution to cover the situation across all areas of government administration in adequate detail. In the specific context of a law on land, disputes arising from land titling need special attention. This issue is not addressed the Land Registration System. Although the issue of grievance redress applies across land administration, land management and land rights, it is a particular issue in land titling because that is a process in which fundamental rights are investigated and formally established. The people whose rights are being investigated should therefore have a full set of options to ensure that their rights are properly protected, including through a grievance redress process. This would also make the work of local officials easier because they would have clear guidance on how to approach disputes.

The provisions of the Forestry Law 2019 on requisition and compensation³⁹ are vague and give the government no specific right to requisition forest use rights or the land on which those rights exist. There is for example a lack of detail about the basis for requisitioning land. Article 129 is unclear about what is a public benefit, which would form the basis for the rights to use the forest being terminated. It would be useful to clarify, for example, if it extends to significant

35 Land Law, Art. 152.

36 Land Law, Art. 154.

37 Land Law, Articles 127 and 130.

38 Land Law, Articles 161-166.

39 Forestry Law, Articles 60, 82 and 129.

economic activities such as a timber plantation. In the Land Law, this type of private activity is specifically included as a basis for requisition.⁴⁰

There are no specific grievance redress provisions in the Forestry Law 2019. Anyone with a grievance would have to use the regular channels to resolve it, including disputes between villagers and lessees or concession holders. The lack of specific provisions on grievance redress in the Forestry Law is perhaps a missed opportunity to require complainants to make use of a variety of options to resolve disputes prior to taking a matter to court.

The 2018 Law on Resettlement and Vocation⁴¹ stipulate provisions for adequate and fair compensation. It does not provide, however, safeguards in respect of the actual expropriation, as well as the appropriate provision of grievance mechanisms for the land rights holders who are affected. Under the Law on Resettlement and Vocation, depending on the nature of the land use right and the documents (if any) held by the possessor, different compensation rules apply. The owner of “lawful documents” or customary rights is to receive full compensation while no compensation will be provided without such documents.⁴²

Prohibition of forced and child labour

There may be civil or criminal prosecutions for forced labour violations. Penalties for trafficking in persons, which includes forced labour, consist of imprisonment, fines, and confiscation of assets. Due to limited numbers of inspectors, among other factors, the government may not be able to effectively enforce the law. With no oversight by local authorities, foreign and Lao workers at or near foreign-owned or foreign-operated agricultural plantations, including banana and rubber plantations, on railway construction sites, and in special economic zones may be vulnerable to forced labour.

The government of Lao PDR has increased in recent years law enforcement efforts to address forced labour. Article 215 of the Penal Code criminalises sex trafficking and labour trafficking and prescribes penalties of five to 15 years’ imprisonment and a fine of 10 million to 100 million Lao kip; if the crime involved a child victim, the fine range increased to 100 million to 500 million Lao kip.

Authorities note difficulties conducting investigations at worksites affiliated with the BRI, under which many Lao workers remain vulnerable to forced labour. In April 2021, authorities arrested and charged the absconded PRC national owner of a local cement plant for refusing to pay months’ worth of contractual wages to hundreds of Lao employees - a common forced labour indicator among BRI employees. The government has increased oversight of some SEZs.

The Ministries of Public Security, Justice, and Labour are responsible for enforcing child labour laws, including in the informal economy, but enforcement may be ineffective due to the lack of inspectors. The law prescribes penalties of imprisonment and fines.

Labour disputes resolution

The ILO explains how grievances and conflicts are an inevitable part of the employment relationship.⁴³ The objective of public policy is to manage conflict and promote sound labour

40 Land Law, Article 147(2).

41 Law on Resettlement and Vocation (No. 45/NA, 2018). The law replaced PM Decree No 84 of 2016 on Compensation and Resettlement of the Development Project, which deals with similar subject matter.

42 Law on Resettlement and Vocation, Art 24.

43 ILO, Labour dispute prevention and resolution <https://www.ilo.org/ifpdial/areas-of-work/labour-dispute/lang-en/index.htm> Relevant ILO standards include: Convention No.87, Freedom of Association and Protection of the Right to Organize, Convention No. 98, Right to Organize and Collective Bargaining, Convention No. 151, Labour Relations (Public Service), Convention No. 154, Promoting collective bargaining, Recommendation No. 92, The Voluntary Conciliation and Arbitration, Recommendation No. 130, The Examination of Grievances.

relations by creating a system for the effective prevention and settlement of labour disputes. Labour administrations typically establish labour dispute procedures in national legislation. A key objective of effective systems is to ensure that wherever possible, the parties to the dispute resolve it through a consensus-based process such as conciliation and mediation, before reverting to arbitration and/or adjudication through a tribunal or labour court.

Lao PDR Decree on Labour Dispute Resolution serves as the implementing regulation for labour dispute resolution mechanisms included in the Labour Law.⁴⁴ The Decree sets a regulatory framework for two types of labour disputes: i) disputes related to the implementation of the Labour Law, work rules of the labour unit in each company, provisions in the company's employment contract or collective agreement, or infringement of other regulations related to labour; and ii) disputes related to benefits, such as salary, working hours, or social welfare.

Under the Decree, there are four main approaches for employers and employees seeking to resolve labour disputes:

- **Compromise:** An employer and individual employee or group of employees may wish to resolve a labour dispute through consultation to reach a compromise. If the parties do not reach a satisfactory compromise, they can use another labour dispute resolution approach.
- **Administrative remedy:** The process for obtaining an administrative remedy is initiated when a complaint is filed with the relevant Labour Administration Authority, whether at the village, district, provincial, or ministry levels. A mediator will be appointed by the relevant Labour Administration Authority to find a satisfactory solution within 15 days from the date of receipt of the written claims of both parties by authorities.
- **Resolution by the Committee for Labour Dispute Resolution:** the Decree establishes the Committee for Labour Dispute Resolution (CLDR), which is responsible for resolving labour disputes related to benefits. The CLDR is a tripartite organization, comprised of a representative from the Labour Administration Authority, a representative of employers, and a representative of employees. The CLDR will be tasked with reviewing labour dispute claims, requesting necessary information, or seeking participation from relevant parties, arriving at a resolution, and notifying representatives in the tripartite organization. A dispute that cannot be resolved by the provincial committee may be escalated to the central committee or brought before the Lao People's Court at the request of one of the parties involved. The CLDR is also responsible for handling issues that cannot be resolved by way of compromise during collective labour dispute.
- **Decision by the Lao People's Court:** if a labour dispute cannot be resolved through compromise, administrative remedy, or CLDR resolution, the matter can be brought before the Lao People's Court as a final recourse. The court's decision would be enforceable within 15 days after being issued and is considered final. During these 15 days, the employee has the right not to work, and the employer has the right not to allow the employee to work nor pay the employee wages.

The Decree dedicates a section to ongoing fulfilment of an employment contract during a pending dispute, stipulating that employees should continue working during an ongoing individual or collective dispute, unless the CLDR explicitly orders the employees to cease work during the pending dispute. An exception is if the employees notice that work safety conditions

⁴⁴ Decree on Labour Dispute Resolution (no. 76 of 2018).

have not been met and have notified their employer about the issue previously. In such case, the employees may decide not to work and must report the issue to the Labour Administration Authority immediately. The employer will be at fault if it decides to close its workplace to employees without receiving approval from the CLDR or the employees to do so. In such case, the employer will be liable for payment of the salary of the employees who were unable to work during the closing of the workplace.

Penalties under law for infringing on workers' freedom of association include fines, incarceration, business license revocation, or some combination of these - there are however few reports of enforcement. Trade unions are prohibited from striking or creating a disturbance. Labour disputes reportedly are infrequent, and the Ministry of Labour generally does not enforce the dispute resolution section of labour law, especially in dealings with joint ventures in the private sector. By law workers who join an organization that encourages protests, demonstrations, and other actions that might cause "turmoil or social instability" may face prison time.

The Ministry of Labour is responsible for the enforcement of wage and hour laws. The law does not specify penalties for noncompliance with minimum wage and overtime provisions, but it states they could include warnings, fines, "re-education," or suspension of a business license. Wage and working hours laws were not effectively enforced. Occupational health and safety standards exist, but inspections are often inconsistent. The Department of Labour Management within the Ministry of Labour is responsible for workplace inspections. The number of inspectors may be insufficient to enforce compliance.

There are no specific provisions covering migrant workers' right to access to remedy. A lack of accessible operational-level grievance mechanisms may hinder migrant workers from accessing remedies for human and labour rights abuses.

Anti-corruption

Lao PDR laws provide criminal penalties for corruption by officials, and the government made some progress in addressing corruption. In recent years investigating agencies uncovered trillions of kip in losses due to corruption and had investigated dozens of government employees. The government anticorruption hotline is used often.

Operational-level grievance mechanisms for children

Children have a right to a remedy when their rights are abused in the context of business operations, such as for example if they are engaged in child labour or harmed by environmental toxins. States should ensure that children whose rights have been infringed have access to effective judicial and non-judicial mechanisms for redress - children must have access to justice. Grievance mechanisms often employ dialogue-based procedures like negotiation and mediation, which can make it easier for children to express their concerns. These methods also allow for more creative approaches to redress and may give children a greater say in the eventual outcome. Child-sensitive grievance mechanisms lend integrity to a business's commitment to respect children's rights. To meet the criteria set out in the UNGPs when it comes to complaints that involve children, it is important for businesses to design processes around principles of protection and participation enshrined in the CRC. Companies can take practical steps to build child-sensitive grievance mechanisms, both in terms of policy and operational frameworks.

Institutional Framework

The Ministry of Justice (MoJ) is the main institution dealing with access to remedy issues.

Under the Constitution of 2015, the State of Lao PDR consists of the National Assembly, President, Government, Local People's Assembly, Local Administration, People's Court, and the Office of the Public Prosecutor.

The National Assembly is the highest state authority and legislative branch of the state, which has the right to make decisions on fundamental issues of the country and has the role to adopt constitution and laws, and to monitor the implementation of the constitution and laws. The members of the National Assembly are representatives of, and elected by, Lao citizens. The National Assembly's rights and duties are currently stipulated in both the Constitution and the Law on National Assembly of 2015.⁴⁵ The Law on National Assembly confirms the rights and obligations of the National Assembly as articulated in the Constitution, and categorizes them into three main categories, namely legislative rights and obligations, rights and obligations relating to the provision of directions on fundamental national issues, and monitoring rights and obligations.

The President is the Head of State and representative of the multi-ethnic Lao people. The President of the State is elected by the National Assembly with two-thirds of the votes of all members of the National Assembly attending the session, with a same term of office as the National Assembly (five years) and cannot hold the position for more than two consecutive terms.

The Government is the executive branch of the state. The Government consists of the Prime Minister, Deputy Prime Ministers, ministers, and chairmen of the ministry-equivalent organizations. The term of office of the Government is five years and officials cannot hold the position for more than two consecutive terms. The rights and duties of the Government are similarly identified in both the Constitution and the Law on Government of Lao PDR of 2016.⁴⁶ On the organizational structure of the Government, the Prime Minister is the head of the Government and represents the Government.

The Local People Assembly is the representative of rights and interests of the Lao people. It is a State-local organization. The Local People Assembly consists of the People Assembly of provincial, district level and village level.

The People's Courts constitute the judicial branch of the State and consist of: People's Supreme Court; Local People's Courts; and Military Courts. The Law on People's Court of 2017 clarifies the provisions in the Constitution on People's Court.⁴⁷ It develops on the same principle that there are three levels of court procedure, namely court of first instance, court of appeal, and Supreme Court levels. Using the procedural levels as basis, the Law on People's Court defines the authorities of People's Courts as follows: District People's Court is the court of first instance; Provincial or Capital People's Court is the court of first instance for cases which exceeds the authorities of the District People's Court, and is the court of appeal for the appeal against the judgment of the District People's Court; Regional People Court is the court of appeal for the appeal against the judgment of Provincial People's Court, Capital People's Court or Children's Court as court of first instance, and acts as the Supreme Court for appeal against judgment on appeal of Provincial or Capital People's Court; People's Supreme Court acts as the Supreme Court for appeal against judgment on appeal of Regional People Court or other high court. The People's Supreme Court is the highest judicial organ of the State. Under the Constitution, the

⁴⁵ Law on National Assembly (No. 64/NA of 2015).

⁴⁶ Law on Government of Lao PDR (No. 04/NA of 2016).

⁴⁷ Law on People's Court (No. 22/NA of 2017).

authorities of People's Supreme Court is specified to be examines and reviews the decisions of the people's courts and military courts.

Cases shall be conducted in open court proceedings except if otherwise provided by laws, such as cases involving national secret or child-related disputes. Representatives of social organizations have the right to take part in court proceedings as provided by laws. Decisions reached by the People's Courts, when final, must be respected by parties, State organizations, the Lao Front for National Construction, mass organizations, social organizations, and all citizens, and must be implemented by the concerned individuals and organizations. Nevertheless, court judgments in Lao PDR are not publicly published and it is difficult to get access to past judgments. Also, as a civil law country, court decisions are not a source of law with general application in Lao PDR.

The Office of the Public Prosecutor has the duty to monitor the implementation of laws. The Office of the Public Prosecutor consists of: Office of the Supreme Public Prosecutor; Offices of the Local Public Prosecutor; and Office of the Military Prosecutor.

The Constitution does not define the rights and obligations of the Office of the Public Prosecutor. The Law on Prosecutor of 2017 provides that the Office of the Public Prosecutor has, among others, the duty to monitor the compliance and implementation of law to ensure the correctness and uniformity of ministry, ministry-level organization, Lao Front for National Construction, public organization, social incorporation, local administration, incorporated entity, and citizen.⁴⁸

The 2020 Universal Periodic Review of Lao PDR reported, with regard to a national human rights institution, that there was a strong need to further strengthen the legal framework and the existing mechanisms, such as the National Committee on Human Rights, the National Commission on the Advancement of Women, Mothers and Children and the national committee on elderly persons and persons with disabilities.⁴⁹ It also noted a law on complaints and petitions, providing a right to lodge a complaint against individual decisions taken by government organizations and to receive remedies.

Recommendations

- Ensure that laws, policies, and practices align with the obligation to respect, protect, and fulfil human rights set out in international human rights law, including the duty to protect against rights abuses by business enterprises and right to effective remedy set out in the UNGPs; this should be achieved through a combination of legislative, administrative, policy and judicial measures.
- Strengthen the independence of the judiciary and ensure full and effective access to judicial remedies, especially to vulnerable people and minorities.
- Cover land dispute in implementing decrees and regulations to deal with disputes in a more meaningful way; the land titling regulation, for example, could be expanded to bring its provisions into line with best practice as to the handling of objections and appeals; all implementing legislation should provide the type of detail on dealing with disputes that will ensure that the processes are not only in line with best practice but they are also detailed enough that their application will be consistent across the provinces and districts; in drafting the implementing

⁴⁸ Law on Prosecutor (No. 21/NA of 2017).

⁴⁹ Report of the Working Group on the Universal Periodic Review, Lao PDR, Human Rights Council 44th session, A/HRC/44/6, 17 March 2020.

decrees and regulations, explore alternative means for resolving disputes and to outline the procedural safeguards involved.

- Amend expropriation and compensations provisions in the Land Law to fully address some fundamental matters that would provide procedural safeguards to the community, even in case of State investment. In particular, the Law should include a requirement to assess alternative means to deliver the public infrastructure, such as an alternative site, a requirement to buy the land use right at the market price, an obligation to follow a clear process, which has several stages and mandated time periods, such as preliminary notification, community consultation, negotiated agreement, and final notice.
- Address people's difficulty in challenging decisions taken on expropriation and compensation, which can be costly if cases are escalated to higher levels of the justice system – district, province, or central level courts; improve data transparency and access to information by the public related to land expropriation and compensation; improve knowledge and awareness, especially among the rural population and access to legal support.
- Clarify in the Land Law how customary land rights status would be treated in cases of expropriation and compensation, including clear procedures for expropriation and compensation for land under collective use.
- Include in the Land Law provisions relating to villagers' consent or engagement in the process of leasing land or granting concessions over village land, and add detail, particularly regarding land titling activities, and requisition and compensation, including valuation – related safeguards could be addressed in implementing decrees and regulations.
- Clarify in the Forestry Law requisition and compensation provisions and add provisions mandating villagers' consent or engagement in the process of planning, leasing land, or granting concessions over village land.
- Include specific grievance redress provisions in the Forestry Law, including disputes between villagers and lessees or concession holders.
- Consider introducing a single law on administrative disputes and alternate dispute resolution to cover the situation across all areas of government administration in adequate detail.
- Ensure workers' awareness about their rights related to labour dispute resolution.
- Include in the Labour Law specific provisions covering migrant workers' right to access to remedy.
- Effectively implement the prohibition (including criminalisation) of all forms of labour exploitation, forced and child labour and trafficking in persons, as set out in ILO Convention No. 29, the Palermo Protocol, and other relevant international instruments; this may require allocating more funds to labour inspections and to the enforcement of criminal law rules on those crimes.
- Ensure that its legal framework and law enforcement system prevent labour exploitation and discrimination in the recruitment and employment of workers.
- E

RECOMMENDATIONS

Crosscutting recommendations

- Develop adopt and implement a National Action Plan (NAP) on responsible business, following relevant guidance including that issued by the UN Working Group on Business and Human Rights.¹
- Respond to the invitation for the UN Working Group on Business and Human Rights to conduct an official country visit.
- Establish a National Human Rights Institution (NHRI) compliance with the Paris Principles.
- Extend a standing invitation to the UN special procedures.
- Ensure timely and comprehensive adherence to UN human rights and ILO supervisory mechanism reporting obligations and implementation of recommendations.
- Become an adhering country to the OECD Declaration and Decisions on International Investment and Multinational Enterprises.²
- Increase ratification and implementation of international labour standards, supported by improved monitoring and timely reporting to ILO supervisory bodies, as per Output 1.3 of the 2022 – 2026 Decent Work Country Programme (DWCP).

Corporate and Investment Laws

Corporate Law

- Revise the Enterprise Law to empower and require enterprise directors to consider the impacts of the enterprise on people and the environment, and to require enterprises to include disclosure of the impacts of their operations on non-shareholders, as well as any action taken or intended to address those impacts, following the international good practices identified by the former UN SRSG on business and human rights.³
- Develop incentives for enterprises to specify a minimum balance of gender representation, as well as minimum requirements of the representation of stakeholders such as workers and community members in respect of the Members' Councils of LLCs; Members' Councils of State-Owned Enterprises (SOEs); and the Boards of Management of JSCs.
- Require, preferably through a revision to the Enterprise Law or otherwise through passage of subsidiary regulations, State-Owned Enterprises (SOEs) to publicly

¹ See also the recommendation made the OECD, page 193.

² OECD Declaration and Decisions on International Investment and Multinational Enterprises.

<https://www.oecd.org/investment/mne/oecddeclarationanddecisions.htm>

³ See further, SRSG.

disclose ESG information on an annual basis, considering the relevant provisions of the UNGPs, specifically Principles 3, 4, and 21.⁴

- Require the LSX to establish a listing segment for sustainability bonds, and to include sustainability information in its annual report.
- Enrol the LSX in the Sustainable Stock Exchange (SSE) initiative.
- Enrol the LSX in the World Federation of Exchanges (WFE) and its Sustainability Working Group.

Investment law

- Ensure that further amendments to the Investment Law focus, in addition to the need of attracting foreign investment also on social concerns and provide opportunity for public participation so to ensure the promotion of responsible quality investments.
- Create incentives for responsible investment including by reducing regulatory requirements to encourage companies to register formally, improve transparency, and remove informal charges levied on enterprises, in line with ADB recommendations.
- Improve women's participation in the economy including by training staff to overcome hidden gender biases and make it easier for women to create and run businesses, in line with ADB recommendations.
- Develop SEZs management including by improving management in SEZs and government offices through increased coordination, developing labour skills and improving labour protection of all workers and disseminating laws and regulations to employers and workers to raise awareness on worker's rights.
- Update IP rights regulation.

Labour Laws

Freedom of Association and Collective Bargaining

- Ratify the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in line with the recommendation made by the OECD,⁵ and ensure its effective implementation.
- Ratify the ILO the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in line with the recommendation made by the OECD,⁶ and ensure its effective implementation in line with the ILO Collective Bargaining Recommendation, 1981 (No. 163).⁷
- Give full effect to the constitutional guarantee of freedom of association in practice and revise relevant laws, regulations, and practices with a view to bringing them

⁴ UNGPs, Principles 3, 4 and 21.

⁵ OECD, Investment Policy Reviews: Lao PDR. 11 July 2017. OECD Publishing, Paris. ISBN 978-92-64-27605-5. Page 203. <https://doi.org/10.1787/9789264276055-en>.

⁶ OECD, page 203.

⁷ ILO Collective Bargaining Recommendation, 1981 (No. 163).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312501.

into compliance with article 22 of the ICCPR, in line with the recommendation made by the UN Human Rights Committee.⁸

- Ensure the right to strike in law and practice, as per Article 8(c) of the ICESCR.⁹
- Conduct a review of the status of social dialogue at national, sectoral, provincial and workplace-level that yields recommendations for prioritization of capacities that require strengthening through support from the ILO and other stakeholders, in line with the relevant target set in the 2022 – 2026 DWCP.¹⁰
- Review with the constituents the effectiveness of existing tripartite social dialogue mechanisms in the areas of representation, functioning, monitoring, follow-up arrangements and support for implementation at the provincial level, as recommended by the ILO in the 2022 – 2026 DWCP.¹¹
- Support LNCCI and LFTU to review the implementation and effectiveness of enterprise-level bipartite consultation, collective bargaining, and dispute resolution mechanisms and to identify how these could be improved, in line with the recommendation made by the ILO in the 2022 – 2026 DWCP.¹²
- Undertake initiatives to strengthen relevant capacities of the tripartite constituents, in line with Indicator 1.3.1 of the 2022 – 2026 DWCP, including increased membership of LFTU and expanded MSME membership of LNCCI, and strengthened social partner services.¹³
- Ensure social partner input into new national policies, laws, and strategies, in line with Indicator 1.3.1 of the 2022 – 2026 DWCP.¹⁴
- Ensure an enabling environment for the negotiation of collective bargaining agreements between employers and workers, and the establishment of worker representation and/or worker committees at workplace level, in support of Indicator 1.3.4 and corresponding target of the 2022 – 2026 DWCP.¹⁵
- Ensure that trade unions “play a key role in the design and delivery of technical support and training” that is industry-specific on responsible business conduct principles and standards, as recommended by the OECD.¹⁶

Forced Labour

- Ratify the ILO Forced Labour Protocol (No. 29), as recommended by the OECD,¹⁷ and ensure its effective implementation in line with the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).¹⁸

⁸ Human Rights Committee, n 53. Para. 26.

⁹ ICESCR, Art 8(c).

¹⁰ ILO DWCP, Page 11.

¹¹ ILO DWCP, Pages 10 – 11.

¹² ILO DWCP, Page 11.

¹³ ILO DWCP, Page 11.

¹⁴ ILO DWCP, Page 11.

¹⁵ ILO DWCP, Page 11.

¹⁶ OECD, Page 196.

¹⁷ OECD, Page 203.

¹⁸ ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3174688.

- Ratify the ILO Abolition of Forced Labour Convention, 1957 (No. 105), as recommended by the OECD,¹⁹ and ensure its effective implementation in line with the ILO Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35).²⁰
- Ratify the ILO Private Employment Agencies Convention, 1997 (No. 181) and ensure its effective implementation in line with the ILO Private Employment Agencies Recommendation, 1997 (No. 188).²¹
- Ratify the Slavery Convention, the Protocol amending the Slavery Convention, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, and ensure their effective implementation.
- Take the necessary measures to ensure that the exaction of forced or compulsory labour is punishable by dissuasive penal sanctions, considering the seriousness of the violation, as requested by the ILO CEACR.
- Prohibit and criminalize the sale of children as a separate crime from child trafficking, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.²²
- Develop and implement a successor to the 2017 – 2020 National Action Plan on Anti-Trafficking in Persons.
- Increase collaboration with neighbouring countries, including regarding the Association of Southeast Asian Nations (ASEAN) Plan of Action against Trafficking in Persons, Especially Women and Children, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.²³

Child Labour

- Effectively implement the ILO Minimum Age Convention (No. 138), in line with ILO Recommendation No. 146, and ensure timely and comprehensive reporting to the ILO CEACR, including in response to the relevant Observation and Direct Request issued by the CEACR in 2019.
- Effectively implement the Worst Forms of Child Labour Convention (No. 182), in line with ILO Recommendation No. 190, and ensure timely and comprehensive reporting to the ILO CEACR, including in response to the relevant Observation and Direct Request issued by the CEACR in 2019.
- Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, as recommended by the UN Committee on the Rights of the Child.²⁴

¹⁹ OECD, Page 203.

²⁰ ILO Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312373:NO.

²¹ ILO Private Employment Agencies Recommendation, 1997 (No. 188).

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:R188:NO#:text=\(1\)%20Private%20employment%20agencies%20should,list%20of%20potential%20job%20candidates](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:R188:NO#:text=(1)%20Private%20employment%20agencies%20should,list%20of%20potential%20job%20candidates).

²² OHCHR, Footnote 102.

²³ OHCHR, Footnote 10.

²⁴ OHCHR, Human Rights Council Working Group on the Universal Periodic Review Thirty-fifth session 20–31 January 2020, Compilation on the Lao People's Democratic Republic – Report of the Office of the United Nations High Commissioner for Human Rights. General Assembly A/HRC/WG.6/35/LAO/2, 4 November 2019, para. 3. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/317/05/PDF/G1931705.pdf?OpenElement>. Footnote 6.

- Revise the Labour Law to set the minimum age for employment at 14 years, without exceptions, in line with the recommendation made by the Special Rapporteur on the sale and sexual exploitation of children,²⁵ and align the definitions of child labour contained in the Labour Law with international standards, noting that the Labour Law allows for “light work” from the age of 12 without defining it, as recommended by the Committee on the Rights of the Child.²⁶
- Revise Section 4 of the Ministerial Decision No. 4182/MLSW on the List of Hazardous Work for Young Persons (2016) to raise the minimum age for admission to hazardous types of work from 14 to 16 years, as recommended by the ILO CEACR.²⁷
- Finalize, launch, and ensure effective implementation of the National Plan of Action for Child Protection System Strengthening (2022 – 2026).²⁸
- Adopt a comprehensive national strategy on children’s rights with a specific budget allocation and adequate follow-up mechanisms, as recommended by the Committee on the Rights of the Child.²⁹
- Increase collaboration with neighbouring countries in respect of the Association of Southeast Asian Nations (ASEAN) Plan of Action against Trafficking in Persons, Especially Women and Children, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, as recommended by the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material.³⁰
- Take all necessary legislative, judicial and administrative steps to simplify and accelerate the registration process for civil society organizations working on children’s rights, as recommend by the Committee on the Rights of the Child.³¹
- Prohibit and criminalise the sale of children as a separate crime from child trafficking, as recommended by the Special Rapporteur on the sale and sexual exploitation of children.³²
- Establish a child-friendly complaints mechanism for all kinds of abuse, exploitation, and violence against children, as recommended by the Committee on the Rights of the Child.³³
- Reinforce the capacities of the labour inspection services to adequately monitor and detect cases of child labour in both the informal and the formal sectors, as requested by the ILO CEACR.³⁴

25 OHCHR, Footnote 19.

26 Committee on the Rights of the Child, Concluding observations on the combined third to sixth periodic reports of the Lao People’s Democratic Republic, CRC/C/LAO/CO/3-6, 1 November 2018.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLAO%2fCO%2f3-6&Lang=en.

27 ILO CEACR.

28 UNICEF is supporting the Child Protection and Assistance Committee (CPAC) and the Ministry of Labour and Social Welfare (MOLSW) to develop the National Plan of Action for Child Protection System Strengthening (2022 – 2026), which will support a holistic child protection system approach to child labour. See further: UNICEF Lao PDR Child Protection – Fact Sheet: Child Labour, March 2022.

<https://www.unicef.org/laos/media/7356/file/UNICEF%20Lao%20PDR%20Child%20Protection%20Compendium%20of%20Factsheets.pdf>.

29 OHCHR, Footnote 19.

30 OHCHR, Footnote 6.

31 OHCHR, Footnote 6.

32 OHCHR, Footnote 102.

33 OHCHR, Footnote 98.

34 ILO CEACR.

Occupational Health & Safety

- Ensure effective implementation of the ILO Occupational Safety and Health Convention, 1981 (No. 155) in line with the ILO Occupational Safety and Health Recommendation (No. 164).³⁵
- Ensure effective implementation of the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) in line with the ILO Promotional Framework for Occupational Safety and Health Recommendation (No. 197).³⁶
- Ratify the ILO Occupational Health Services Convention (No. 161), and ensure its effective implementation, in lines with the ILO Occupational Health Services Recommendation (No. 171).³⁷
- Develop a national centre for OSH, as set out in the MoLSW Five-Year Plan 2021 - 2025.
- Develop a data collection system for workplace injury and occupational disease, as set out in the MoLSW Five-Year Plan 2021 – 2025.
- Build the capacity of labour inspectors at the national and provincial levels, as set out in the MoLSW Five-Year Plan 2021 – 2025.

Working conditions

- Ratify International Labour Standards (ILS) on working time and ensure their effective implementation.
- Monitor and improve the working conditions of women in the informal and private sectors, especially through regular labour inspections to combat exploitative labour practices that women face, including to address the concern of the CEDAW “that women generally work longer hours than men”.³⁸
- Ratify and effectively implement the ILO Minimum Wage Fixing Convention (No. 131) in line with the Minimum Wage Fixing Recommendation (No. 135).³⁹
- Ratify and implement the ILO Protection of Wages Convention, 1949 (No. 95).⁴⁰
- Ratify and effectively implement the ILO Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173).⁴¹
- Ensure effective implementation of the ILO Equal Remuneration Convention (No. 100).
- Adopt a dedicated minimum wage law aligned to international standards, including ILO Conventions No. 131, No. 95 and No. 100 and ILO Recommendation No. 135.

35 ILO Occupational Safety and Health Recommendation, 1981 (No. 164).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R164.

36 ILO Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312534.

37 ILO Occupational Health Services Recommendation.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R171,/Document.

38 CEDAW, para 38(b) and para 38(d).

39 ILO Minimum Wage Fixing Recommendation, 1970 (No. 135).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312473#:~:text=l.&text=1,all%20workers%20and%20their%20families.

40 ILO Protection of Wages Convention (No. 95). https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312240.

41 ILO Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173).

https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312318.

- Ensure effective implementation of the obligations of the State under Article 7(a) of the ICESCR on the remuneration of workers.
- Regularly review the minimum wage, in close tripartite consultation with the social partners, using criteria and processes established in International Labour Standards and international human rights law.
- Monitor and improve the working conditions of women in the informal and private sectors, in particular monitoring the implementation of the minimum wage in all sectors, including through regular labour inspections to combat exploitative labour practices that women face, in line with the recommendation of the CEDAW.⁴²
- Ratify the ILO Maternity Protection Convention, 2000 (No. 183) and ensure its effective implementation in line with the ILO Maternity Protection Recommendation, 2000 (No. 191).
- Ensure effective implementation of the obligations of the State under Article 10(2) of ICESCR on special protection to mothers before and after childbirth.
- Ensure effective implementation of the obligations of the State to Article 5(b) of CEDAW regarding ensuring that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children.
- Expand maternity protection beyond formal workers to include workers in the informal economy.
- Ratify the ILO Violence and Harassment Convention, 2019 (No. 190) and ensure its effective implementation in line with the ILO Violence and Harassment Recommendation, 2019 (No. 206).⁴³
- Amend the Labour Law to include a definition of sexual harassment and impose sanctions for perpetrators, in line with the recommendation made by the CEDAW.⁴⁴
- Adopt measures to prevent sexual harassment in the workplace, including by developing a system for filing complaints and ensuring that victims have effective access to redress, in line with the recommendation made by the CEDAW.⁴⁵
- Implement long-term awareness-raising campaigns, targeting employers, to eliminate discriminatory gender stereotypes and harmful practices, with the active participation of women and women's organizations, and monitor the implementation of the measures taken and assess their impact on the eradication of discriminatory gender stereotypes and harmful practices, in line with the recommendation made by the CEDAW.⁴⁶
- Ratify the ILO Social Security (Minimum Standards) Convention (No. 102) and ensure its effective implementation.
- Ratify the ILO Equality of Treatment (Social Security) Convention (No. 118) and ensure its effective implementation.

42 CEDAW, para 38(b) and para 38(d).

43 ILO Violence and Harassment Recommendation, 2019 (No. 206).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R206.

44 CEDAW, para 38(d).

45 CEDAW, para 38(d).

46 CEDAW, para 24(b) and para 24(d).

- Ratify the ILO Maintenance of Social Security Rights Convention (No. 157) and ensure its effective implementation in line with the ILO Maintenance of Social Security Rights Recommendation (No. 167).⁴⁷
- Implement the ILO Social Protection Floors Recommendation (No. 202).⁴⁸
- Ensure effective implementation of ILO Discrimination (Employment and Occupation) Convention (No. 111).
- Bring the definition of discrimination under the Labour Law in line with Article 1 of the ILO Convention No. 111.
- Improve enforcement of prohibitions against employment discrimination and requirements for equal pay.

Environmental and Land Laws

Environmental Laws

- Adopt “a smart mix of measures” to make business respect human rights in the context of climate change: In discharging their duty to protect human rights, Lao PDR should set out clearly the expectation that all business enterprises respect human rights throughout their operations and prevent and mitigate adverse impacts related to climate change. To do so, Lao PDR should adopt and enforce a smart mix of laws, regulations and policies that encourage or oblige business to reduce emissions and to take other measures to prevent adverse impacts resulting from climate change. This may include requiring companies to exercise human rights due diligence, conduct environmental and climate impact assessments, and/or disclose greenhouse gas emissions and climate change impacts. States should also consider measures to encourage business to prioritize low-carbon and zero-carbon investments.
- Address the State/business nexus: Lao PDR should take additional steps to protect against rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies, including in the context of climate change. For instance, States and State-owned enterprises could employ strict sustainability requirements in their procurement contracts.
- Guarantee access to information and transparency including through climate disclosure and reporting processes: States have the obligation to guarantee all persons the right to access to information, including climate-related information. This is critical for transparent, accountable, and rights-based climate action. Lao PDR should set out mandatory climate disclosure and reporting obligations for businesses operating within their territories and/or jurisdictions through environmental, securities, corporate governance and other laws and regulations, as appropriate. Businesses should ensure adequate and accurate disclosure and reporting of their climate impacts in an accessible manner.

⁴⁷ ILO Maintenance of Social Security Rights Recommendation (No. 167).
https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312505.

⁴⁸ ILO Social Protection Floors Recommendation, 2012 (No. 202).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202.

- Strengthen the EIA system, improving capacity building, implementing an EIA consultants' accreditation system, ensuring effective public participation and transparency with access to EIA reports, applying systematic EIAs, reviewing criteria, and promoting environmental awareness. Improve coordination among EIA proponents, consultants, relevant ministries, local authorities, planners, and decision-makers is generally weak. Increase institutional capacity including numbers of suitably qualified and experienced personnel and in monitoring equipment and resources. Improve expertise and awareness among decision-makers and the public concerning the importance of appropriate environmental management. Strengthen enforcement of environmental legislation and EIA regulations and establish adequate monitoring programs.
- Make public participation and consultation mandatory at various EIA stages, such as screening, scoping, report preparation, and decision-making.

Land Laws

- Customary land rights: Clarify in the Land Law and in the Forestry Law the recognition of customary land rights and what entitlements arise from such rights and provide clear guidance in the decrees and regulations addressing practical issues about identifying the nature and extent of customary use, how to record the related rights, and how customary rights are to be reconciled with other uses and rights.
- Land expropriation and Compensation: Develop clear procedural provisions for requirements to provide compensation and how to assess it, so that there is a clear pathway for officials to follow which would protect people's land rights. Expand on the few provisions on expropriation and define a mandatory step-by-step process with respective time periods, including preliminary notification, community consultation, negotiated agreement, final notice and recording of the requisition in the land register. Include provisions for safeguards and grievance mechanisms for land rights holders who are affected prior, during and after expropriation takes place. Include the requirement for people's participation in expropriation decisions, if applicable, in line with the requirements of the Decree on Environmental Impact Assessment (2019). Include provisions requiring compensation at market prices, independent of the land rights status of the land rights holder who is affected. Align with legislation from other sectors, especially regarding environmental impact assessments, resettlement and vocation, and investments, leases, and concessions. Revise and improve instructions and guidelines on land management processes (Land Use Planning, Village Forest Management Planning, etc.) to enhance and ensure access to data and information.
- Resettlement: In accordance with UPR review,⁴⁹ improve planning of development and investment projects to avoid forced displacement, and improve resettlement and compensation plans for land expropriation.

49 Universal Periodic Review Lao PDR, third cycle, Jan 2020 <https://www.ohchr.org/en/hr-bodies/upr/la-index>

Laws Related to Marginalised and Vulnerable Groups

Women

- Ratify the ILO Domestic Workers Convention, 2011 (No. 189), Maternity Protection Convention, 2000 (No. 183) and Workers with Family Responsibilities Convention, 1981 (No. 156).
- Amend article 83 of the Labour Law to include a definition of sexual harassment and impose sanctions for perpetrators and develop a system for filing complaints.
- Apply the gender framework and guidance in developing or revising all initiatives and measures, including national action plans on business and human rights, aimed at implementing the UNGPs.
- Encourage, through a range of effective incentives and disincentives, business enterprises to integrate the gender framework and guidance in discharging their human rights responsibilities under the UNGPs.
- Encourage business enterprises to apply the gender framework and guidance in all aspects of their responsibility to respect human rights, namely, making a robust policy commitment, conducting meaningful human rights due diligence, and providing for or cooperating in effective remediation, and in contributing to achieving substantive gender equality.
- Encourage business enterprises to ensure meaningful participation of potentially affected women, women’s organizations, women human rights defenders and gender experts in all stages of human rights due diligence.
- Develop gender responsive guidance to accompany women’s rights law to define key concepts and complement the National Action Plan on Gender Equality, laying the foundation for gender responsive implementation measures across all sectors.
- Support women’s resilience through the right to live without violence with revisions to the Law on Preventing and Combating Violence against Women and Children 2014 and strong implementation of the National Plan of Action on Protection and Elimination of Violence against Women and Children (2021–2025).
- Enhance women’s economic capacity through changes to the wage equality provisions in the Labour Law (2014), by making a new law on the prevention of harassment and violence in the workplace and investing in the development of women-led micro, small, and medium-sized enterprises.
- Integrate gender equality and non-discrimination principles and gender dimensions in sectoral laws.
- Improve women’s access to land and economic assets through gender mainstreaming the Land Law (2019), the Law on Forestry (2019) and the Law on Resettlement and Vocation (2018). Clarify that the provisions relate to both men and women.
- Include concepts of equality and non-discrimination in laws about land rights. For example, include the Constitutional guarantee of equality in the Land Law regarding protection of the interests of land use right holders: e.g. “in accordance with the Constitution, the State recognizes and protects the equal rights of men and women in relation to land tenure and allocation”; and clarify that land use and land allocation

planning should involve “the whole village” including men and women, not just household representatives.

- Collect and analyse disaggregated data, address gender inequality and gender differences in risks or needs or provide mechanisms for the collection of sex-disaggregated data, gender analysis, gender mainstreaming, or the specific engagement of women in their institutions and processes.
- Address in relevant laws issues of workplace sexual harassment, gender pay gap, and barriers to women’s access to minimum wage and financial capital.
- Increase knowledge of CEDAW, and greater public advocacy and training of district officials, to encourage greater awareness of CEDAW and of women’s human rights in general.
- In line with the recommendations of the CEDAW Committee, improve access for women to formal employment by strengthening professional training for women, and ensuring that the principle of equal pay for work of equal value is adhered to in all sectors; monitor and improve the working conditions of women in the informal and private sectors, in particular through regular labour inspections; adopt a national scheme to finance the provision of maternity benefits in the private sector.
- In line with the recommendations of the CEDAW Committee, ensure that the prohibition of discrimination against women is accompanied by appropriate enforcement mechanisms and sanctions, and ensure the enforcement of legislation that prohibits gender-based discrimination against women and girls.

Children, adolescents, and youth

- Ratify the CRC Optional Protocol on a communication procedure.
- Establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environmental and other standards, particularly regarding children’s rights, in line with CRC general comment No. 16 and the CRC Committee 2018 concluding observations.
- Establish a clear regulatory framework for the industries operating in Lao PDR, in particular the construction, excavation, farming, and tourist industries, to ensure that their activities do not negatively affect children’s rights or endanger environmental and other standards, in line with the CRC Committee 2018 concluding observations
- Require companies operating in Lao PDR to undertake assessments, consultations, and full public disclosure of the environmental, health-related and children’s rights impacts of their business activities and their plans to address such impacts in line with due diligence expectations set up in the UNGPs.
- Align the definitions of child labour contained in the Labour Law with international standards and raise awareness in schools and communities about the harmful effects of child labour and the value of education, to prevent child labour.
- Adopt a comprehensive children rights national strategy.
- Require in national laws business to develop and implement a child safeguarding policy.

Persons with disabilities

- In line with the recommendations of the CRPD, take effective measures to increase employment of persons with disabilities, in public and private sectors.
- Consider implementing an affirmative action programme to ensure job placement and job retention for persons with disabilities in the public and private sectors.
- Guarantee non-discrimination in employment, including by raising awareness among employers, and ensure that the open labour market is inclusive and accessible and that there are decent labour conditions for all persons with disabilities, including equal pay for work of equal value.
- Ensure access to inclusive and quality professional training and vocational programmes.
- Improve persons with disabilities' access to basic services and employment opportunities.
- Collect disaggregated data on the employment of persons with disabilities in the public, private and informal sectors.

National or Ethnic, Religious or Linguistic Minorities

- Include protection of all minority groups in Articles 22 and 25 of the Lao PDR Constitution.
- Amend the policies towards economy in Article 10 of the Decree on Ethnic Affairs of 2020 to bring them in line with the right to freedom of movement and freedom of work.
- Involve minority groups, including those in remote locations, in resettlement decisions and decisions affecting their lands and the allocation of natural resources from their areas.
- Effectively enforce non-discrimination laws and address societal and governmental discrimination against minority ethnic groups.

Migrant workers

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW).
- Ratify the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).
- Reduce barriers to formal labour migration to reduce vulnerability of migrant workers, including by eliminating worker-paid recruitment fees.
- In line with the recommendations of the Committee on the Rights of the Child, strengthen access to services for migrant children regardless of their nationality, enhance awareness-raising and training for relevant sectors, including the Ministry of Labour and Social Welfare and recruitment agencies, to ensure that mechanisms are in place to prevent child labour and sexual exploitation in migration; strengthen the dissemination of knowledge for preventing trafficking and exploitation through Ministry of Labour and Social Welfare employment service centres and migration information centres, advocate for the development of a unified ASEAN policy on

issues regarding migrant workers, refugees, stateless persons and unaccompanied and separated children.

- In line with the recommendations of the CEDAW Committee, adopt a comprehensive gender-sensitive migration policy to protect Lao migrant workers abroad effectively, review and renew, as appropriate, existing bilateral agreements and memorandums of understanding with countries to which Lao women migrate in search of work, strengthen efforts to raise awareness, through predeparture briefings and public information campaigns, among women migrant workers about their rights, the risks they may face and available remedies in case of violations of their rights, develop and implement regulations concerning employment agencies for migrant workers, with sanctions for non-compliance, to ensure that migrant women are protected from exploitation, provide gender-sensitive support to returning women migrant workers for their reintegration.

Anti-Corruption Laws

- Penal Code reform: Consider amending the provisions regarding the private sector that make only a reference to “employees”, which may exclude persons who have an interest with a company, but who are not qualified as employees, such as company shareholders. Consider providing a definition of a “foreign employee” and an “employee of an international organization”.
- Anti-Corruption Law reform: Consider amending the provisions requiring damages for State interests, or a citizen’s rights and interests as this language may hinder the application of the anti-bribery and corruption law and limit its effectiveness. Consider expressing referring to foreign government employees are covered by the Anti-Corruption Law.
- Public procurement reform: Reform public procurement to fully implement anti-corruption obligations; integrate anti-corruption in guidance materials on public procurement and criteria for awarding contracts - guidance should include steps required to conduct risk assessments and adopt appropriate measures at each stage of the procurement process.
- Beneficial ownership reform: Reform beneficial ownership disclosure to help countering corruption and promote responsible business practice, primarily by enabling transparency and accountability - beneficial ownership reform would enable public awareness of an asset’s true owner.
- Policy coherence: Give effect to greater coherence in policy integration, incorporate business responsibility when addressing corporate corruption - any focus on responsible business conduct should include corruption-related factors.
- Linked incentives: Ensure that State departments and agencies that shape business practice or interface with business, as well as entities owned or controlled by the State, operate in a coherent, cogent, coordinated and carefully considered manner, need to address the impacts of corruption by business actors when making decisions, for example, whether to provide businesses with government support such as trade finance.

Industry Sector-Specific Laws

- Establish legislation covering renewable energy.
- Enact a specific law to ensure the safety of dams, as part of the Lao PDR government's efforts to achieve sustainable energy development.
- Ensure standardized inspection of dams to prevent accidents.
- Better regulate the agriculture, energy, construction, extractive and tourism sectors through rigorous law enforcement and greater capacity with respect to safety and inspections.
- Ensure better implementation, particularly at the local level, of the legal framework already in place covering the scope of the ASEAN RAI Guidelines.
- Adequately consult communities – including representation from women and youth - about planned investments in the agriculture, energy, construction, extractive and tourism sectors.
- Ensure investor compliance with the terms and conditions of the approved business in the agriculture, energy, construction, extractive and tourism sectors, particularly regarding land use.
- Screen for human trafficking indicators among vulnerable groups, including Lao and foreign workers on large infrastructure, mining, and agricultural projects, as well as Lao communities displaced by these projects, and Lao and foreign nationals employed in SEZs.

Laws Related to Access to Remedy

- Ensure that laws, policies, and practices align with the obligation to respect, protect, and fulfil human rights set out in international human rights law, including the duty to protect against rights abuses by business enterprises and right to effective remedy set out in the UNGPs; this should be achieved through a combination of legislative, administrative, policy and judicial measures.
- Strengthen the independence of the judiciary and ensure full and effective access to judicial remedies, especially to vulnerable people and minorities.
- Cover land dispute in implementing decrees and regulations to deal with disputes in a more meaningful way; the land titling regulation, for example, could be expanded to bring its provisions into line with best practice as to the handling of objections and appeals; all implementing legislation should provide the type of detail on dealing with disputes that will ensure that the processes are not only in line with best practice but they are also detailed enough that their application will be consistent across the provinces and districts; in drafting the implementing decrees and regulations, explore alternative means for resolving disputes and to outline the procedural safeguards involved.
- Amend expropriation and compensations provisions in the Land Law to fully address some fundamental matters that would provide procedural safeguards to the community, even in case of State investment. In particular, the Law should include a requirement to assess alternative means to deliver the public infrastructure, such as an alternative site, a requirement to buy the land use right at

the market price, an obligation to follow a clear process, which has several stages and mandated time periods, such as preliminary notification, community consultation, negotiated agreement, and final notice.

- Address people's difficulty in challenging decisions taken on expropriation and compensation, which can be costly if cases are escalated to higher levels of the justice system – district, province, or central level courts; improve data transparency and access to information by the public related to land expropriation and compensation; improve knowledge and awareness, especially among the rural population and access to legal support.
- Clarify in the Land Law how customary land rights status would be treated in cases of expropriation and compensation, including clear procedures for expropriation and compensation for land under collective use.
- Include in the Land Law provisions relating to villagers' consent or engagement in the process of leasing land or granting concessions over village land, and add detail, particularly regarding land titling activities, and requisition and compensation, including valuation – related safeguards could be addressed in implementing decrees and regulations.
- Clarify in the Forestry Law requisition and compensation provisions and add provisions mandating villagers' consent or engagement in the process of planning, leasing land, or granting concessions over village land.
- Include specific grievance redress provisions in the Forestry Law, including disputes between villagers and lessees or concession holders.
- Consider introducing a single law on administrative disputes and alternate dispute resolution to cover the situation across all areas of government administration in adequate detail.
- Ensure workers' awareness about their rights related to labour dispute resolution.
- Include in the Labour Law specific provisions covering migrant workers' right to access to remedy.
- Effectively implement the prohibition (including criminalisation) of all forms of labour exploitation, forced and child labour and trafficking in persons, as set out in ILO Convention No. 29, the Palermo Protocol, and other relevant international instruments; this may require allocating more funds to labour inspections and to the enforcement of criminal law rules on those crimes.
- Ensure that its legal framework and law enforcement system prevent labour exploitation and discrimination in the recruitment and employment of workers.
- Ensure that State-owned companies do not engage in or facilitate labour exploitation or discrimination. 'State-owned companies' include recruitment agencies controlled or owned by the State, which should ensure that no exploitation or discrimination is promoted through them; as well as companies which are joint ventures with the private sector.

ANNEX LAW INVENTORY

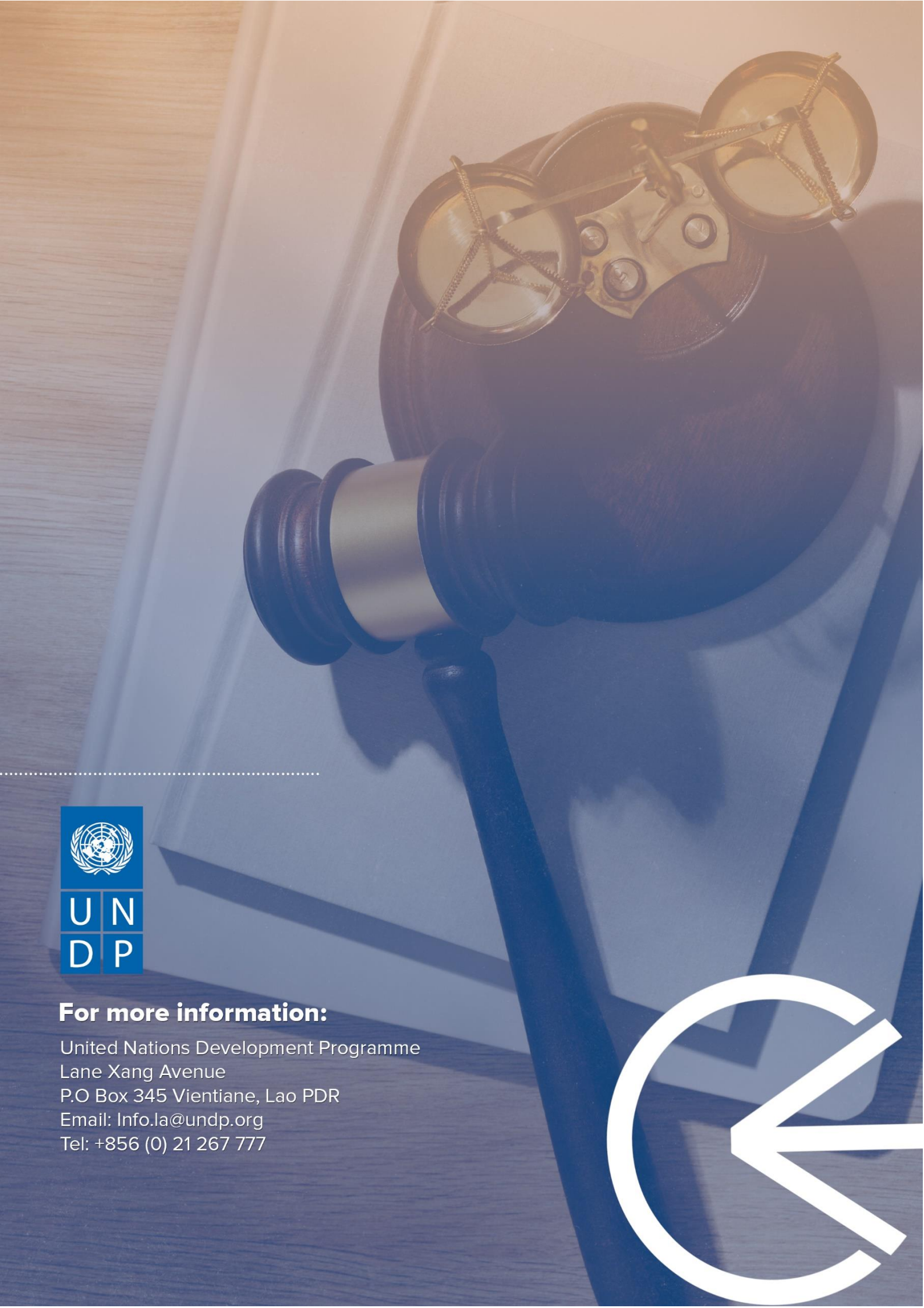
Laws

- Constitution of Lao PDR (1991, amended 2003)
- Civil Code (No. 109/NA of 2018)
- Penal Code (No. 13 of 2017)
- Anti-Corruption Law (revised 2012)
- Anti-Trafficking Law (No. 73 of 2015)
- Law on Criminal Procedure (revised 2017)
- Education Law (No. 133 of 2015)
- Environmental Protection Law (2020)
- Forestry Law (No. 08/NA of 2019)
- Labour Law (No. 43/NA of 2013)
- Lao People's Revolutionary Youth Union Law (No. 06 of 2013)
- Law on Agriculture (No. 01-98/NA of 1998)
- Law on Competition (No. 60 of 2015)
- Law on Construction (No. 159 of 2009)
- Law on Development and Protection of Women (No.08/NA of 2004)
- Law on Disabled Persons (No. 57/NA of 2018)
- Law on Enterprises (amended No. 74/NA of 2022)
- Law on Healthcare (No. 58 of 2014)
- Law on Hygiene, Disease Prevention, and Health Promotion (revised 2019)
- Law on Investment Promotion (No. 14 of 2016)
- Law on Land (No. 70/NA of 2019)
- Law on Minerals (No. 291 of 2017)
- Law on Processing Industry (No. 48/NA of 2013)
- Law on Standards (No. 07/NA of 2014)
- Law on the Protection of the Rights and Interests of Children (No. 05/NA of 2007)
- Law on the Resolution of Economic Disputes (No. 51/NA of 2018)
- Law on Water and Water Resources (No. 23/NA of 2017)
- Mining Law (No. 04-97/NA of 1997)
- Resistance and Prevention of Violence Against Women and Children Law (No. 56/NA of 2014)

- Law on Social Security (revised 2018)
- The Promotion of Small and Medium Sized Enterprises Law (No. 011/NA of 2011)
- Trade Unions (Amended) Law (No. 71 of 2017)
- Vocational Education Law (No. 060 of 2014)
- Women's Union Law (No. 31 NA of 2012)
- Law on Electricity (No. 03/NA of 2011)
- Law on Resettlement and Vocation (No 86/NA of 2018)

Decrees

- Decree on the Social Security Regime for Employees in Enterprises (No. 207/PM of 1999)
- Decree of the President of the LPDR on the Promulgation of the Labour Law (No. 068/P of 2014)
- Decree on Environmental Impact Assessment (revised 2019)
- Decree on Closure of Mines (2020)
- Decree on Code of Ethics for Employee (2019)
- Decree on Controlled Land Concession List (2019)
- Decree on Ethnic Affairs (Decree No. 207 of 2020)
- Decree on Associations (No. 238 of 11 August 2017)
- Decree on Petroleum Business (No. 331/PM of 27 October 2017)
- Decree on Labour Dispute Resolution (No. 76 of 2018)
- Decree on Occupational Health and Safety (OSH) Regulation (of 25 February 2019)
- Decree on Pesticide Management (No. 258 of 24 August 2017)
- Decree on Special Economic Zone and Specific Economic Zone (revised 7 June 2018)
- Decree on State-Owned Enterprises
- Decree on the Dispatching of Lao Labour to Work Abroad (revised 2020)
- Decree on the Implementation of Investment Law (2021)
- Decree on Labour Capacity Building and Development (No. 036 of 2010)
- Higher Education Decree (No. 177 of 2015)
- Decree on Cooperatives (2020)



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