Lao PDR
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A BASELINE STUDY

by

Delphia Lim
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<th>Description</th>
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<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>AFESIP</td>
<td>Agir pour les Femmes en Situation Precaire (Acting for Women in Distressing Situations)</td>
</tr>
<tr>
<td>ARCPPT</td>
<td>Asia Regional Cooperation to Prevent People Trafficking</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of Discrimination against Women</td>
</tr>
<tr>
<td>COMMIT</td>
<td>Coordinated Mekong Ministerial Initiative against Trafficking</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>ESCAP</td>
<td>Economic and Social Commission for Asia and the Pacific</td>
</tr>
<tr>
<td>GDG</td>
<td>Gender and Development Group, Lao PDR</td>
</tr>
<tr>
<td>GRID</td>
<td>Gender Resource Information and Development Centre, Lao PDR</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>ILO-TICW</td>
<td>ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women</td>
</tr>
<tr>
<td>ILO-IPEC</td>
<td>ILO International Programme on the Elimination of Child Labour</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>LWU</td>
<td>Lao Women's Union</td>
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<tr>
<td>LYU</td>
<td>Lao Youth Union</td>
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<tr>
<td>MLSW</td>
<td>Ministry of Labour and Social Welfare, Lao PDR</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
</tr>
<tr>
<td>UN Women (formerly UNIFEM)</td>
<td>United Nations Entity for Gender Equality and the Empowerment of Women</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
</tr>
<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
</tr>
<tr>
<td>UNIAP</td>
<td>United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-Region</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children's Fund</td>
</tr>
<tr>
<td>UNICEF EAPRO</td>
<td>UNICEF East Asia and Pacific Regional Office</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crimes</td>
</tr>
<tr>
<td>SCUK</td>
<td>Save the Children UK</td>
</tr>
<tr>
<td>SERC</td>
<td>Social Environmental Research Consultant</td>
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<tr>
<td>SIREN</td>
<td>Strategic Information Response Network</td>
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</tbody>
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### ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CEDAW Committee</td>
<td>Committee on the Elimination of Violence against Women</td>
</tr>
<tr>
<td>CRC Committee</td>
<td>Committee on the Rights of the Child</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>Lao People's Democratic Republic</td>
</tr>
<tr>
<td>Law on the Protection of Children</td>
<td>Law on the Protection of the Rights and Interests of Children</td>
</tr>
<tr>
<td>Law on the Protection of Women</td>
<td>Law on the Development and Protection of Women</td>
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Map 2: Distribution of ethnic groups in Lao PDR

Source: United Nations, Department of Peacekeeping Operations Cartographic Section

**Formal Name**: Lao People’s Democratic Republic  
**Capital City**: Vientiane

| Population¹ | Male: 3,133,059  
Female: 3,123,138  
Both sexes: 6,256,197 (2010) |
|-------------|-------------------|
| Life expectancy² | Male: 65 years  
Female 68 years  
Both sexes: 67 years |
| Age structure³ | 0-14 years: 36.7% (male 1,197,579/female 1,181,523)  
15-64 years: 59.6% (male 1,908,176/female 1,950,544)  
65-over: 3.7% (male 107,876/ female 131,513) |
| Sex ratio⁴ | At birth: 1.04 male(s)/female  
Under 15: 1.01 male(s)/female  
15-64 years: 0.98 male(s)/female  
65-over: 0.82 male(s)/female  
Total: 0.98 male(s)/female |
| Religions⁵ | Buddhist 67%, Christian 1.5%, others and unspecified 31.5% |
| Ethnic groups⁶ | 49 official ethnic groups: Lao-Thai - 66.7%; Mon-Khmer - 20.6%, Hmong-Mien 8.4%, Sino-Tibet - 3.3 % and others 1% (2008). |
| Functional literacy rate⁷ | Male: 91%  
Female: 96%  
Both sexes: 93.5% |
| Poverty headcount rate⁸ | At national poverty line: 33.5% (2002/3); 27.6% (2007/8)  
At $1.25/day: 44.4% (2002/3); 37.4% (2007/8) |
| Gross Domestic Product per capita (PPP)⁹ | $2,700 (2011 est.) |
| Net enrolment ratio in secondary schools¹⁰ | Male: 39%  
Female: 33%  
(2007-2010) |
| Migration rate¹¹ | -1.14 migrant(s)/1,000 population (2012 est.) |

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⁴ Ibid.
⁵ Ibid.
<table>
<thead>
<tr>
<th>Metric</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of citizens working overseas</td>
<td>At least 250,000 in Thailand</td>
</tr>
<tr>
<td>Number of foreign workers in country</td>
<td>110,000</td>
</tr>
<tr>
<td>Percentage of female-headed households</td>
<td>8% (August 2009)</td>
</tr>
<tr>
<td>Labour force participation rate</td>
<td>Male (% of male population ages 15+): 79</td>
</tr>
<tr>
<td></td>
<td>Female (% of female population ages 15+): 78 (2009)</td>
</tr>
<tr>
<td>Unemployment rate</td>
<td>2.5% (2009 est.)</td>
</tr>
<tr>
<td>Vulnerable employment</td>
<td>Total: 88.0 (2005)</td>
</tr>
<tr>
<td>Fertility rate</td>
<td>2.8 children born/woman</td>
</tr>
<tr>
<td>Maternal mortality rate</td>
<td>5.80 deaths/1,000 live births</td>
</tr>
<tr>
<td>Infant mortality rate</td>
<td>42 deaths/1,000 live births</td>
</tr>
<tr>
<td>Legal definition of “child”</td>
<td>A child is any person below 18 years of age.</td>
</tr>
<tr>
<td>Marriageable age</td>
<td>18 years of age</td>
</tr>
<tr>
<td>Age of consent</td>
<td>15 years of age</td>
</tr>
<tr>
<td>Age of criminal responsibility</td>
<td>The Penal Law defines children as all those under 18 years of age, and further subdivides this group into two: those aged 1–15 and 16–18. In the case of the former group, the child is absolved of penal responsibility, which is assumed by the family concerned and in the latter case, special provisions are delineated.</td>
</tr>
<tr>
<td>Minimum age of employment</td>
<td>Article 37 of the Lao Labour Law provides for the employment of children less than 18 years of age. Employers may engage children under 18 but no less than 15 years of age, but the work hours shall not exceed 6 hours per day or 36 hours per week. It is forbidden to use child labour in sectors involving heavy work or health hazards such as mining, chemical and animal hide manufacturing, urban sanitation or funeral cremation, any work involving nuclear radiation, any work involving hazardous fumes or gases, any work involving handling dangerous materials, such as explosives, any work in boreholes, tunnels or under water, work with permanently vibrating machines.</td>
</tr>
<tr>
<td>Minimum age for military recruitment</td>
<td>18 years of age for compulsory military service, minimum of an 18-month service obligation.</td>
</tr>
</tbody>
</table>

13 US State Department, 2010 Trafficking in Persons Report: Lao PDR.
18 “Vulnerable employment” is unpaid family workers and own-account workers as a percentage of total employment.
21 Ibid.
22 Ibid.
24 CEDAW, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports, Lao People's Democratic Republic, (CEDAW/C/LAO/Q/7/Add.1), accessed 4 March 2012, http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/ CEDAW-C-LAO-Q7-Add1.pdf.
25 Article 129, Penal Code. Sexual Intercourse with a Child: Any person engaging in sexual intercourse with a girl or boy under fifteen years of age shall be punished by one to five years of imprisonment and shall be fined from 2,000,000 Kip to 5,000,000 Kip.
27 Ibid.
A. OVERVIEW

Country Context

Lao PDR's rapid economic development bears on many of the issues of violence and exploitation affecting women and children. Development projects reportedly increase pressures on families and communities through the breakdown of traditional cultures and belief systems, loss of community identity, economic strain due to loss of traditional livelihoods, and erosion of cultural and spiritual frameworks. Cases of violence against women are reportedly increasing due to development projects, and pressures exerted on individuals by Lao PDR's rapid development have been noted as a possible cause of gender-based violence.

Development and trafficking are also related. One 2004 study found a strong association between villages involved in development-related relocations and human trafficking. Improvements in transportation and communication networks in developing areas, such as the economic special zone in Savannakhet and the R3 road, have been linked to increases in migration and associated trafficking. One 2009 ADB research project studying the association between trafficking and infrastructure projects suggested, based on its findings, that the problems and potentials of trafficking could not be separated from development programs and policies and from large infrastructure projects, such as the upgrading of Route 3A.

The prevalence of violence and exploitation against women and children is not homogeneous throughout the country; while such issues are faced by the ethnic majority, ethnic minorities are especially disadvantaged. Many ethnic minorities are found in Lao PDR's northern rural areas, which are poorer, less educated, and where gender disparities are particularly pronounced.

As the country is in the process of building up its institutions and technical capacity, effective law implementation and enforcement is still a work in progress. Assessments of laws relating to women and children in Lao PDR are generally (but not completely) positive. Law enforcement capacity-building through trainings, workshops and conferences, at least in relation to trafficking, has been substantial. The extent to which the relevant laws are in fact implemented is, however, unclear. The 2009 CEDAW Committee expressed concern over the lack of data on complaints filed with existing complaints mechanisms and their outcome. While the Lao Statistics Bureau keeps data on various key areas such as labour and employment, health and agriculture, there is no central crime database.

There does not appear to be any monitoring mechanism for consolidating data on cases that go through village mediation units or village child protection units.

The monitoring of trends in violence and exploitation of women and children has been impeded by the lack of data. There are binding government directions for the collection of gender-disaggregated data. For instance, provision

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40 CEDAW, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports,

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has been made for various agencies that counsel women to "summarise statistics and data" on their counsellees. However, the Center for Counseling and Protection for Women and Children has limited capacity. According to the government, the LWU and LYU, which are legislatively appointed to collect data, have not done so regularly and systematically.

Non-State actors, such as UN agencies and international NGOs have been playing a pivotal role in addressing the challenges of violence and exploitation against women and children, including engaging in capacity-building efforts. However, they are tightly controlled by laws and government policies. All international organisations are required to work through government partners. Studies undertaken in Lao PDR are usually conducted in conjunction with State actors and have to be approved by the government before being printed.

The domestic NGO sector is nascent. The year 2009 marked the milestone entry into force of the Decree on Associations, which for the first time permitted the registration of national NGOs. As at 2010, there were no domestic human rights NGOs. Nevertheless, other civil society organizations exist, including many community-based organizations and associations set up to address social welfare concerns, including parents’ associations, women's groups, and local chapters of the Lao Red Cross.

Lao PDR has undertaken two relevant national strategies, namely, the National Plan of Action on Commercial Sexual Exploitation of Children for the period 2007 to 2011, and the National Strategy for the Advancement of Women (2011 to 2015), which acts more broadly to address gender mainstreaming and gender equality. There is no national plan of action on children to address the rights of children in their entirety. According to the government, its approach is to instead focus efforts on social development. A draft National Plan of Action (NPA) against trafficking in persons to be implemented from 2007 to 2012 was formulated, but remains unapproved by the Prime Minister’s Office.

Research Sources and Key Findings

Violence

The following summarises key empirical research sources found on the prevalence of violence against women and children.

Lao People's Democratic Republic, CEDAW/C/Lao/Q/7/Add.1, 22 June 2009, 2-3.
43 CRC, Concluding Observations: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 33.
49 This was preceded by a National Plan of Action for the Advancement of Women for the period of 2006 to 2010.
50 CRC, Concluding Observations: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 12.
Table 1: Summary of Empirical Information Found on the Prevalence of Violence Against Women and Children (no earlier than 2002).

<table>
<thead>
<tr>
<th>Issue</th>
<th>Details</th>
<th>Data Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Violence</td>
<td>400 registered cases of domestic violence from 2006 to 2009.</td>
<td>Government data</td>
</tr>
<tr>
<td></td>
<td>45% of wives had experienced spousal violence</td>
<td>2004 GDG survey</td>
</tr>
<tr>
<td></td>
<td>8% of respondents had experienced physical domestic violence, of which about 56% were women.</td>
<td>2011 GDG survey</td>
</tr>
<tr>
<td>Crimes</td>
<td>2005 to 2006: 382 cases of violence against women and children were brought to court; of these, 52 were of rape.</td>
<td>Government data</td>
</tr>
<tr>
<td>Violence against women and children in prisons</td>
<td>30% of detained children reported experiencing physical or mental punishment, including beating, crawling, sitting in the sun and withholding meals.</td>
<td>2003 UNICEF data</td>
</tr>
<tr>
<td></td>
<td>Risk factor: Male and female prisoners are held in the same prisons, though in different cells.</td>
<td></td>
</tr>
<tr>
<td>Violence against street children</td>
<td>39 individual cases of violence and abuse against street children in the Vientiane capital identified from June 2004 to July 2006</td>
<td>UNICEF outreach team in Vientiane (estimated to reach approximately half of the capital's street children)</td>
</tr>
<tr>
<td>Violence against female sex workers</td>
<td>12 of 16 female sex workers interviewed had experienced physical, sexual and emotional violence, including rape and gang rape, the use of harmful objects during sex, and abuse by police officers.</td>
<td>2006 thesis research study</td>
</tr>
<tr>
<td>Early or forced marriage</td>
<td>No empirical research specifically on this issue was found, although this issue has been repeatedly highlighted in reports.</td>
<td></td>
</tr>
<tr>
<td>Bullying of children</td>
<td>98% of girls and 100% of boys in a survey said they had witnessed bullying in schools and, while the precise nature or seriousness of the bullying was not clear, the victims were mainly girls or children from ethnic minorities.</td>
<td>Data found from secondary source.</td>
</tr>
</tbody>
</table>

The GDG’s domestic violence household surveys are noteworthy for being relatively recent and the largest in scale. Profiling was carried out by these surveys, and information on perceptions of gender collected. Also notable is a 2007 qualitative study of gendered livelihoods in rural areas, which contained findings on spousal violence in rural villages, and explored associated factors such as existing patrilocal practices, ethnicity, and gendered livelihood roles.


56 Global Initiative to End All Corporal Punishment of Children, “Briefing For The Committee On The Elimination Of Discrimination Against Women Pre-Session Working Group, 42nd Session (October 2008): States to be examined in the 44th session”, at 4, citing Sandvik-Nylund (2003), Regional Assessment: Violence against children in East Asia and the Pacific region, Bangkok: UNICEF, which was cited in Nogami, N. (2005), Discipline and punishment of children: a rights-based review of laws, attitudes and practices in East Asia and the Pacific - Save the Children Sweden Southeast Asia and the Pacific, regional submission to the UN Secretary General’s Global Study on Violence against Children, Stockholm, Save the Children Sweden.


60 Paulo Sergio Pinheiro, World Report on Violence Against Children, 2006, 122. This author is an independent expert for the United Nations Secretary-General’s Study on Violence against Children. The source report appears to be a UNICEF Knowledge Attitude and Practice study on child rights in the Lao PDR: UNICEF EAPRO, Violence against Children in East Asia and the Pacific Region: A Regional Overview, 2005.

61 Rita Gebert, Gesellschaft fur Technische Zusammenarbeit, Rural Livelihoods Improvement Programme, Rural Development
One of the most significant issues of concern in relation to domestic violence is whether victims of domestic violence are obtaining access to justice and adequate protection. Reports revealed that most reported cases of domestic violence are settled out of court, including through the village mediation units. In most cases, women were advised by village authorities to stay with their husbands.63

In this regard, the governing legal framework emphasises mediation and conciliation rather than criminal prosecution. A distinction is drawn between “severe” and “minor” forms of domestic violence; the latter are not to be referred immediately to the authorities, but must first go through mediation. The various weaknesses of the existing complaints mechanism are dealt with further below.

Exploitation, Abuse and Discrimination in Migration

The existence in Lao PDR of trafficking in persons, commercial sexual exploitation of children, child sex tourism, child labour and forced labour, have all been documented by various NGO reports. While all are significant issues, this report has, in view of resource constraints, selected human rights violations relating to migration as its focus, for the following reasons: First, occurrence of such violations is arguably the largest in scale; various forms of exploitation and abuse commonly occur in the context of labour migration, and labour migration is intensifying due to economic development. Second, labour migration and trafficking appear to be covered more comprehensively than others in recent literature.

This report nevertheless canvasses the legal and policy framework in relation to all issues of exploitation. The bibliography to this report also contains references to sources not cited, but that are relevant to all issues of exploitation. With regard to child and forced labour, a report of note is an annotated bibliography of information up to 2006 relating to these 2 issues in Lao PDR.64

While the other country reports address the issue of exploitation and the issue of abuse and discrimination in migration separately, they will be addressed together in this report, due to the selected focus on exploitation in migration, and because the line between “exploitation” and “abuse” is often difficult to draw.

Studies have shown that many Laotians start their journeys as voluntary labour migrants, only to be caught into trafficking situations. Thailand is the primary destination country for trafficking. According to one literature review, “the major problem is the exploitative practices of employers in Thailand rather than the depredations of transportation agents.” Victims are reportedly far more commonly deceived or threatened by their employers rather than their transporters.65

The following table summarises notable empirical research sources found on Lao PDR and trafficking and exploitation in migration:

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Table 2: Summary of Notable Empirical Research Sources on Lao PDR and Trafficking and Exploitation in Migration.

<table>
<thead>
<tr>
<th>Source Details</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>MLSW and ILO, Labour Migration Survey in Khammouane, Savannakhet and Champasak, 2003.</strong></td>
<td>This is a large-scale migration survey of 36,398 persons in 3 provinces by the Lao-Thai border, namely, Khammouane, Savannakhet and Champasak provinces. Of the 80.8% of respondents that migrated internationally, 81.5% migrated to Thailand. The survey attempted to estimate the prevalence of trafficking using risk indicators, namely, cases where (a) no remittances were sent to family, (b) the person was uncontactable by family, and (c) no information on livelihood was sent to family. 1.4% of these overseas migrants were at “high risk” of trafficking.</td>
</tr>
<tr>
<td><strong>UNICEF and MLSW, Broken Promises Shattered Dreams. A Profile of Child Trafficking in the Lao PDR, 2004</strong></td>
<td>This is the first nation-wide study on trafficking in Lao PDR. The study conducted semi-structured interviews with 253 victims and their families and local officials, and covered 48 districts across Lao PDR’s 17 provinces. According to the study, 60% of trafficked victims were females between 12 and 18 years of age.</td>
</tr>
<tr>
<td><strong>UNIAP, UNICEF and MLSW, Trafficking from Community to Exploitation. Lessons Learnt Through TRACE, 2004.</strong></td>
<td>This has been described as an “in-depth, multiple community, fieldwork based report on the circumstances of trafficking” that gathered data from 26 villages across Lao PDR.66</td>
</tr>
<tr>
<td><strong>WorldVision Lao PDR, Migration of Children and Youth from Savannakhet Province to Thailand: A Research Study, 2006</strong></td>
<td>This is a survey involving 612 respondents from 30 out of 42 villages in Atsaphanthong and Xonnabuly districts of Savannakhet province, areas where migration rates are significantly high. The respondents comprised migrant children and youth, their parents, and non-migrant children and youth. Profiling of the participants was conducted. Also documented were their perceptions, whether direct or indirect, of the migration experience, the abuses suffered by the migrant children and youth, as well as perceptions of the negative consequences of migration.</td>
</tr>
<tr>
<td><strong>IOM, The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region, 2007</strong></td>
<td>This study involved desktop research, country questionnaires and selected interviews. It aimed to present a system-wide analysis of the current process and legal and administrative structures for returning and reintegrating victims of trafficking in the Greater Mekong Sub-region. According to the report, 2 international organizations and 3 NGOs responded to the questionnaire on Lao PDR. They portrayed the system as generally well-functioning, and identified areas for improvement.</td>
</tr>
<tr>
<td><strong>Tan, Danielle and Bertrand, Didier, “How illegal migration turns into trafficking for sexual and labour exploitation? Raising voices of girls and women from Lao PDR,” 2007.</strong></td>
<td>Provides an analysis of the trafficking trajectories of 12 female returnees from Thailand, who were residents of the AFESIP shelter in Vientiane.</td>
</tr>
<tr>
<td><strong>SERC, “A Comparative Picture of Migration in Lao PDR, Myanmar, Cambodia, Vietnam and Thailand: Summary,” 2008.</strong></td>
<td>In this study, 700 Lao were interviewed, from Savannakhet province in Lao PDR and Mukdahan city in Thailand. Respondents were profiled, and their reasons for migrating surveyed. Also documented were their migration experiences. 60% of returnees said that they had no problem in Thailand, and over 40% said their employer treated them like family. The most common complaint among returnees was that they worked long hours without sufficient rest. Among other complaints were low or unpaid wages, and fraud on the part of brokers and employers.</td>
</tr>
<tr>
<td><strong>ADB, Broken Lives. Trafficking in Human Beings in the Lao People’s Democratic Republic, 2009.</strong></td>
<td>This is a qualitative study of districts in Bokeo and Louang Namtha Provinces in Lao PDR along Route 3A (part of the “North-South Economic Corridor” traversing Myanmar, Lao PDR, China and Thailand). One objective of the study was to “identify directions that will help in promoting safe migration, reducing risk, and preventing trafficking”. The study's findings linked trafficking in women and children to poorly implemented development projects and the alleged practice of the government and foreign businesses of breaking agreements to pay compensation to villagers. Findings also showed that ethnicity is the primary determinant of responses to adverse impacts caused by development policies, with some ethnic groups significantly more prone than others to respond to development-related social upheavals with prostitution and outmigration.</td>
</tr>
</tbody>
</table>

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66 James Haughton, Situational Analysis of Human Trafficking in the Lao PDR. With an emphasis on Savannakhet, World Vision Lao PDR, 2006, 33. The actual report was not found by this study's desktop review.
At least 2 literature reviews have been conducted on trafficking, both in 2006. One has an emphasis on Savannakhet province,\(^67\) and the other, on children and migration.\(^68\) A recent significant report is a 2011 GDG research study on women in migration.\(^69\)

Protection and prevention efforts by non-State actors against trafficking in women and children are manifold. This report has, based solely on a desktop review, attempted to give an overall snapshot of recent anti-trafficking efforts.

**Recommended Research Areas**

**Violence**

There is a paucity of research substantiating the prevalence of many violence issues of concern such as violence in detention centres, violence affecting street children, bullying, and early and forced marriage.

With regard to domestic violence, investigation into the situation relating to complaints mechanisms and victims’ access to justice is needed. Also, the potential link between development projects and violence against women and children should be further investigated.

**Exploitation, Abuse and Discrimination in Migration**

Research studies on trafficking and exploitation in Lao PDR are substantial. There are nevertheless research gaps, such as:

- internal trafficking;
- trafficking to countries other than Thailand;
- trafficking and migration in urban areas;\(^70\)
- the impact of development on trafficking (only one study has been done and only in relation to Bokeo and Louang Namtha Provinces);
- the ethnicity-trafficking nexus;\(^71\) and
- child labour, particularly victim and vulnerability profiling.\(^72\)

With the myriad efforts to combat exploitation and trafficking in Lao PDR taking place simultaneously and at national and regional levels, a database tracking the various projects and programmes, and their locations, would be useful to avoid duplication of efforts, and to identify areas with unmet needs.

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71 Ibid, 7.

B. Lao PDR and the CRC and CEDAW

Lao PDR’s Obligations under the CEDAW and CRC

<table>
<thead>
<tr>
<th>Date of Ratification</th>
<th>Instrument</th>
<th>Reservations / Declarations</th>
<th>Implementing Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceded 22 September 1997</td>
<td>Amendment to article 43 (2) of the Convention on the Rights of the Child</td>
<td>None</td>
<td>No specific implementing legislation.</td>
</tr>
</tbody>
</table>

Lao PDR has not signed the Amendment to Article 20(1) of the Convention on the Elimination of All Forms of Discrimination Against Women.

Both the CRC and CEDAW Committees have noted that the status of the respective Conventions vis-à-vis domestic legislation is unclear. The Committees have recommended that the State ensure that the provisions of the respective Conventions are directly applicable and prevail over conflicting legislation.

**CEDAW and CRC Implementing Mechanisms**

The following bodies are involved in the implementation of CEDAW and CRC in Lao PDR:

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There is no independent organization to protect the rights of the child specifically. The CRC Committee has expressed regret that there is no independent human rights institution to monitor the implementation of the CRC.

A coordination mechanism has been set up among the NCAW, the LWU and the Women Parliamentarian Group. However, the CEDAW Committee remains concerned at the respective groups’ unclear mandates and lack of coordination among their various organisations and entities.

A common concern relating to the NCAW, CNME and CRMEs is that they are under-staffed and under-resourced, and budget allocations from the State may be

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**Table 4: Bodies Involved in the Implementation of CEDAW and CRC in Lao PDR.**

<table>
<thead>
<tr>
<th>Body</th>
<th>Composition and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Bodies</strong></td>
<td></td>
</tr>
</tbody>
</table>
| National Commission for the Advancement of Women (NCAW) | • National focal point for women’s advancement and gender equality; coordinates local authorities and international organisations concerned with the implementation of government policies\(^{76}\)  
• Assists the government in formulating national policies and strategic plans of action\(^{77}\)  
• Committees for the advancement of women set up in ministries, ministry-equivalent organizations, and provinces (of which there were about 45 in 2008) come under the NCAW umbrella, and report their plans of activities and implementation thereof to the NCAW\(^{78}\)  
• Supported by a secretariat that undertakes studies and research\(^{79}\)  
• Tasked with preparing the national report on the implementation of CEDAW\(^{80}\)  |
| National Commission for Mothers and Children (CNME) | • Encourages, monitors and coordinates the implementation of the rights of women and children  
• Tasked with drafting the national report on the CRC’s implementation\(^{81}\)  
• Supported by several Regional Commissions for Mothers and Children (CRME)\(^{82}\)  |
| **Mass Organizations (Established by the ruling Lao People’s Revolutionary Party)** |                                                                                            |
| Lao Women’s Union (LWU)                   | • A mass and social organisation of women in Lao PDR with a total membership of over 1 million women\(^{83}\)  
• Mandated to protect the interests of women and children, and actively promote gender equality and the advancement of women\(^{84}\)  
• Provides training courses for women, such as vocational and leadership training, and training on the law, gender equality, domestic violence and trafficking  
• Provides counselling, and raises public awareness\(^{85}\)  
• Supervises the Gender Resource Information and Development Center (GRID), which conducts trainings, research and analyses of data\(^{86}\)  
• Implements the Law on the Protection of Women\(^{87}\)  |
| Lao Revolutionary Youth Union (LYU)       | • Plays “an important role in the education, training and overall development of children and young people”\(^{88}\)  |
C. VIOLENCE

1. Description of the Problem

a. Prevalence of Violence

Domestic Violence

Table 5: Snapshot of the Known Extent of Domestic Violence in Lao PDR

<table>
<thead>
<tr>
<th>Data source</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004 Gender and Development Group (GDG) survey in Vientiane, Bokeo, Luang Prabang, Savannakhet and Salavan of 967 villagers from 35 communities(^93)</td>
<td>• 45% of wives had experienced spousal violence • 17% of the above had experienced physical violence and 35% had experienced mental violence • 1.6% of victim wives had experienced sexual violence from their husbands,(^94) lending basis for concerns about the prevalence of marital rape, which is not criminalised</td>
</tr>
<tr>
<td>2005 to 2006 government statistics(^95)</td>
<td>• 160 court cases involving spousal violence</td>
</tr>
<tr>
<td>2006 to 2009 government data(^96)</td>
<td>• From 2006 to 2009, there were 400 registered cases of domestic violence, most of which were &quot;not considered very serious&quot; and involved &quot;yelling or scolding&quot;. 3 cases were of fathers raping their daughters.</td>
</tr>
<tr>
<td>2005 to 2006 UNICEF data(^97)</td>
<td>• 71% of children aged 2 to 14 experienced physical punishment and/or psychological aggression in the home</td>
</tr>
<tr>
<td>2011 Gender and Development Group (GDG) survey in Vientiane, Bokeo, Luang Prabang, Savannakhet and Salavan of 1,144 women and men(^98)</td>
<td>• 94 (8%) respondents lived with physical domestic violence in one form or other; 53 were women • 12% of female victims and 10% of male victims were forced to have intercourse by and with their spouses • Of the 53 women, 28 had been punched or hit by a weapon, and 18 had been beaten up</td>
</tr>
</tbody>
</table>


94 Ibid.

95 CEDAW, Combined sixth and seventh periodic report of State parties. Lao People’s Democratic Republic, CEDAW/C/Lao/7, 30 May 2008, 19.


The 2011 and 2004 prevalence figures from the GDG surveys are starkly different. The 2011 GDG survey noted that different definitions were used, presumably referring to the fact that mental and sexual violence were included in the 2004 survey, but not in the 2011 one, save in relation to forced sex.\(^99\) Also, the 2011 data may suffer from misinformation. The report noted that interviewers were volunteers not trained in research, turnover in the team was high. Interviews were taking place in the presence and within the hearing of others, and interviewers were receiving information about respondents from others and may not have verified the respondents’ concurrence with the information.\(^100\) The limitations of the 2004 survey were not stated.

99 Ibid, 74.
Cases of domestic violence are most likely very underreported. With the existence of social stigma, violence in the family is “an extremely delicate subject” and victims and neighbours tend to be too afraid to report it. Violence is reportedly “socially legitimised and accompanied by a culture of silence and impunity.”

Besides fear, perceptions of acceptability of violence may also lead to underreporting, as the following figures illustrate:

<table>
<thead>
<tr>
<th>Data source</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNICEF data</td>
<td>• 81% of girls and women aged 15 to 49 think that a husband is justified in hitting or beating his wife under certain circumstances.</td>
</tr>
<tr>
<td>1998 LYU, LWU and Save the Children UK survey of 53 young people</td>
<td>• 63% of girls and 45% of boys agreed that &quot;it is all right for a man to hit his wife if she makes some mistakes&quot;.</td>
</tr>
<tr>
<td>2011 Gender and Development Group (GDG) survey in Vientiane, Bokeo, Luang Prabang, Savannakhet and Salavan of 1,144 women and men</td>
<td>• Female respondents believed that a man has a right to beat his wife if she disobeys him (42%) and if she has been unfaithful (67%). • Only 4% of male respondents and 7% of female respondents would tell others to intervene if their spouse beat them.</td>
</tr>
</tbody>
</table>

**Economic Violence**

Neither of the GDG surveys included economic violence in their scope. The prevalence of acts of economic violence is of concern. There exist indicators of the entrenchment of women’s financial dependence on men. For instance, land ownership documents tend to be registered in men’s names, and loans for the family are usually put in the husband’s name.

Whether or not wives are nevertheless required to give consent when properties are disposed of is unclear. Article 27 of the Family Law provides for equal rights of husband and wife over matrimonial property, regardless of who acquired the property. This appears to provide legal basis for requiring consent. However, cases may turn on whether the property constitutes matrimonial property, and also on whether the law is in fact enforced.

**Patrilocal Traditions**

It has been noted by experts on the situation of highland ethnic minorities that incidences of wife-beating appeared more prevalent among ethnic groups practising patrilocal marriage systems.

**Other Issues**

The table below sets out the information found on other significant violence issues in Lao PDR. Empirical information on these issues is scant.

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105 Ibid, 46-47.

106 The definition of domestic violence includes acts causing “impacts on assets”, which is similar to the concept of economic violence.


### Table 7: Information on Other Significant Violence Issues in Lao PDR.

<table>
<thead>
<tr>
<th>Issue</th>
<th>Details</th>
</tr>
</thead>
</table>
| **Crimes**                                 | • 2005 and 2006 government data (provided for the CEDAW review): 382 cases of violence against women and children were brought to court; of these, 52 were of rape.\(^{109}\)  
  • *Statutory rape*: There have been reports of practices among certain ethnic groups of raping girls before puberty.\(^{110}\)  
  • Lao PDR does not have a central database of crime, nor does it make public statistics on crime.\(^{111}\)                                                                                                                                 |
| **Violence against women and children in prisons** | • A 2003 study found that 30% of detained children reported experiencing physical or mental punishment, including beating, crawling, sitting in the sun and withholding meals.\(^{112}\)  
  • Over 90% of children in detention centres were there for a first offence.\(^{113}\)  
  **Risk factors**                                                                                                                                  |• Male and female prisoners are held in the same prisons, though in different cells;\(^{114}\) juveniles are reportedly held with adult prisoners, although there are "no official or reliable statistics available".\(^{115}\)  
  • The government does not permit regular independent monitoring of prison conditions.\(^{116}\)                                                                 |
| ** Violence against street children**       | • UNICEF outreach team in Vientiane (estimated to reach approximately half of the capital's street children\(^{117}\)):  
  • 39 individual cases of violence and abuse against street children  
  • Of the above: 3 girls raped, several detained by police without due reason, 7 young people released from prison suffering from malnutrition, and 6 migrant girls believed to be sexually exploited\(^{118}\)  
  • According to UNICEF, street children and their families in the Vientiane capital were regularly put in prisons before international meetings and national events, as part of efforts to "clean the streets".\(^{119}\)  
  • According to the government, there are "very few" cases of street violence\(^{120}\)                                                                 |
| **Violence against female sex workers**     | • Engaging in prostitution is criminalised in Lao PDR.  
  • A 2006 thesis research study found that 12 of 16 female sex workers interviewed had experienced physical, sexual and emotional violence, including rape and gang rape, the use of harmful objects during sex, and abuse by police officers.\(^{121}\)                                                                 |

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113 Paulo Sergio Pinheiro, World Report on Violence Against Children, 2006. 194. This author is an independent expert for the United Nations Secretary-General's Study on Violence against Children.  

Data on ethnicity was not collected.
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study

### Early or forced marriage
- Forced marriage of both children and persons who have reached majority still takes place in certain ethnic groups and families, despite being prohibited by the Family Act.\(^\text{122}\)
- A "considerable percentage" of women are reported to marry before reaching the age of 18, often in cases of underage pregnancy.\(^\text{123}\)
- 3 of 16 respondents in a 2006 survey of sex workers married at or before the age of 16.\(^\text{124}\)
- Early marriage has been identified as a practice among certain ethnic groups.\(^\text{125}\)

### Bullying of children
- 98% of girls and 100% of boys in a survey said they had witnessed bullying in schools and, while the precise nature or seriousness of the bullying was not clear, the victims were mainly girls or children from ethnic minorities.\(^\text{126}\)

### b. Root Causes and Aggravating Practices

#### General Factors

**Gendered and Customary Roles and Stereotypes**

Violence against women is known to be perpetuated by traditional attitudes under which women are regarded as subordinate to men or as having stereotyped roles.\(^\text{127}\)

Cultural and traditional attitudes and practices that keep women in a subordinate position to men are deep-rooted.\(^\text{128}\) It is widely accepted throughout the country that men are the "heads of the households". For example, only men's names appear on many administrative documents, such as household/family registration certificates and land ownership documents.\(^\text{129}\) Even among the matrilineal Lao-Tai, the ethnic majority group, the youngest daughter inherits the family land and/or home in order to fulfil her role of taking care of the parents.\(^\text{130}\) The roles of women are perceived to be those of keeping house and taking care of the children, and there is relatively little acceptance of women's participation in the public sphere.\(^\text{131}\) Women in all ethnic groups also have traditionally deferred to men in community decision-making, in dealings with government officials, and in legal matters.\(^\text{132}\)

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122 CRC, Concluding Observations: Lao People's Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 95.
125 CRC, Concluding Observations: Lao People's Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 55.
126 Paulo Sergio Pinheiro, World Report on Violence Against Children, 2006, 122. This author is an independent expert for the United Nations Secretary-General's Study on Violence against Children. The source report appears to be a UNICEF Knowledge Attitude and Practice study on child rights in the Lao PDR: UNICEF EAPRO, Violence against Children in East Asia and the Pacific Region: A Regional Overview, 2005.
127 CEDAW General Recommendation No. 19.
Gender and Education

Boys are favoured over girls for education, as girls are perceived as “better capable than boys of looking after younger siblings and of household work.”

Women need vocational training in order to access business opportunities and be financially independent. However, “[f]ar more” men than women reportedly attend trainings conducted in rural villages, because, among other things, only “heads of households” were called to attend, and illiterate women felt discouraged from attending.

Ethnic Minorities

While discriminatory gender perceptions exist across all ethnic groups, they are particularly pronounced among ethnic minorities. Many ethnic minority groups practise patrilocalism, i.e. the family name and property is transferred from father to son, a bride price is required for marriage, the wife must leave her home to live in her husband’s house, and women generally do not inherit any land from their parents. Although land acquired by a married couple requires a joint land use certificate or title in both the husband and wife’s names, a study in certain rural ethnic minority districts reported the systematic exclusion of women from land registration.

Patrilocal practices perpetuate the perception that a woman is bought for the man’s family to provide her own labour and the next generation of labour, she has little other value. One report gives an account of authorities in a rural ethnic minority community expressing the view that “women’s level…[was] too low” to hold public office.

Harmful customs of ethnic minorities have also been noted, e.g. early and forced marriage, infanticide and rape of minors.

Marriage, residence, inheritance, and other practices can vary widely within ethnic groups, and ethnic minority societies are dynamic and constantly changing.

Rural Communities

Gendered livelihood roles exist not only in ethnic minority groups, but in rural communities generally; even within the majority ethnic Lao group, differences in gender norms and roles have been found. Across rural areas, many of women’s traditional “light” tasks, such as weeding of upland rice fields, hand milling of rice, and gathering of fuel wood and water, are more tedious and time consuming than men’s traditional “heavy” tasks. The greater workload faced by women and girls potentially limits their access to education and training.


133 Approximately 35% of the population do not speak the Lao language, and some ethnic minorities have no written language: CRC, Second Periodic Report of States Parties due in 1998. Lao People’s Democratic Republic, CRC/C/LAO/2, 22 April 2009, para. 29 (c).


137 Ibid, 8.

138 Rita Gebert, Gesellschaft fur Technische Zusammenarbeit, Rural Livelihoods Improvement Programme, Rural Development in Mountainous Areas of Northern Lao PDR, Component 3:
Economic Development

It is believed that there are increasing cases of violence against women due to development projects, but no supporting evidence was cited and the relationship is vague. Pressures exerted on individuals by Lao PDR’s rapid development have been noted as a possible cause of gender-based violence.

Ethnic Discrimination

The rooted nature of harmful gender stereotypes and practices among ethnic minorities make education and poverty alleviation particularly pressing for them. Yet, there are continuing inequalities in the treatment of certain ethnic groups in terms of access to basic services, financial and other resources, decision-making and capacity development opportunities. The existence of discriminatory perceptions against ethnic minorities was acknowledged in Lao PDR’s 2009 Periodic Report to the CRC Committee. Ethnic discrimination would reinforce the vulnerability of ethnic minority women and girls.

Factors Related to Domestic Violence

The following table sets out the identified factors associated with domestic violence:

<table>
<thead>
<tr>
<th>Factor</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender inequality in earning power and education</td>
<td>• Violence was more likely to occur in cases where the woman earns less money than the man, and less-educated women were more likely to experience violence than women who have some or higher education: 2004 GDG domestic violence survey.150 • 80% of respondents had no education, or only primary level education: 2011 GDG domestic violence survey.151 • Victims of domestic violence reportedly return to their abusers out of economic necessity.152</td>
</tr>
<tr>
<td>Alcohol and/or drug abuse</td>
<td>• 31% of women victims of domestic violence suffered at the hands of drunk husbands: 2004 GDG domestic violence survey.153 • 26% of wives suffered domestic violence because the husband was drunk: 2011 GDG domestic violence survey.154 • Availability of alcohol in villages with alcohol-distillation activities has been noted as having a strong correlation to spousal violence.155</td>
</tr>
<tr>
<td>Money and work-related problems</td>
<td>• Money and work-related problems were common reasons for domestic violence: 2004 GDG domestic violence survey.156 • 28% of wives stated that they suffered domestic violence as a result of difficulties at work: 2011 GDG domestic violence survey.157</td>
</tr>
</tbody>
</table>

146 GDG, “Lao People’s Democratic Republic: Implementation of the CEDAW Convention,” 20 October 2008, 3. No explanation or details were given.
147 Association for Women’s Rights in Development, “Concept Note: Legislative Review Towards A Comprehensive Anti-GBV Legislation in Lao PDR”, undated, 4. No evidence was provided.
149 CRC, Second Periodic Report of States Parties due in 1998. Lao People’s Democratic Republic, CRC/C/LAO/2, 22 April 2009, para. 31 (“In the course of its history, the Lao PDR was for a long time a foreign colony, and colonialists did all they could to divide the social classes and ethnic groups in order to rule. Those actions have left traces which persist in the minds of certain groups of individuals.”)
150 CUSO-VSO and GDG, Rural Domestic Violence and Gender Research: Lao PDR, undated, 2.
153 CUSO-VSO and GDG, Rural Domestic Violence and Gender Research: Lao PDR, undated, 2.
c. Impact of Violence

**Domestic Violence**

The 2004 GDG domestic violence survey found that 25% of women victims received physical injuries, with 14 of 57 cases requiring medical treatment and 6 beaten to unconsciousness. The survey also reported considerable impact on the mental health of women, including anxiety, fear, and lowered self-esteem. Some contemplated suicide but did not carry it out due to concerns over their children.\(^{159}\)

The 2011 GDG domestic violence survey found that 51% of women victims suffered physical injuries, mostly scratches, abrasions and bruises; only female respondents sustained more serious injuries such as dislocations, broken bones and teeth. Fifty per cent (50%) of women believed that the violence had a considerable impact on their physical and mental health.\(^{160}\)

**2. De Jure State Responses**

a. **Bases of State Responsibility**

**Binding Instruments**

<table>
<thead>
<tr>
<th>Date</th>
<th>Instrument</th>
<th>Reservations / Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceded 22 February 2004</td>
<td>International Convention on the Elimination of All Forms of Discrimination</td>
<td>None</td>
</tr>
<tr>
<td>Acceded 20 September 2006</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict</td>
<td>None</td>
</tr>
<tr>
<td>25 September 2009</td>
<td>Convention on the Rights of Persons with Disabilities</td>
<td>None</td>
</tr>
<tr>
<td>25 September 2009</td>
<td>International Convention on Civil and Political Rights</td>
<td>None</td>
</tr>
<tr>
<td>Signed 21 September 2010</td>
<td>Convention against Torture and Other Cruel, Inhuman and Degrading Treatment</td>
<td>None</td>
</tr>
</tbody>
</table>

**Declarations and Commitments**

<table>
<thead>
<tr>
<th>International and regional declarations and commitments relevant to women and children's rights in Lao PDR</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 1994 Cairo Programme of Action</td>
</tr>
<tr>
<td>• 1995 Beijing Declaration and Platform for Action</td>
</tr>
<tr>
<td>• 2004 Declaration on the Elimination of Violence against Women in the ASEAN region</td>
</tr>
<tr>
<td>• 2008 Joint Statement of the ASEAN High-Level Meeting on good practices in CEDAW reporting and follow-up</td>
</tr>
<tr>
<td>• 2009 Cha-Am Hua Hin Declaration on Strengthening Cooperation on Education to Achieve an ASEAN Caring and Sharing Community</td>
</tr>
<tr>
<td>• 2009 Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN</td>
</tr>
<tr>
<td>• 2010 Asean Leaders' Statement on Human Resources and Skills Development for Economic Recovery and Sustainable Growth</td>
</tr>
<tr>
<td>• 2010 Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women And Children</td>
</tr>
</tbody>
</table>


\(^{156}\) CUSO-VSO and GDG, Rural Domestic Violence and Gender Research: Lao PDR, undated, 2.


\(^{159}\) CUSO-VSO and GDG, Rural Domestic Violence and Gender Research: Lao PDR, undated, 2.

b. National Policies Against Violence

Equality and Non-Discrimination Guarantees

The following table sets out the general guarantees of gender equality and non-discrimination. Whether these protections protect non-citizens is unclear.

<table>
<thead>
<tr>
<th>Provision</th>
<th>Protected Person</th>
<th>Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender Equality</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Article 22 of the Constitution | Lao citizens | Equality before the law, irrespective of sex
| Article 24 of the Constitution | | Both sexes enjoy equal rights in political, economic, cultural, social and family affairs |
| Article 13 of the 2004 Law on the Protection of Women | Not expressly stated | Women and men shall have the same value and opportunities in politics, economy, socio-culture, families, national defense and security and foreign affairs as stipulated in the constitution and laws |
| Article 12 of the 2006 Implementation Decree | | Men and women shall have equality in political, economic, social, cultural and family spheres |
| Prohibition on gender discrimination (Article 2 of the Implementation Decree may perhaps be read together with Article 177 of the Penal Law) | | |
| Article 2 of the Implementation Decree | Not expressly stated | Discrimination is defined as "all forms of distinction, exclusion or restriction on women made on the basis of sex which has the effect of nullifying the recognition by society of the equality of men and women in the enjoyment of human rights and freedoms in the political, economical, cultural and social or any other fields." Does not expressly prohibit such discrimination |
| Article 177 of the Penal Law | | Criminalises discrimination against any woman |

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162 Ibid.
163 Abbreviated.
Sexual Offences

Table 12: Statutory Offences: Sexual Offences.

<table>
<thead>
<tr>
<th>Offence</th>
<th>Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape: Using force, armed threats, drugs or other substances, or other means to place a woman in a state of helplessness in order to have sexual intercourse with the woman against her will, or attempts to do so</td>
<td>Article 128 of the Penal Law</td>
<td>Imprisonment for 3 to 5 years and fine of 1 million to 5 million Kip</td>
</tr>
</tbody>
</table>

Children

<table>
<thead>
<tr>
<th>Offence</th>
<th>Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape (as defined in Article 128) of a woman between 15 and 18, or attempts to do so</td>
<td>Article 128 of the Penal Law</td>
<td>Imprisonment for 5 to 10 years and fine of 2 million to 10 million Kip</td>
</tr>
<tr>
<td>Rape of girls under 15, or attempts to do so</td>
<td>Article 128 of the Penal Law</td>
<td>Imprisonment for 15 to 20 years and fine of 10 million to 20 million Kip</td>
</tr>
<tr>
<td>Statutory rape: having sexual relations with a girl or boy under 12</td>
<td>Article 89 of the Law on the Protection of Children</td>
<td>Imprisonment for 7 to 15 years and a fine of 7 million to 15 million Kip</td>
</tr>
<tr>
<td>Statutory rape: engaging in sexual intercourse with a girl or boy under 15</td>
<td>Article 129 of the Penal Law</td>
<td>Imprisonment for 1 to 5 years and fine of 2 million to 5 million Kip</td>
</tr>
<tr>
<td>Outrage of decency: engaging in any act that causes embarrassment of a sexual nature to another person against such other person’s will</td>
<td>Article 137 of the Penal Law</td>
<td>Imprisonment for 6 months to 3 years, or re-education without deprivation of liberty, and fine of 100,000 to 500,000 Kip</td>
</tr>
</tbody>
</table>

Domestic Violence

Definition of Domestic Violence

Article 29 of the Law on the Protection of Women defines domestic violence as "an act or omission committed by someone in the family which causes physical or mental impact on, or which impacts on the assets of, women and children in the family." "Impact on assets" refers to violence caused through depriving women of their assets and adversely affecting their livelihood, and bears some similarities to the concept of economic violence. The familial relationships covered are not defined.

Article 29 of the Implementation Decree distinguishes between “minor” domestic violence (i.e. gossip, scorn, insults, defamation, preventing persons from participating in social activities, not sharing parenting) and “severe” domestic violence (i.e. beating, detention, tying, oppression, rape, adultery, illegal divorce, rudeness, burning, destruction of premises and possession, wasting family assets, not taking responsibility for family or protecting wife from harassment).

Obligations to Prevent

Administrative authorities, agencies and mass organisations have the duty to prevent domestic violence through education, creating conditions favouring the development and protection of the rights and interests of women and children, and taking part in the implementation of various policies, laws, and mechanisms relevant to combating domestic violence against women and children. Article 42 of the Implementation Decree provides that “[w]omen shall prevent and combat the use of domestic violence.”

Penalties

Domestic violence is not in itself an offence. Perpetrators

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165 Abbreviated.
166 Article 32 defines “impact on assets” as, “an intentional act of any individual in the family that causes damage to assets and results in consequences on the livelihood of family members, such as: the use of family assets for his or her own interests in an unlawful way, non-performance of obligations to take care of the family, causing women to lose their inheritance rights as provided in the laws, [and] destroying the house [or] property of the family”: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
168 Article 48 of the Implementation Decree.
170 One report has stated that Lao law deems domestic violence as constituting a criminal offence. However, the provision cited, namely, Article 33 of the Law on the Protection of Women, does not appear to support this: UN Women, Domestic Violence Legislation.
of domestic violence shall be re-educated and receive an official warning, unless the act constitutes an offence, in which case the offender shall be punished according to the Penal Law. Offenders may be liable to pay civil compensation for damages, including costs of medical treatment and mental rehabilitation and loss of income.

**Protective Measures**

Family members, relatives and witnesses are obliged to intervene to stop the violence, and mediate and educate the parties. Witnesses to domestic violence are entitled to arrest offenders and bring them to the police. Article 44 of the Implementation Decree provides for the security and protection of informers, who may inform the village administration, village units on counselling and protection of women and children, organisations that the victim belongs to, and the police.

**Curial Measures**

Victims of domestic violence have legal rights to assistance, including counselling, legal advice, food and accommodation, short-term vocational training and repatriation.

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*Table 13: Penalised Conduct: Child Abuse*

<table>
<thead>
<tr>
<th>Prohibited Conduct</th>
<th>Statutory Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Obstructing children from receiving medical treatment, immunisation or education; obstructing children from participating in various activities for their physical, moral and mental development and for the development of their knowledge and ability</td>
<td>Article 83 of the Law on the Protection of Children (children defined as under 18 years)</td>
<td>• Re-education</td>
</tr>
<tr>
<td>• Using children to buy or advertise narcotic or intoxicating substances</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Repeat violations of offences in Article 83 that continue after re-education</td>
<td>Article 84 of the Law on the Protection of Children</td>
<td>• Fine or disciplinary sanctions</td>
</tr>
<tr>
<td>• Allowing children to enter a restaurant serving alcohol, beer or intoxicating drinks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Allowing children to take part in pornographic and obscene activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Causing serious physical injury, insulting children</td>
<td>Article 49 of the Law on the Protection of Children</td>
<td>• Not specifically stated</td>
</tr>
<tr>
<td>• Allowing children to use or provide services in nightclubs, guest houses, hotels and gambling places</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Allowing children to be infatuated with pornographic and obscene things</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Intentional abandonment of a child</td>
<td>Article 88 of the Law on the Protection of Children</td>
<td>• Imprisonment for 6 months to 2 years and a fine of 600,000 to 2 million Kip</td>
</tr>
<tr>
<td>• Failure by parents to meet obligations to educate their children</td>
<td>Article 32 of the Family Law</td>
<td>• Withdrawal of parental rights</td>
</tr>
<tr>
<td>• Parents exceeding their parental rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Use of violence and ill-treatment by parents towards children</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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171 Article 50 of the Law on the Protection of Women.
172 Article 52 of the Law on the Protection of Women: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
173 Article 40 of the Implementation Decree: unofficial translation.
174 Article 43 of the Implementation Decree: unofficial translation.
175 Article 45 of the Implementation Decree: unofficial translation.
176 Articles 47 and 49 of the Implementation Decree, unofficial translation. Article 28 of the Law on the Protection of Women provides for obligations on police officers and Lao officials to render assistance in certain situations. Article 34 of the Law on the Protection of Women obliges family members, "persons nearby", individuals and organizations who are aware of or are asked to render assistance in certain situations to provide assistance. Article 27 of the Implementation Decree provide for obligations on "every citizen" to render assistance to victims of trafficking and domestic violence.

177 Article 2(1) of the Law on the Protection of Children: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
178 The abovementioned conduct penalised by Articles 83 and 84 of the Law on the Protection of Children are acts that Article 49 of

*Delphia Lim*
Reporting

Reporting of situations “regarding any child at risk of needing special protection or any child in need of special protection” 179 is required by Article 38 of the Law on the Protection of Children. Failure to report may constitute a violation of the said law, which attracts sanctions.180

Protective Measures

Children in need of special protection may, depending on their individual circumstances, be returned to their parents or guardians or be sent to a shelter by the Committee for the Protection and Assistance of Children.181 The Committee may also monitor and pay regular home visits to inspect the quality of care being provided by the child’s parents or guardians.182

One of the protection measures for children in need of special protection is the removal of children from their parents or guardians.183 This may be done where the parents or guardians have “problems”.184 However, what these “problems” are is undefined and appears to be left to the Committee on the Protection and Assistance of Children to determine. Residential care institutions are to be used as a last resort.185

Discipline and Criminal Punishment

The minimum age of criminal responsibility is 15 years of age.186 Children under the age of 18 cannot be sentenced to capital punishment,187 life imprisonment or house arrest.188 The fact that the offender is less than 18 years of age is expressly stated to be one of the “circumstances conducive to reduction of penal liability,”189 and the court may prescribe penalties lesser than those defined by law.190

Under Article 72 of the Law on the Protection of Children, “[t]he penalty of imprisonment imposed on children shall only be as a measure of last resort, except for a crime.”191 It is unclear what the last qualifier, “except for a crime” means.192 Children who are sentenced to imprisonment are sent to vocational training centres, which aim to assist the child to “become a good person and to reintegrate into society” through, among other things, education and compensation of civil damages.193

185 Article 42 of the Law on the Protection of Children: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
186 Article 7 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
187 Even though the use of the death penalty against offenders under the age of 18 at the time of the offence is expressly prohibited by Article 32 of the Penal Law, the Committee on the Rights of the Child in 2011 curiously expressed concern that the death penalty was not explicitly prohibited for children: CRC, Concluding Observations: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 71.
188 Articles 31, 32 and 36 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR. Under Article 36, house arrest forbids the sentenced offender from leaving a place of residence or from entering other territories as assigned or forbidden by a decision of the court.
189 Article 40 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
190 Article 44 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
191 Article 72 of the Law on the Protection of Children reads “The penalty of imprisonment imposed on children shall only be as a measure of last resort, except for a crime.”
192 In this regard, the Committee on the Rights of the Child has expressed regret that the deprivation of liberty is not used only as a last resort for children between the ages of 15 and 18 years: CRC, Concluding Observations: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 71. However, it is unclear whether this refers to the state of the law, or only the implementation of the law.
vocational training.\textsuperscript{193}

Other measures for young offenders are provided for in Article 53 of the Penal Law, including requiring the child to request for pardon, and/or be sent for re-education. Execution of punishment may be stayed while child offenders are sent for re-education, and the penalty may be lifted if the offender does not re-offend.\textsuperscript{194}

Children under the age of 18 who are alleged to have committed criminal offences may be tried in the Juvenile Courts.\textsuperscript{195}

Corporal Punishment

Corporal punishment against any person is reportedly prohibited as a penal punishment and a disciplinary measure in penal institutions.\textsuperscript{196} However, there is no express prohibition. In this regard, “physical violence and torture” against suspects and prisoners is prohibited.\textsuperscript{197} Further, it is expressly stated that “[p]unishment does not aim to generate physical suffering,”\textsuperscript{198} and corporal punishment is not included among the categories of punishment provided for.\textsuperscript{199} With regard to child offenders detained in institutions, “[a]ll forms of violence” against child offenders in detention, such as threats and foul or defaming language are prohibited.\textsuperscript{200}

Corporal punishment is lawful in the home,\textsuperscript{201} but is considered unlawful in schools under Article 27 of the Law on the Protection of Children.\textsuperscript{202} There is uncertainty over whether Article 27 prohibits corporal punishment in all educational institutions.\textsuperscript{203}

c. Assessment of State Policies

The section below highlights notable points regarding existing State policies. UN Women (formerly UNIFEM) has conducted comprehensive assessments of Lao PDR’s domestic violence and gender equality legislation.\textsuperscript{204} Comprehensive assessments of Lao PDR’s legislation relating to the protection of children would also be useful.

Equality and Non-Discrimination

The Implementation Decree’s definition of discrimination has been described as “comprehensive”, and closely follows the definition in CEDAW, but there are concerns that discrimination as so defined is not explicitly prohibited, as there is no such provision in the Implementation Decree.\textsuperscript{205} In this regard, the definition of discrimination

\textsuperscript{193} Article 74 of the Law on the Protection of Children: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR. Monitoring and inspection of vocational training centres is to be carried out by the Public Prosecutor, in collaboration with other relevant agencies: Article 77 of the Law on the Protection of Children: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.

\textsuperscript{194} Article 72 of the Law on the Protection of Children read with Article 47 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.

\textsuperscript{195} Articles 68 and 69 of the Law on the Protection of Children establish Juvenile Courts in in “each province and city as approved by the National Assembly Standing Committee”: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR. However, it seems that such courts have not in fact been established in practice: CRC, Concluding Observations: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 71.


\textsuperscript{197} Article 171 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.

\textsuperscript{198} Article 27 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.

\textsuperscript{199} Article 28 of the Penal Law: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.

\textsuperscript{200} Article 62 of the Law on the Protection of Children: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR. While Article 77 of the Law on the Protection of Children provides for the rights of child offenders in vocational training centres (where child offenders are to be detained when sentenced to imprisonment), such as the right to food, clothing and health services, corporal punishment is not explicitly prohibited.


\textsuperscript{202} Article 27 of the Law on the Protection of Children provides for the State’s policy to provide “child-friendly” schools for children.


\textsuperscript{205} UNIFEM, Gender Equality Laws: Global Good Practice and a Review of Five Southeast Asian Countries, 2nd ed., March 2010, 4, 89.
in the Implementation Decree may be read together with Article 177 of the Penal Law, which expressly criminalises discrimination against women. Information on judicial practice relating to these provisions would help clarify.

The various existing equality provisions do not expressly refer to “substantive equality.” It has been recommended that these provisions be strengthened by a clear and express guarantee of substantive equality.206

Domestic Violence

The location of provisions on domestic violence within broader equality legislation, i.e. the Law on the Protection of Women (which is based on the stated objective of gender equality), has been commended on the basis that this allows judges to rely on the objective of equality in cases of domestic violence.207 The gender-specificity of Lao’s domestic violence law, has been cited as a good practice example, particularly its prohibition of acts having an impact on the assets of women, such as causing women to lose their inheritance, as this recognizes that women generally hold an unequal position within the family and society.208

However, the distinction drawn between minor and severe forms of domestic violence is problematic. Minor acts of domestic violence are generally to be settled by mediation rather than criminal proceedings. This may reinforce the social legitimisation of such “minor” acts.209

Sexual Offences

The definition of rape has been described as narrow, ostensibly as it does not include marital rape. The State has been urged to widen the definition to include any sexual relations without the woman’s consent, and to remove the exception of marital rape.210

Child Abuse

Legislation to specifically address physical and emotional violence that may be used as a form of discipline against girls in their homes and alternative care settings is absent.211 Concerns have also been expressed over the absence of explicit prohibition of corporal punishment in the home and alternative care settings.212

3. Implementation, Monitoring and Prevention

a. Implementing and Monitoring Mechanisms

Legal Obligations Relating to Implementation

The Law on the Protection of Women obliges a range of Lao agencies, Ministries and private organisations to assist in the protection of domestic violence victims including temporary shelters, training and advice.213 The State also has implementing duties, such as to conduct research into women’s de facto situation in respect of trafficking and domestic violence, and monitor public authorities in their implementation of the laws.214

Relevant organizations

The LWU and LYU have been charged with “coordinating the supervision and monitoring of matters connected with violence against women and children.”215 The LWU is assigned to implement the Law on the Protection of Women.216 The LWU action plan for 2006-2010 included

206 Ibid, 3.
212 CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 38.
215 CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 86(e).
216 Article 53 of the Law on the Protection of Women.
improving knowledge and capacity of women in relation to domestic violence against women and the promotion of gender equality.217

Challenges

The legal implementing obligations have been criticised as vague and lacking concrete details.218 Coordination of relevant organisations, ministries, agencies and private actors is unclear.

The Committee on the Rights of the Child has noted that effective measures do not yet exist for detecting, reporting, referring, investigating, treating and overseeing cases of child abuse.219 The State has stated that it is not in a position to allocate a specific budget for the protection of the best interests of the child, but will instead improve social development, in particular, education and public health.220 However, it has been noted that budget allocations to both health and education remain insufficient.221

b. Complaints Process

The CEDAW Committee has expressed concern that Lao PDR does not have a comprehensive and effective system of receiving complaints, especially from women of ethnic minorities.222 The absence of a clear complaints procedure for complaints made under the Law on the Protection of Women and the Implementation Decree has likewise been highlighted.223

The bodies who are appointed to receive complaints are the LWU, the Centre,224 the Provincial Office, the District Office and the Village Unit, for the Counselling and Protection of Women.225 The LWU is not given the power to provide remedies other than 'giving advice' and 'resolving unlawful acts'.226 While the matter can be referred to the police or 'higher authorities', there is no obligation on either to provide remedies.227 The other bodies for Counselling and Protection of Women may simply hear complaints, 'monitor' the settlement of appeals and inform victims of results,228 but do not have the power to award remedies. Overall, the detail required for an effective complaints procedure is said to be absent.229

Domestic Violence

Victims of domestic violence have the right to report to village administrations, and, only in certain cases, to report the matter to the police.230

Responses to domestic violence are family and community-based, and emphasise mediation and conciliation rather than the filing of criminal charges. In cases of severe domestic violence, both the village administration and the police are to be informed.231 If the violence is minor, the matter is dealt with by family, neighbours, village mediation units and village counselling and protection units, who are to mediate and educate.232 Only when the efforts of the village mediation unit fail may the matter be referred to the police.233 Hence, cases of minor violence are not to be referred immediately to the authorities.

220 Ibid, para. 36(a).
221 CRC, Concluding Observation: Lao People's Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 16 (“The Committee notes, in particular, that budget allocations to the education sector are among the lowest in the world.”)
224 It appears that thus far, only one Centre for Counselling and Protection of Women has been established, and this is in the Vientiane capital: CEDAW, Combined sixth and seventh periodic report of States parties. Lao People's Democratic Republic, CEDAW/C/Lao/7, 30 May 2008, 12.
226 Ibid.
227 Ibid.
228 Ibid.
229 Ibid.
230 Article 33 of the Law on the Protection of Women: UNDP English translation endorsed by the Law Committee of the National Assembly of the Lao PDR.
231 Article 46 of the Implementation Decree.
232 Articles 40 and 41 of the Implementation Decree.

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When the matter has reached the police, the police's mandate is to “try to settle the matter while keeping in mind the need for unity, harmony and happiness in the family.”234 Where violence is not serious, the police's task is to conciliate and educate with a view to reaching “reconciliation and mutual trust in the family.”235 Police are to send the case to the prosecutors only where the violence is serious, or conciliation in cases of minor violence fails.236

Concerns

Table 14: Concerns Relating to the Domestic Violence Complaints Mechanism

<table>
<thead>
<tr>
<th>Concerns relating to the domestic violence complaints mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Diversion from court procedures and emphasis instead on mediation, settlement and reconciliation risks compromising the interests and agency of women.237</td>
</tr>
<tr>
<td>• The lengthy complaints procedure may limit access to immediate support and protection.238</td>
</tr>
<tr>
<td>• Specific guidelines on what constitutes &quot;serious&quot; forms of domestic violence are absent. There is hence scope for patriarchal attitudes among mediators to influence the determination of what constitutes a serious offence.239</td>
</tr>
<tr>
<td>• The expertise of the village mediation units may be inadequate. The CEDAW Committee has urged the State to ensure that village mediation units, among others, are sensitised to all forms of violence against women.240</td>
</tr>
<tr>
<td>• Article 42 of the Implementation Decree refers to service fees for mediation payable by the mediating parties.241 This may discourage women from reporting or pursuing recourse altogether.</td>
</tr>
<tr>
<td>• Save for “education” of perpetrators by family, neighbours and the village mediation unit, measures to ensure that the violence is not repeated during and following mediation are not provided for.</td>
</tr>
</tbody>
</table>

234 Article 36 of the Law on the Protection of Women.
235 Article 36 of the Law on the Protection of Women.
236 Article 36 of the Law on the Protection of Women.
240 CEDAW, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Lao People’s Democratic Republic, CEDAW/C/Lao/CO/7, 7 August 2009, para. 24. It is noted that each village mediation unit should have one member of the LWU, who would presumably be female; CEDAW, Combined sixth and seventh periodic report of States parties. Lao People’s Democratic Republic, CEDAW/C/Lao/7, 30 May 2008, 24.
241 Article 42 of the Implementation Decree. Service fees are 50,000 kips.

There is a danger that the complaints mechanism for violence may not be achieving redress. Most reported cases are settled out of court, including through the village mediation units.242 In most cases, women were advised by village authorities to stay with their husbands.243 Compounding matters is a recent State policy to promote “case-free villages”, i.e. villages with no record of cases being referred beyond the mediation unit for resolution.244 This motivates village officials to resolve serious offences or crimes out of court, even though they may be more appropriately dealt with judicially. Also, legal awareness remains very low.245

In view of the above, empirical studies on complaints mechanisms for domestic violence must be conducted.246 Such studies would help determine whether the statutory complaints mechanism is being followed in practice. They would also help identify and verify the various impediments faced by victims in gaining access to justice.

Complaints by Children

Children reportedly do not have the right to bring a complaint and seek reparations without parental consent.247

245 Ibid, para. 35.
246 The Government is reportedly implementing an access to justice survey and a customary law survey with support from the UNDP and other partners: UN Country Team, Lao PDR, “Contribution By The United Nations Country Team In Lao People’s Democratic Republic For The Universal Eight Session,” 2010, para. 38.
247 CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 30. It should be noted that this is consistent with a UN Women report, stating that the laws of Lao PDR include special provisions for bringing complaints on behalf of children: UN Women, Domestic Violence Legislation and its Implementation: An Analysis for Southeast Asian Countries Based On International Standards and Good Practices, 2nd ed., 2011, 23. However, the provision cited, namely, Article 28 of the Law on the Protection of Children, does not appear to support the report's position.
The Law on the Protection of Children provides for Juvenile Courts to hear not only cases involving crimes committed by children, but also cases involving child labour, civil cases relating to children, and “other cases relating to children.”\(^{248}\) Proceedings in the Juvenile Courts are not open to the public.\(^{249}\) The law expressly provides for the child’s right to participate in proceedings before the Juvenile Courts and to legal assistance.\(^{250}\)

However, Juvenile Courts have reportedly not been established.\(^{251}\) Instead, the State appears to be focusing on training and policy development within existing infrastructure.\(^{252}\) A Children’s Chamber was set up in 2003.\(^{253}\) There is also the Central Coordinating Committee on juvenile justice, comprising the Public Prosecutor’s Office, the Supreme People’s Court, the Ministry of Security and the Ministry of Justice, which coordinates the study and proposal of policies and rules relating to juvenile justice.\(^{254}\)

Child-friendly juvenile justice procedures have been established in some provinces, districts and villages, and efforts are on-going to expand their reach.\(^{255}\) Guidelines for mediating cases involving children have been approved by the Ministry of Justice for dissemination.\(^{256}\)

Assessments of these procedures both on paper and in practice should be conducted. Assessments of proceedings in practice would be particularly useful, including the determination of whether existing legal safeguards are implemented, whether trainings have been effective, and generally, what the weak areas for improvement are.

c. Protection and Rehabilitation

Information on the availability of shelters and health and social services for victims is very limited.\(^{257}\) Rehabilitation and reintegration measures for child victims of abuse are lacking, and there are human and financial resource constraints.\(^{258}\)

LWU centers and the MLSW in cooperation with NGOs have been assisting victims of domestic violence.\(^{259}\) There are 124 child protection networks in Oudomxay, Vientiane, Savannakhet and Champasak to monitor children vulnerable to a range of hazards, including trafficking.\(^{260}\)

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Shelter</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Village Focus International</td>
<td>1 shelter</td>
<td>Receives domestic violence and trafficking victims.(^{262})</td>
</tr>
<tr>
<td>(supervised by the Ministry of Education)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lao Women’s Union</td>
<td>2 Counseling</td>
<td>Receives women and children who are victims of domestic violence,</td>
</tr>
<tr>
<td></td>
<td>and Protection</td>
<td>exploitation and trafficking.(^{263})</td>
</tr>
<tr>
<td>Centers for Women and Children</td>
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<td></td>
</tr>
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<td></td>
<td></td>
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</tbody>
</table>

Lao PDR has a number of residential placement centres, namely, SOS Villages, boarding establishments for students from ethnic groups, and a National Centre for the Rehabilitation of Persons with a Disability.\(^{264}\) Under certain

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248 Articles 68 and 69 of the Law on the Protection of Children.
249 Article 70 of the Law on the Protection of Children.
250 Ibid.
251 The CRC Committee has noted that the project to establish juvenile courts is still not in place: CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/7, 7 August 2009, para. 71.
253 Ibid, para. 36(e).
254 Ibid, para. 134.
256 Ibid.
circumstances, children may be entrusted to a pagoda.\textsuperscript{265}

Crucially, mechanisms to monitor decisions on placement of children in alternative care are absent.\textsuperscript{266} Mechanisms to monitor alternative care facilities and to ensure that the child’s rights, including his/her right to be heard and to maintain contact with his/her family, are respected are absent.

d. Prevention Strategy

Gender Mainstreaming Efforts

A National Plan of Action for the Advancement of Women was adopted for the period of 2006 to 2010.\textsuperscript{267} A National Strategy for the Advancement of Women has been adopted for the period of 2011 to 2015. It aims to increase equality between men and women, balance power relationships, increase the number of women in decision-making positions and improve women and girls access to many services and income-earning opportunities.\textsuperscript{268}

The LWU conducted several programs to strengthen the role of women, including vocational training, which were reportedly most effective in urban areas.\textsuperscript{269}

Gender-mainstreaming in education has been undertaken. After an assessment of primary education textbooks revealed gender bias, the Ministry of Education developed a new educational curriculum that incorporates the teaching of gender roles and gender equality.\textsuperscript{270} However, the government has been criticised for not taking sustained and systematic action to modify or eliminate stereotypes and negative traditional values and practices.\textsuperscript{271}

Education

The LWU’s programmes include activities to inform women on anti-trafficking and domestic violence, and the dissemination of information on women’s legal rights and CEDAW and the CRC.\textsuperscript{272}

Children

There is no national plan of action on children to address the rights of children in their entirety.\textsuperscript{273} The Government has stated that its approach is to focus efforts on social development.\textsuperscript{274} In this regard, the Ministry of Education, supported by UNICEF, is developing a National Policy on Inclusive Education, with special focus on girls, women, ethnic groups, people with disabilities and people with socio-economic difficulties.\textsuperscript{275}

4. Role of Non-State Actors

NGO efforts relating to child protection are considerable. NGOs such as UNICEF have been funding and providing training for efforts by government ministries to provide assistance to victims, such as child protection networks. UNICEF has engaged in direct outreach to street children. Child protection units were set up by Village Focus International in 30 villages in Lao Ngam District, Salavan Province.\textsuperscript{276}

NGO efforts relating to domestic violence appear scarcer. International organisations such as UN Women and Oxfam, have assisted in research efforts to document domestic violence.

\textsuperscript{265} CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 43.

\textsuperscript{266} Ibid.

\textsuperscript{267} CEDAW, Combined sixth and seventh periodic report of States parties. Lao People’s Democratic Republic, CEDAW/C/Lao/7, 30 May 2008, 10.


\textsuperscript{270} CEDAW, Combined sixth and seventh periodic report of States parties. Lao People’s Democratic Republic, CEDAW/C/Lao/7, 30 May 2008, 21.

\textsuperscript{271} CEDAW, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Lao People’s Democratic Republic, CEDAW/C/Lao/CO/7, 7 August 2009, para. 21.

\textsuperscript{272} LWU, Promotion and Protection of Lao Women’s Rights, 29 October 2009.

\textsuperscript{273} CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 12.


\textsuperscript{276} Village Focus, International Bi-Annual Report 2009-2010, 21.
5. Progress Indicators and Challenges

The absence of consolidated statistical data and information make tracking progress difficult. Unlike with the issue of trafficking, no household surveys have been conducted in relation to violence against women. The private and hidden nature of domestic violence poses a significant challenge to fact-finding. Research faces human resource constraints, in terms of numbers and skills, as evidenced by the experience with the 2011 GDG domestic violence survey.

Monitoring and evaluation of the effectiveness of government institutions, regulation and other measures have apparently not been conducted, such as the impact of the village mediation on violence against women and children, the child-friendly complaints process, and the child protection networks.

D. EXPLOITATION

Labour Migration and Lao PDR: An Overview

Many Laotians start their journeys as voluntary labour migrants, only to be caught into trafficking situations. A 2006 literature review of case studies corroborates this, noting that there were no cases of the selling or kidnapping of children in the pre-departure stage; rather, the movement is initiated independently. In fact, young Lao migrants in Thailand often move voluntarily from one job to the other, return to their village in Lao PDR, and re-migrate to Thailand again some time later, in some cases despite having experienced exploitation and abuse in their earlier migration experience.

According to one literature review, “the major problem is the exploitative practices of employers in Thailand rather than the depredations of transportation agents.” The review concludes from case studies that victims are far more commonly deceived or threatened by their employers rather than their transporters. The Country Report on Thailand is therefore most pertinent.

Even if the majority of violations in labour migration take the form of exploitation and abuse at the destination, trafficking remains highly relevant. First, many cases fall within the definition of “trafficking”, due to the concept of “statutory trafficking” in the Trafficking Protocol, where children under 18 are deemed to be trafficked even where deception, coercion or force are not used. This is because the majority of migrants and identified trafficked victims are under 18 (see Table 19 below). Second, there are still cases of the use of deceptive or coercive means by recruitment agents to lure women and children into exploitation situations.

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277 ASEAN, Progress Report on Criminal Justice Responses to Trafficking in the ASEAN Region, July 2011, 33.
The following figures make it clear that trafficking and exploitation in migration may be occurring on a considerable scale, due to large-scale migration and the prevalence of risk factors.

<table>
<thead>
<tr>
<th>Migration Indicators</th>
<th>Risk Indicators</th>
</tr>
</thead>
</table>
| In 2008, at least 250,000 Lao migrant workers were employed in Thailand. 281         | An estimated 80,000 Lao migrant workers remained unregistered in Thailand. 282  
The formal registration process was instituted by the Royal Thai Government in 2004 in an effort to regularise irregular foreign migrant workers, i.e. those that had migrated through illegal or irregular channels. This is thought to aid in combating trafficking, 283 as illegal or irregular recruitment channels expose migrants to trafficking risks. It should be noted, however, that the formal channel is a double-edged sword, as it involves formal contracts that bind workers even where the job is not what the worker was promised; informal channels on the other hand give flexibility. 284 |
| Demand for Lao migrants as of September 2007: 62,094 285                              | Number of Lao migrants placed through formal channels: 4,448  
It is thought that unmet demand would be filled primarily by migrant workers recruited via informal or illegal channels. 287 |
| 80.8% of Lao PDR migrants within a sample of 39,000 persons migrated overseas. 288  | 1.4% of these overseas migrants were at “high risk” of, for example, exploitation or trafficking.  
45.6% of them did not send any remittances to their family after migration.  
The risk criteria used identified cases where (a) no remittances were sent to family, (b) the person was uncontactable by family, and (c) no information on livelihood was sent to family. 289 |

281 US State Department, 2010 Trafficking in Persons Report: Lao PDR.  
282 Ibid.  
289 Ibid.  

Table 16: Migration: Risks of Trafficking and Exploitation

The available studies on trafficking are only able to give estimates of the prevalence of trafficking, and debate continues on how large a problem trafficking in fact is for the country. Interviews with NGO project officers reveal different perceptions of the scale of trafficking. Some officers working on regional-level projects in the GMS have described the prevalence of trafficking relating to Lao PDR as low, arguing that numbers from Myanmar and Cambodia are much higher, and that Laotians are better able to assimilate into Thai culture and avoid falling prey to exploitation. Others perceived trafficking as a big problem for the country, viewing similarities between Laotians and Thais as allowing Laotians to travel further out of the city, where violations are more difficult to detect. 290

1. Description of the Problem

a. Prevalence of Exploitation

Lao as a Source Country for Trafficking

<table>
<thead>
<tr>
<th>Destinations</th>
<th>Exploitation Sectors</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cross-border trafficking</td>
<td>Thailand is the primary destination. A 2003 ILO labour migration survey found that 81.5% of overseas migrants migrated to Thailand.</td>
<td>Females: Domestic services, garment and other factories, construction, entertainment, and agriculture. Boys: Construction, factories, agriculture, domestic services and fisheries.</td>
</tr>
<tr>
<td>Malaysia has also been named as a primary destination.</td>
<td>No details given.</td>
<td></td>
</tr>
<tr>
<td>China and Myanmar</td>
<td>Women and girls sold as brides.</td>
<td>This reportedly affects the Akha minority in particular.</td>
</tr>
<tr>
<td>Internal trafficking</td>
<td>The Vientiane capital is one of the main destinations for internal migrants and trafficking.</td>
<td>The entertainment sector, prostitution, garment factories, with a small number in rubber plantations (men and boys). Prostitution appears to be a wide-scale problem but there are no actual numbers. Known victims of internal trafficking are almost always female, usually girls under 18 years of age. Known trafficked persons are mostly from northern Lao.</td>
</tr>
</tbody>
</table>


296 Inthasone Phetsiriseng, Gender Concerns in Migration in Lao PDR. Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives, UNIFEM, Lao PDR, February 2007, 11, citing information from MLSW.


302 42.5% of internal migrants reflected in a household survey had migrated to Vientiane: MLSW and ILO, Labour Migration Survey in Khammouan, Savannakhet and Champasack, 2003.


307 Ibid.
Cross-border Migration to Thailand

Laotians make up the significant majority of trafficked victims in Thailand, as shown in the figure below:

*Figure 1: Human Trafficking in Thailand.*


Means of movement: A significant number of minors who became victims of exploitative labour and hence trafficking had made their own way to Thailand, and far more had been accompanied or enabled to migrate by a family member or known person than a stranger.\(^{309}\) Young, poorly educated, and female Lao migrants opted more frequently to travel with a broker.\(^{310}\)

Labour sectors: While some reports state that victims of cross-border trafficking are primarily found in garment factories and the sex industry, there are other key sectors that warrant attention, such as domestic labour. While domestic work features less in the figure below, this is not the case with the figures given in Table 17 above.

*Figure 2: Nature of Human Trafficking in Thailand.*


Other studies have found a strong sex-segregation among occupations, with girls much more likely to work in restaurants, bars, domestic work and the sex industry than

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boys, who would work in construction, agriculture and factories.311

Circumstances at destination: Lao children or youth illegal migrants tend to get work that often involves long hours, poor or late payments and that run the risk of being mistreated by employers and Thai police.312 Women and girls in particular tend to get involved in sex work, garment industry and domestic work, “female” occupations that are “dangerous, difficult and dirty,” characterised by low wages, poor working conditions, and lacking employment benefits.313 Sex work by minors is considered one of the worst forms of child labour, and studies have found the most extreme cases of abuse among girls who worked as domestic labourers.314

However, only a “small minority” of migrants find themselves seriously tricked, cheated, abused or exploited in the migration process.315 In one 2008 study, 60% of returnees said that they had no problem in Thailand, and 75% of them said that they were happy in Thailand. The most common complaint among returnees was that they worked long hours without sufficient rest. Among their other complaints were low or unpaid wages, or fraud on the part of broker and employers.316

The following figure sets out abuses suffered by youth and child migrants from 30 villages in Savannakhet:

![Figure 3: Abuses Suffered by Youth and Child Migrants from 30 villages in Savannakhet](image)

### Table 18: Lao PDR as a Transit and Destination Country for Human Trafficking

<table>
<thead>
<tr>
<th>Source Country</th>
<th>Transit Country</th>
<th>Destination</th>
<th>Exploitation Sectors</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>-</td>
<td>Lao PDR</td>
<td>Prostitution</td>
</tr>
<tr>
<td></td>
<td>Lao PDR</td>
<td>Thailand</td>
<td>Prostitution and forced labour</td>
</tr>
<tr>
<td>Vietnam</td>
<td>-</td>
<td>Lao PDR</td>
<td>Prostitution</td>
</tr>
<tr>
<td></td>
<td>Lao PDR</td>
<td>Thailand</td>
<td>Prostitution and forced labour</td>
</tr>
<tr>
<td>Myanmar</td>
<td>Lao PDR</td>
<td>Thailand</td>
<td>Prostitution and forced labour</td>
</tr>
</tbody>
</table>


Lao as a Transit and Destination Country

Profiling of Trafficked Victims

Studies are unanimous that young girls are the primary victims of cross-border trafficking.317

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312 Ibid, 18.
315 Ibid, 18.
## Table 19: Profile of Victims of Cross-Border Trafficking

<table>
<thead>
<tr>
<th>Migration largely occurs within the lower age cohorts</th>
<th>Trafficking occurs largely within the lower age cohorts</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Migrants surveyed were largely between the ages of 12 and 29, with the largest number around the age of 15: 2006 World Vision study.</td>
<td>• 85% of trafficked persons returned from Thailand from 2001 to 2007 through official channels were under 18 years of age.</td>
</tr>
<tr>
<td>• Majority of migrants surveyed were between 18 and 25 years, and 21.4% were children under 18: 2003 ILO survey.</td>
<td>• 63% of trafficking victims surveyed were aged between 12 and 18 years of age, and 33% were aged between 19 and 30 years of age: 2004 MLSW and UNICEF study.</td>
</tr>
<tr>
<td>Majority of cross-border migrants are female</td>
<td>Majority of victims of cross-border trafficking are female, and most are young girls</td>
</tr>
<tr>
<td>• 70% of 48,000 irregular Laotian migrant workers in Thailand who have undergone nationality verification and obtained temporary passports are women.</td>
<td>• Of the approximately 145 Lao trafficking victims repatriated from Thailand in 2010, “almost all” were underage girls.</td>
</tr>
<tr>
<td>• 55.4% of cross-border and internal migrants were female. (However there were more male than female internal migrants): 2003 ILO survey.</td>
<td>• Of the 155 trafficked returnees from Thailand received by the Ministry of Labour and Social Welfare in 2009, 144 were underage and 148 were girls.</td>
</tr>
<tr>
<td></td>
<td>• 95% of trafficked victims returned from Thailand to Lao PDR from 2001 to 2007 were female and 85% were under 18 years of age.</td>
</tr>
<tr>
<td></td>
<td>• 60% of trafficking victims surveyed were females between 12 and 18 years of age: 2004 MLSW and UNICEF study.</td>
</tr>
</tbody>
</table>

Importantly, the over-representation of children in official statistics may be because of the Trafficking Protocol’s concept of “statutory trafficking”, i.e. children under 18 are considered victims of trafficking as long as any of the means stated in the Trafficking Protocol’s definition are used, notwithstanding their consent. Also, there may be a bias in the high numbers of women, as the majority of Thai police raids target brothels.328

Literature reviews of studies and surveys conducted have also made the following findings:

- Migrating children, including trafficked victims, are generally not the poorest nor the least educated.329
- No clear trend emerges with regard to ethnicity of victims.330
- There appears to be a strong link between age and gender; the younger the migrant, the greater the likelihood of being a female migrant.331

### b. Root Causes and Aggravating Practices

Trafficking in Lao PDR takes place within a context where there exists both a strong desire, especially among the young, to obtain better employment for a better lifestyle, as well as a lack of employment opportunities and poverty.332 Youth are also particularly influenced by the wide appeal of Thai pop culture.333 Some of those who return from Thailand and migrate again do so because their villages appear too small and backward to them.334 Moreover, remittances have been found to play important roles in improving livelihoods and positively changing their identities in families and communities.335 These ‘push’

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320 UNIAP, “SIREN Human Trafficking Datasheet,” March 2008, citing figures from MLSW.


322 UNIFEM (now UN Women), Gender Concerns in Migration in Lao PDR, 2003.


324 US State Department, 2011 Trafficking in Persons Report: Lao PDR.

325 UNIAP, Mekong Region Country Datasheets. Human Trafficking, 2010, 15, citing figures from the MLSW.

326 UNIAP, “SIREN Human Trafficking Datasheet,” March 2008, citing figures from the MLSW.


330 Ibid, 20, Over-representation of ethnic minorities was found in one study but not others.


335 N. Southiseng and J. Walsh, “Remittances and the Changing Roles
factors for migration are well-documented.\textsuperscript{336}

Gendered responsibilities may create additional incentives for females to migrate. A powerful incentive for females to migrate is the responsibility to repay their parents, especially their mothers, commonly by remitting money home. Also, the lower age of marriage for women may result in lower ages of migration for females in order to migrate before taking on responsibilities of marriage and children.\textsuperscript{337}

Factors that make persons vulnerable to trafficking and exploitation include:

- low social status; these migrants are easy prey for recruitment agents who know that their families have no power to make complaints, rescue them, or take other action;\textsuperscript{338}
- lack of information and knowledge (seen as more prevalent in rural areas);\textsuperscript{339}
- dysfunctional families, e.g. abusive male step-parents, siblings with drug problems, divorce or death of parents;\textsuperscript{340}
- related to the above, lack of well-established cross-border networks of relatives and friends.\textsuperscript{341}

Weaknesses in existing law enforcement and the labour regulatory framework have been cited as aggravating factors.\textsuperscript{342} Legal channels for labour migration are costly and time consuming, leading to illegal migration and exposure to exploitative work situations and trafficking due to migrants’ undocumented status.\textsuperscript{343} According to the US State Department, there is evidence of corruption on both sides of the border: local officials are aware of trafficking activities, and some may even have profited from them; border officials permit human smuggling, and evidence also implicates Thai officers.\textsuperscript{344}

Significantly, reports indicate that a nexus exists between trafficking and Lao PDR’s development. Improvements in transportation and communication networks in developing areas, such as the economic special zone in Savannakhet and the R3 road, have been linked to increases in migration and associated trafficking.\textsuperscript{345} An ADB study published in 2009 identifies a link between poorly implemented development policies and trafficking.\textsuperscript{346} Besides poorly thought out relocations and consolidation of villages, negative impacts are most strongly felt in the breaking of agreements for compensation for damages to fields and villages by the government and foreign businesses. Villagers whose livelihoods are negatively impacted and who are left with no land after development-related relocation may experience severe traumas that result in dependence on wage labour usually but not always favoring the males, alcoholism, drug addiction, prostitution, and outmigration. Land shortages and labour surplus caused by the consolidation of villages provide the rationale for travelling to Thailand. The study found that Lao in traditional villages not adversely affected by relocations or consolidations did not migrate, while those affected by relocation were most prone to migrate.

One particularly interesting finding was that ethnicity is the primary determinant of responses to adverse impacts caused by development policies, with some groups significantly more prone than others to respond to development-related social upheavals with prostitution and outmigration.

Another study documents accounts of recruitment brokers moving on from areas where awareness has increased, usually the border areas, to villages that have just gained road access, where


\textsuperscript{341} Ibid, 7.


\textsuperscript{344} US Department of State, 2008 Human Rights Report: Lao PDR; US State Department, 2009 Trafficking in Persons Report: Lao PDR.


\textsuperscript{346} ADB, Broken Lives. Trafficking in Human Beings in the Lao People’s Democratic Republic, 2009.
villagers are presumably less aware of the risks of trafficking in migration.\textsuperscript{347}

c. Impact of Exploitation

Studies on the impact of exploitation and trafficking on victims are few. In a 2006 World Vision study, returnees reported having unspecified psychological problems (45%), problems with authority, probably connected with the imposition of excessive fines (27%), problems with their families (9%), and problems with the community (23%), suggesting stigmatisation. Increased harassment by officials was also reported.\textsuperscript{348}

Bad experiences with exploitation in migration nevertheless do not appear to deter persons from re-migrating.\textsuperscript{349}

2. De Jure State Responses

a. Bases of State Responsibility

Binding Instruments

<table>
<thead>
<tr>
<th>Date of Ratification</th>
<th>Instrument</th>
<th>Reservations / Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceded 14 April 1978</td>
<td>Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others</td>
<td>Article 22</td>
</tr>
<tr>
<td>Acceded 9 September 1957</td>
<td>Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery</td>
<td>None</td>
</tr>
<tr>
<td>23 January 1964</td>
<td>International Labour Organisation Convention concerning Forced or Compulsory Labour (ILO 29)</td>
<td>None</td>
</tr>
<tr>
<td>26 September 2003</td>
<td>UN Convention against Transnational Organised Crime</td>
<td>Article 35(2)</td>
</tr>
<tr>
<td>26 September 2003</td>
<td>UN Protocol Against the Smuggling of Migrants by Land, Sea and Air</td>
<td>Article 20(3)</td>
</tr>
<tr>
<td>13 June 2005</td>
<td>International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182)</td>
<td>None</td>
</tr>
<tr>
<td>13 June 2005</td>
<td>ILO Minimum Age Convention (ILO 138)</td>
<td>None</td>
</tr>
<tr>
<td>20 September 2006</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</td>
<td>Declaration: Lao PDR does not consider UNCAC to be a legal basis for extradition.\textsuperscript{350}</td>
</tr>
<tr>
<td>25 September 2009</td>
<td>UN Convention against Corruption</td>
<td>Article 5(2)</td>
</tr>
</tbody>
</table>


Non-binding Instruments

Table 21: Non-binding Instruments: Bases of State Responsibility for Human Trafficking

<table>
<thead>
<tr>
<th>Date of Signing</th>
<th>Declaration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>Stockholm Declaration and Agenda for Action</td>
</tr>
<tr>
<td>1999</td>
<td>UN World Tourism Organisation Global Code of Ethics for Tourism (adopted as a member of the UN WTO)</td>
</tr>
<tr>
<td>2001</td>
<td>Yokohoma Global Commitment against the sexual exploitation of children</td>
</tr>
<tr>
<td>28 November 2004</td>
<td>ASEAN Joint Declaration against the Trafficking of Persons, Particularly Women and Children</td>
</tr>
<tr>
<td>8 June 2006</td>
<td>Framework for Cooperation between the Association of Southeast Asian Nations (ASEAN) and the United Nations Development Fund for Women (UNIFEM)</td>
</tr>
<tr>
<td>13 January 2007</td>
<td>ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers</td>
</tr>
</tbody>
</table>

Cross-Border Collaboration

Table 22: Cross-Border Collaboration Against Human Trafficking

<table>
<thead>
<tr>
<th>Date</th>
<th>Parties</th>
<th>Instrument</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 October 2002</td>
<td>Lao PDR and Thailand</td>
<td>MOU on Employment Cooperation</td>
</tr>
<tr>
<td>29 October 2004</td>
<td>Cambodia, China, Lao PDR, Myanmar, Thailand and Vietnam</td>
<td>MOU on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-region, affirming their commitment to the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT)</td>
</tr>
<tr>
<td>13 July 2005</td>
<td>Lao PDR and Thailand</td>
<td>MOU on Cooperation to Combat Trafficking in Persons, Especially Women and Children</td>
</tr>
<tr>
<td>20 June 2007</td>
<td>Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Vietnam, Lao PDR</td>
<td>ASEAN Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries</td>
</tr>
<tr>
<td>3 November 2010</td>
<td>Lao PDR and Vietnam</td>
<td>MOU on Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking</td>
</tr>
</tbody>
</table>

Lao PDR also has bilateral extradition treaties with Cambodia, Thailand and China, and a mutual legal assistance treaty with Vietnam, which contains provisions on extradition.352

Lao PDR’s Obligations vis-à-vis Thailand

Since Laotians make up the majority of known trafficked victims in Thailand, Lao PDR and Thailand’s bilateral efforts to combat trafficking are particularly relevant. The key obligations under their bilateral memoranda of understanding are set out below:

Table 23: Lao PDR-Thailand Bilateral Memoranda of Understanding on Human Trafficking

MOU Key obligations

**Prevention**
- Preventive measures include creating employment opportunities for women and children through vocational training and education and improving social services for women and children.

**Protection**
- Victims awaiting repatriation shall be afforded justice, legal assistance, legal protection and temporary housing.

**Criminal Justice**
- The countries’ respective law enforcement agencies are to cooperate closely, including in compiling and exchanging information and evidence.
- The countries shall provide each other with the widest mutual legal assistance in trafficking prosecutions.
- The countries shall individually or jointly provide training programmes for their law enforcement agencies.

**Repatriation**
- The MOU sets out a procedure for repatriation, including verification of the residence of victims in the accepting country.
- Each country is to appoint an agency responsible for executing the return of trafficked victims.

**Reintegration**
- Both parties are to undertake measures for victim reintegration, such as vocational training programmes and training of officials concerned with victim reintegration.

**Joint Action**
- A joint working group for joint operations is to be established. Its functions broadly relate to planning, implementing and monitoring actions under the MOU.

351 For more on the specific obligations under the ASEAN MLAT, see UNODC, ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases, August 2010.

b. State Policies Against Exploitation

Sexual Exploitation

Prostitution and the exploitation of prostitution are criminalised under the Penal Law.

Table 24: Statutory Offences: Prostitution

<table>
<thead>
<tr>
<th>Offence</th>
<th>Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engaging in prostitution</td>
<td>Article 131 of the Penal Law</td>
<td>Imprisonment for 3 months to 1 year, or re-education without deprivation of liberty, and a fine of 50,000 to 500,000 Kip</td>
</tr>
<tr>
<td>Assisting or facilitating prostitution</td>
<td>Article 132 of the Penal Law</td>
<td>Imprisonment for 3 months to 1 year, or re-education without deprivation of liberty, and a fine of 500,000 to 1 million Kip</td>
</tr>
<tr>
<td>Generating income through procuring prostitution in any manner</td>
<td>Article 133 of the Penal Law</td>
<td>Imprisonment for 6 months to 3 years and a fine of 5 to 10 million Kip</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Imprisonment for 3 to 5 years and a fine of 10 million to 50 million Kip where procuring occurs as a regular profession, involves the prostitution of female minors, or of a female person under the offender’s guardianship</td>
</tr>
</tbody>
</table>

Liability of Child Prostitutes

Child prostitutes are not expressly excluded from liability under Article 131 of the Penal Law. However, children under 15 years of age at the time of commission of an offence will not be considered an offender.354

For children from 15 to under 18 years of age, their age is a circumstance conducive to the reduction of penal responsibilities.355 In this regard, the Law on the Protection of Children provides that the matter, being an offence punishable by less than 3 years’ imprisonment, need not be referred to court, but can instead be solved by softer forms of punishment, such as warnings, re-education and/or community service work.356 It is not known what the common practice is on this issue.

Commercial Sexual Exploitation of Children

Table 25: Statutory Offences: Commercial Sexual Exploitation of Children

<table>
<thead>
<tr>
<th>Offence</th>
<th>Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Article 89 of the Law on the Protection of Children</td>
<td>Imprisonment for 3 months to 1 year, or re-education without deprivation of liberty, and a fine of 1 million to 2 million Kip where the child is 15 to 18 years of age</td>
</tr>
<tr>
<td>Having sexual relations with a child (defined as any person under 18 years of age) by paying or giving any type of benefit</td>
<td></td>
<td>Imprisonment of 1 to 5 years and a fine of 2 million to 5 million Kip where the child is 12 to 15 years</td>
</tr>
</tbody>
</table>

Lao PDR had an operational National Plan of Action on Commercial Sexual Exploitation of Children for the period 2007 to 2011, which was approved in 2008.

354 Article 7 of the Penal Code and Article 50 of the Law on the Protection of Children.
355 Article 40(1) of the Penal Code.
356 Articles 52 to 54 of the Law on the Protection of Children.
357 Article 2 of the Law on the Protection of Children.
Child Pornography and Obscene Acts

Various acts relating to child pornography are criminalised by the Law on the Protection of Children[^358] and the Penal Law.[^359]

Child Sex Tourism

The Tourism Law imposes duties on tourists and tourism enterprises to comply with national laws,[^360] and prohibits persons from conducting their tourism business in contravention of national laws.[^361] Persons or organisations that violate the Tourism Law’s provisions shall be re-educated, fined, warned, or punished according to the laws, as determined on a case by case basis.[^362] There are no laws specifically criminalising child sex tourism abroad.

Labour Exploitation

Forced labour is prohibited.[^363] Forced labour is defined as “the use of labour where the employee does not voluntarily accept the work assigned, which is inconsistent with the employment contract.”[^364]

The following are some safeguards in the Labour Law against labour exploitation:

<table>
<thead>
<tr>
<th>Safeguard</th>
<th>Provision in Labour Law</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every employee shall have a 6 day work week. Hours of work “should not” exceed 8 hours per day or 48 hours per week.</td>
<td>Article 16</td>
<td>Persons who violate provisions of the Labour Law shall be re-educated, warned, fined, subject to temporary suspension of business, withdrawal of business licence, or brought to court based on the nature of the offence.[^365]</td>
</tr>
<tr>
<td>There are mandatory maximum hours of work (6 hours per day or 36 hours per week) for persons working in certain hazardous conditions, such as work involving exposure to radiation or communicable diseases, dangerous chemicals, in pits, underground tunnels, in abnormally hot or cold places, etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Every employee shall have one day off weekly.</td>
<td>Article 19</td>
<td></td>
</tr>
<tr>
<td>Salary or wages must be paid at least once a month at a fixed time.</td>
<td>Article 49</td>
<td></td>
</tr>
<tr>
<td>Salary or wages for work paid on a per unit of product basis, or hourly work, shall be paid at least twice a month.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Labour Law applies to:

- all employees and employers who carry out activities in production, business or service units in economic and social sectors; and
- persons working under written employment contracts of 3 months or more.[^366]

It does not apply to civil servants, military and police personnel employed in Party or State organisations, the Lao Front for National Construction, and mass organisations.[^367]

[^358]: Under Article 86 of the Law on the Protection of Children, it is a crime to produce, distribute, disseminate, import, export, display or sell magazines, photographs, films, videos, VCDs, DVDs and other items of child pornography. Offenders are subject to imprisonment for 1 to 3 years and a fine of 2 to 6 million Kip.

[^359]: Under Article 136 of the Penal Code, it is a crime to engage in sexual intercourse or expose one’s sexual organs in the presence of members of the public or in any public place. Offenders are subject to imprisonment for 3 months to 1 year, or re-education without deprivation of liberty, and a fine from 50,000 to 200,000 Kip. Under Article 138 of the Penal Code, it is a crime to engage in the widespread production, distribution, or dissemination of pornographic items, magazines, pictures, video cassettes and other materials “contrary to fine traditions.” Offenders are subject to imprisonment for 3 months to 1 year and a fine of 200,000 to 5 million Kip.

[^360]: Articles 47 and 65 of the Tourism Law.

[^361]: Article 66 of the Tourism Law.

[^362]: Article 77 of the Tourism Law.

[^363]: Article 3 of the Labour Law.

[^364]: Article 2 of the Labour Law.

[^365]: Article 75 of the Labour Law.

[^366]: Article 6 of the Labour Law.

[^367]: Article 6 of the Labour Law.
Minimum Wage

The minimum monthly wage was increased with effect from 1 January 2012 from 348,000 Kip (around US$43) to 626,000 Kip (around US$78). Employers are not entitled to set the level of wages or salary of employees lower than the level set by the State. New workers may be placed on probation for up to 30 days (work using physical labour) or 60 days (work involving specialised skills), during which they are entitled to at least 90% of the minimum wage.

Debt Bondage

There do not appear to be any safeguards in the Labour Law against debt bondage, such as provisions prohibiting certain types of deductions from wages or salaries.

Child Labour

<table>
<thead>
<tr>
<th>Safeguard</th>
<th>Statutory Provision</th>
<th>Penalty for breach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employing children below 14 years of age is prohibited.</td>
<td>Article 83 of the Law on the Protection of Children</td>
<td>First-time offenders will be subject to re-education, and repeat offenders to fines or disciplinary sanctions: Articles 83 and 84 of the Law on the Protection of Children.</td>
</tr>
<tr>
<td>Children who are 14 to 18 years of age may be employed, provided that they do not work more than 8 hours per day, and are not employed in sectors involving the performance of heavy work or that are dangerous to their health, including mining, work at places serving alcohol, gambling places, overtime work and night shifts.</td>
<td>Article 41 of the Penal Law</td>
<td>Persons in breach will be fined or subject to disciplinary sanctions: Article 84 of the Law on the Protection of Children. Repeat offenders who employ children in hazardous sectors are subject to imprisonment for 3 months to 1 year and a fine of 1 million to 2 million Kip: Article 87 of the Law on the Protection of Children. If such use of child labour causes death or disability to the child, offenders are subject to imprisonment for 3 to 7 years and a fine of 3 million to 7 million Kip: Article 87 of the Law on the Protection of Children.</td>
</tr>
</tbody>
</table>

Labour Migration

Key requirements imposed by Prime Minister Decrees and Guidelines on the export of Lao workers abroad are:

- labour migrants may not work as (1) unskilled workers such as cleaners, domestic workers and porters, (2) vocations that are inappropriate and incompatible with the Lao tradition, culture and law, such as work in the sex sector, with narcotics or illegal political activities; and (3) dangerous occupations such as open sea fishing, exposure to radioactive radiation etc; and
- for labour migration to Thailand, there must be 3 contracts in place, namely (1) a contract between the Laotian worker and the recruitment agency, (2) a contract between the Thai employer and the Lao recruitment agency, and (3) a contract between the Laotian worker and the Thai employer.

Workers recruited must obtain permits from the Department of Skill Development and Employment Promotion. They must also undergo a health check and a 2-3 hour pre-departure orientation. The orientation covers, among other things, rules and regulations in Thailand, social welfare, healthcare, and channels for sending remittances. The regime regulating recruitment agencies is unclear.

Trafficking

The following are the primary provisions criminalising trafficking in persons:

369 Article 46 of the Labour Law.
370 Article 27 of the Labour Law.
372 Ibid, 27.
Table 28: Statutory Offences: Trafficking in Persons

<table>
<thead>
<tr>
<th>Offence</th>
<th>Provision</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>The recruitment, moving, transfer, harboring, or receipt of any person</td>
<td>Article 134 of the Penal Law</td>
<td>Imprisonment for 5 to 15 years, and fine of 10 million to 100 million</td>
</tr>
<tr>
<td>within or across national borders by means of deception, threats, use</td>
<td></td>
<td>Kip.</td>
</tr>
<tr>
<td>of force, debt bondage or any other means, and using such person in</td>
<td></td>
<td>Imprisonment for 15 to 20 years and fine of more than 100 million</td>
</tr>
<tr>
<td>forced labour, prostitution, pornography, or anything that is</td>
<td></td>
<td>to 500 million Kip and confiscation of property where:</td>
</tr>
<tr>
<td>against the fine traditions of the nation, or removing various body</td>
<td></td>
<td>• trafficking is done as a regular profession or in an organised group</td>
</tr>
<tr>
<td>organs of such person, or for other unlawful purposes.</td>
<td></td>
<td>• the victims are children</td>
</tr>
<tr>
<td>&quot;Statutory trafficking&quot;: Any of the above-mentioned acts committed</td>
<td></td>
<td>• where there are 2 or more victims</td>
</tr>
<tr>
<td>against children under 18 years of age shall be considered as</td>
<td></td>
<td>• where any victim is a close relative of the offender, or</td>
</tr>
<tr>
<td>human trafficking even though there is no deception, threat, use of</td>
<td></td>
<td>• where any victim suffers serious injury or becomes invalid or</td>
</tr>
<tr>
<td>force, or debt bondage.</td>
<td></td>
<td>insane.</td>
</tr>
<tr>
<td>Attempts to do the above are expressly criminalised.</td>
<td></td>
<td>Life imprisonment and fine of more than 500 million to 1 trillion Kip</td>
</tr>
<tr>
<td>There are general provisions that appear to criminalise preparation</td>
<td></td>
<td>and confiscation of property where the offence causes the victim to:</td>
</tr>
<tr>
<td>to commit offences, and complicity in offences.</td>
<td></td>
<td>• become a lifetime invalid</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• be infected with HIV</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• die.</td>
</tr>
<tr>
<td>Trafficking in women and children.</td>
<td>Article 24 (liability) read with Article 49 (penalty) of the Law on the</td>
<td>Imprisonment for 5 to 15 years, and a fine of 10 million to 100 million</td>
</tr>
<tr>
<td>Trafficking in women means &quot;the recruitment, hiding, moving,</td>
<td>Protection of Women</td>
<td>Kip and confiscation of property.</td>
</tr>
<tr>
<td>transportation, transfer, harbouring, or receipt of women, within or</td>
<td></td>
<td>Imprisonment for 15 to 20 years, and a fine of 100 million to 500</td>
</tr>
<tr>
<td>across national borders, by means of deception, the giving or</td>
<td></td>
<td>million Kip and confiscation of property, where:</td>
</tr>
<tr>
<td>receiving of bribes, threats, the use of force, the use of other</td>
<td></td>
<td>• the offenders are organised</td>
</tr>
<tr>
<td>forms of coercion, abduction, debt bondage or by other means, for</td>
<td></td>
<td>• the victims are children (however, the Law on the Protection of</td>
</tr>
<tr>
<td>forced labour, for prostitution, for publishing pornography and what</td>
<td></td>
<td>Children provides for a lesser punishment for trafficking in children,</td>
</tr>
<tr>
<td>is in contradiction to fine national culture, for the removal of</td>
<td></td>
<td>namely imprisonment for 5 to 15 years and a fine of 10 million to 100</td>
</tr>
<tr>
<td>various body parts, or for other unlawful purposes.&quot;</td>
<td></td>
<td>million Kip and confiscation of property.)</td>
</tr>
<tr>
<td>Acts committed against a child under 18 years constitute</td>
<td></td>
<td>• the victims are more than 2 persons</td>
</tr>
<tr>
<td>trafficking even where there is no deception, threat, force, or debt</td>
<td></td>
<td>• the victims are close relatives of the offenders, or</td>
</tr>
<tr>
<td>bondage.</td>
<td></td>
<td>• the victims suffer severe injury or mental insanity.</td>
</tr>
<tr>
<td>Preparation for and attempts to do the above.</td>
<td></td>
<td>Life imprisonment and a fine of 500 million to 1 trillion Kip and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>confiscation of property, or capital punishment, where the offenders</td>
</tr>
<tr>
<td></td>
<td></td>
<td>cause the victim to:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• suffer lifetime incapacitation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• be infected with HIV/AIDS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• die</td>
</tr>
<tr>
<td>Complicity in trafficking: Cooperating with trafficking offenders</td>
<td>Article 100 of the Penal Law</td>
<td>Imprisonment for 4 to 10 years, a fine of 5 million to 50 million Kip,</td>
</tr>
<tr>
<td>whether by incitement, providing assets or vehicles to the offender,</td>
<td></td>
<td>and confiscation of property</td>
</tr>
<tr>
<td>the provision of shelter, or the concealment or removal of traces of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>an infraction.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engaging in the trade and abduction of human beings for ransom, sale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or other purposes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

373 Articles 13 and 17 of the Penal Code.
Article 134 of the Penal Law expressly provides that, where the trafficking offence in question involves women and children, the Law on the Protection of Women can be applied.

The following summarises the differences between the trafficking provision in the Penal Law and that in the Law on the Protection of Women:

**Table 29: Differences Between the Trafficking Provision in the Penal Law and that in the Law on the Protection of Women**

<table>
<thead>
<tr>
<th>Article 134 of the Penal Law</th>
<th>Article 24 of the Law on the Protection of Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes the acts of recruitment, moving, transfer, harboring, or receipt of persons</td>
<td>Includes the additional acts of “hiding” and “transportation.”</td>
</tr>
<tr>
<td>Expressly includes the means of deception, threats, use of force, debt bondage “or any other means”</td>
<td>Expressly includes the additional means of the giving or receiving of bribes, the use of “other means of coercion,” and abduction</td>
</tr>
<tr>
<td>Includes victims who are men</td>
<td>Does not do the same</td>
</tr>
<tr>
<td>Applies to acts committed by Lao citizens overseas, or foreign residents where the case is covered by an international convention</td>
<td></td>
</tr>
</tbody>
</table>

Other provisions under the Penal Law that may be invoked in prosecuting trafficking offences include the offences of misleading people to illegally depart from or enter Lao PDR, exercising duress against a person to the person’s detriment, unlawful arrest and detention, and document fraud.

**National Plan of Action against Human Trafficking**

A draft National Plan of Action (NPA) against trafficking in persons to be implemented from 2007 to 2012 was formulated and approved by the National Assembly. The areas of intervention targeted by the NPA against trafficking in persons were (a) policy and cooperation, (b) prevention, (c) law enforcement, (d) protection, and (e) monitoring and evaluation. To date, however, it has yet to be approved by the Prime Minister’s Office.

**Cross-border Criminal Justice Collaboration**

Cross-border law enforcement and collaboration for that purpose is necessary to combat offences commonly of a cross-border nature, such as child sex tourism and trafficking. The following are national laws that would enhance the achievement of cross-border criminal justice.

**Exterritoriality of Offences**

The Penal Law provisions have extraterritorial effect over Lao citizens who commit Penal Law offences outside the country. Foreigners residing in Lao PDR may also be liable under the Penal Law should the case be covered by international conventions. The Law on the Protection of Women and the Law on the Protection of Children do not, however, provide for extraterritorial application.

**Mutual Legal Assistance and Extradition**

Lao PDR has no specific law on mutual legal assistance or extradition. Relevant provisions are found in Part XI of the Law on Criminal Procedure. In summary:

- International cooperation and judicial assistance shall be conducted in compliance with applicable treaties, and in accordance with national laws.
- Where there is no applicable treaty, international cooperation and judicial assistance shall be conducted on the basis of mutual cooperation, and shall not conflict with national laws.
- Judicial assistance may have the objective of extradition, exchange of prisoners, seizure or sequestration of assets of an accused person or defendant, enforcement of judgment, or cooperation in combating of cross-border crime and others.
- Judicial assistance may be refused where the request is not in conformity with applicable treaties or national laws, or where the provision of such assistance would affect Lao PDR’s sovereignty, security, or stability, or any of its important interests.

No specific offences are stated to be specifically covered by the above provisions on international cooperation and judicial assistance. Requests for mutual legal assistance are...
to be made to the Ministry of Justice, but no requirements for making an extradition request are specified by the laws.

c. Assessment of State Policies against Exploitation

Trafficking

Lao laws aligned with the Trafficking Protocol

National laws against trafficking are said to define human trafficking in a way that generally reflects the internationally accepted definition (presumably the definition in the Trafficking Protocol).

“Trafficking”: distracting from the “real” problem?

It has been said that the Trafficking Protocol’s definition is “irrelevant to deal with the reality of the situation in the [Greater Mekong Sub-region].” The focus on movement rather than exploitation sits uneasily with the fact that the majority of cases involve movement that is largely voluntary, and that ends in exploitation at the destination due to the nature and terms and conditions of work, i.e. a combination of voluntary, albeit irregular/illegal migration, and exploitation.

The practical consequences is that the definition, in emphasising movement rather than the act of exploitation, places the responsibility for addressing trafficking on the sending country, i.e. Lao PDR, which is poorer and less equipped to take action. When categorised as a trafficking instead of an exploitation issue, cases are sent to Lao PDR to deal with. Attention and pressure to take action is shifted away from exploitation in the receiving country, i.e. Thailand, which is better equipped to take preventive and protective action.

Combining the 2 Different Anti-trafficking Prohibitions

At least one NGO has called for an anti-trafficking prohibition that combines the 2 existing anti-trafficking prohibitions found in the Penal Law and the Law on the Development of Women respectively. The former is said to have the desired scope (presumably its coverage of men and extraterritorial effect), while the latter is said to have the desired detail (presumably its inclusion of additional acts and means of trafficking).

Sexual Exploitation

The criminalisation of prostitution has been criticised as increasing the vulnerability of sex workers through contributing to stigma and marginalisation, and influencing whether or not they seek medical help. The fear preventing sex workers from accessing general health care services and reporting situations of abuse has been evidenced in a study.

Domestic Work

Concerns have been raised over the fact that the domestic work sector in Lao PDR, and in labour migration to Thailand, remains unregulated. As mentioned above, domestic work is an area excluded from the formal labour migration channel between Lao PDR and Thailand. There is accordingly no requirement for employment contracts for domestic workers. The lack of regulation hinders domestic workers from obtaining their visas and permits to stay and work legally, and made female domestic workers more vulnerable to exploitation and abuse as they are not recognised as legal workers.

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387 UNFPA, Asia Pacific Regional Office, Socio-Cultural Influences on the reproductive health of migrant women: A review of literature in Cambodia, Lao PDR, Thailand and Viet Nam, December 2011, 33.
3. Implementation and Monitoring

a. Implementing and Monitoring Mechanisms

<table>
<thead>
<tr>
<th>Ministry of Labour and Social Welfare</th>
<th>Office for Child Labour and Assistance for Trafficked Women and Children</th>
<th>A unit devoted to protection of children from trafficking. Also receives and assists returned Lao victims of cross-border trafficking with reintegration.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role includes assisting victims, supporting prevention efforts and research, and negotiating bilateral arrangements with Thailand regarding migration.</td>
<td>Unit devoted to child victims with special needs</td>
<td>Central Office / Central Specialist Unit</td>
</tr>
<tr>
<td></td>
<td>Labour Administration Agency / Labour Inspection Authority</td>
<td>Inspects the implementation of labour laws, female and child labour.</td>
</tr>
<tr>
<td></td>
<td>Anti-Trafficking Division</td>
<td>Mandated to investigate all reported trafficking crimes at the national level. In practice, undertakes more complex or transnational investigations.</td>
</tr>
<tr>
<td></td>
<td>General Police Department</td>
<td>Has representatives from the Lao Women's Union and the Lao Youth Union on the team.</td>
</tr>
<tr>
<td></td>
<td>Ministry of Public Security</td>
<td>Functional as focal points for all trafficking-related issues including investigations. Report to the Central Unit.</td>
</tr>
<tr>
<td></td>
<td>Head of the Lao PDR COMMIT Task Force. Main role is to investigate trafficking cases, collect evidence, and submit cases to the Prosecutors' Office.</td>
<td>6 provincial Anti-Trafficking Units</td>
</tr>
<tr>
<td></td>
<td>The focal point for law enforcement activities against trafficking.</td>
<td>Function as focal points for all trafficking-related issues including investigations. Report to the Central Unit.</td>
</tr>
<tr>
<td></td>
<td>Tourism Police Department</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Works with the Anti-Trafficking Division to investigate incidents of trafficking and commercial sexual exploitation in the tourism sector.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Department of Immigration</td>
<td></td>
</tr>
<tr>
<td>Lao Women's Union</td>
<td>Takes responsibility for human trafficking and reintegration of returnees.</td>
<td></td>
</tr>
<tr>
<td>National Committee against Human Trafficking</td>
<td>An inter-agency mechanism chaired by the (Deputy) Minister of Defence. Comprises high-level representatives of ministries and equivalent bodies. Implements the COMMIT Sub-Regional Plans of Action.</td>
<td></td>
</tr>
<tr>
<td>Ad Hoc Working Group to combat trafficking</td>
<td>Comprises 7 members drawn from various sectors and chaired by the Director of the Social Welfare Department. Reviews bilateral and multilateral cooperation and coordination on trafficking in persons, requests for international aid for activities to combat trafficking in persons and disseminates information on the prevention of trafficking at central and local level.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Working group dedicated to victim identification</td>
<td>Led by the Anti-Trafficking Division, the counselling centre of the LWU, the Department of Social Welfare and the Prosecutor's Office.</td>
</tr>
</tbody>
</table>

---

389 ASEAN, ASEAN Responses to Trafficking in Persons, April 2006, 33.
392 US Department of State, 2008 Human Rights Report: Lao PDR.
393 Articles 71 and 72 of the Labour Law.
395 ASEAN, ASEAN Responses to Trafficking in Persons, April 2006, 33.
397 ASEAN, ASEAN Responses to Trafficking in Persons, April 2006, 33.
398 ASEAN, Progress Report on Criminal Justice Responses to Trafficking in the ASEAN Region, July 2011, 35.
399 ASEAN, ASEAN Responses to Trafficking in Persons. Supplement and Update (2007), 2007, 11. These are established in the provinces of Champassak, Saravan, Savannakhet, Vientiane, Bokeo and Vientiane Municipality, and commenced operations in January 2006: ASEAN, ASEAN Responses to Trafficking in Persons, April 2006, 33.
400 ASEAN, Progress Report on Criminal Justice Responses to Trafficking in the ASEAN Region, July 2011, 35.
404 CEDAW, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports. Lao People’s Democratic Republic, CEDAW/C/Lao/Q/7/Add.1, 22 June 2009, 10; Lao PDR, 2010 National Report for the Universal Periodic Review, 2010, para. 19.
No special police or other law enforcement units have been set up to deal specifically with cases involving child victims of sexual exploitation or violence, as of 2010.\footnote{407}{ CRC, Second Periodic Report of States Parties due in 1998. Lao People’s Democratic Republic, CRC/C/LAO/2, 22 April 2009, para. 157(f).}

National Plans of Action

The National Plan of Action on Commercial Sexual Exploitation of Children (2007 to 2011), approved in 2008, has a limited budget for implementing plans and depends mostly on funding from international sources.\footnote{408}{ CRC, Concluding Observation: Lao People’s Democratic Republic, CRC/C/Lao/CO/2, 8 April 2011, para. 65.} Its impact is unclear.

It is unclear why the National Plan of Action against Human Trafficking (2007 to 2012) has not been approved by the Prime Minister’s Office. Multiple stakeholders, including international NGOs and UN agencies, had been consulted in its drafting, and the UNIAP had provided technical assistance.\footnote{409}{ UNIAP, The COMMIT Sub-Regional Plan of Action. Achievements in Combating Human Trafficking in the Greater Mekong Sub-region, 2005-2007, December 2007, 19.} It was reported that the government was in 2009 finding ways to implement the NPA more effectively,\footnote{410}{ UNIAP, COMMIT 2nd Sub-Regional Plan of Action. Year One. 2008 Annual Report, 7.} The NPA’s monitoring and evaluation component had earlier been lauded as “pioneering” and a good practice.\footnote{411}{ UNIAP, The COMMIT Sub-Regional Plan of Action. Achievements in Combating Human Trafficking in the Greater Mekong Sub-region, 2005-2007, December 2007, 19.}

Bilateral and Regional Implementing and Monitoring Mechanisms

Table 31: Bilateral and Regional Implementing and Monitoring Mechanisms

<table>
<thead>
<tr>
<th>Implementing Mechanisms</th>
<th>Monitoring mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMIT</td>
<td>The national COMMIT Task Force is tasked to monitor progress under the Sub-regional Plans of Action. Monitoring meetings are held under the COMMIT Framework. Achievements and progress were tracked from 2005 to 2008.\footnote{412}{ A 3-year plan of action to implement the 2005 Lao-Thai MOU on trafficking was agreed upon in 2005.\footnote{413}{ UNIAP, The COMMIT Sub-Regional Plan of Action. Achievements in Combating Human Trafficking in the Greater Mekong Sub-region, 2005-2007, December 2007, 19.} A joint taskforce, namely, the Thai-Lao Cross Border Collaboration on Tracing Missing Trafficked Victims in Thailand (THALACC) was established to strengthen linkages between Lao and Thai government officials and improve identification and tracing of victims. It aims to create a more systematic training system in Thailand, through developing a standardised form for reporting information on missing persons and establishing a central database that contains all available information on each missing person case.\footnote{414}{ UNIAP, The COMMIT Sub-Regional Plan of Action. Achievements in Combating Human Trafficking in the Greater Mekong Sub-region, 2005-2007, December 2007; UNIAP, COMMIT 2nd Sub-Regional Plan of Action. Year One. 2008 Annual Report.} The numbers of victims repatriated from Thailand (see below) and successful cases of tracing missing persons under THALACC (28 as at 2007)\footnote{415}{ CEDAW, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic reports, Lao People’s Democratic Republic, CEDAW/C/Lao/Q/7Add.1, 22 June 2009, 11.} have been used as proxy indicators for effectiveness. These numbers have been relatively low.}</td>
</tr>
</tbody>
</table>

2005 Lao-Thai MOU on Cooperation to Combat Trafficking in Persons, Especially Women and Children

2010 Lao-Vietnam MOU on Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking

Implementing and monitoring mechanisms are unclear.
b. Complaints Process

A 24-hour child protection hotline was set up by the Lao National Tourism Police and the Tourism Police in 2009, coinciding with the 25th Southeast Asian Games held in Lao PDR. Apart from that, the existence, accessibility, effectiveness and awareness of avenues by which victims of exploitation and trafficking make reports and lodge complaints are unclear. Such avenues would presumably include the police, Lao embassies, immigration officials, shelters and village mediation units.

Also, apart from the Lao-Thai official repatriation channel, it is not known if there are any official case referral systems in place, whether domestically or for cross-border cases.

Victim Compensation

<table>
<thead>
<tr>
<th>Offence</th>
<th>Availability of victim compensation</th>
</tr>
</thead>
</table>
| Trafficking under the Law on the Protection of Women | • Civil proceedings: Victims of trafficking are entitled under the Law on the Protection of Women to request for compensation. Compensation to trafficked victims for damages such as costs of medical treatment, mental rehabilitation and loss of income, appear mandatory.  
• Criminal proceedings: In criminal proceedings against trafficking offenders, the court may, pursuant to the Law on the Protection of Women, award compensation for damage suffered by victims. Whether this has been done in criminal court cases is unknown. |
| Child labour, child sexual exploitation, including prostitution and statutory rape, and child trafficking, under the Law on the Protection of Children | • Under Article 91 of the Law on the Protection of Children, offenders are obliged to pay compensation for damages such as medical treatment, moral injury, sick leave, travel, food and accommodation and other damages. It is unclear if this applies only when a conviction has been secured |

Civil suits by trafficked victims against their traffickers have reportedly never been filed in practice. Whether civil suits for other forms of exploitation have been brought is unknown.

Legal Assistance

There is no legal provision in national laws for access to legal assistance for trafficked persons who are victim witnesses. Nevertheless, the Lao Bar Association has assisted victims of trafficking through providing legal aid.

Barriers to Accessing Justice

Victims’ access to legal redress is said to be hampered by a lack of resources on the part of victims and the legal community. Victims are not made aware of available legal resources, even if local officials in their areas have received training on human trafficking. They are also not made aware of their rights; there is no easily accessible manual on legal rights, or a central location to access national laws, other than through online portals which are inaccessible to the majority of the population.

Further, victims often do not wish to make complaints as they prefer to be deported; this route of return to Lao PDR is shorter than via the official repatriation procedure for trafficked victims which can take up to 1 year. Delays may be due to ongoing investigations and court cases in Thailand, or obstacles faced in family tracing (which is a mandatory procedure to verify the residence or nationality of the victim before returning her).

418 Article 25 of the Law on the Protection of Women.
419 Article 52 of the Law on the Protection of Women.
420 Article 27 of the Law on the Protection of Women.
421 Article 48 of the Law on the Protection of Women.
422 US State Department, 2011 Trafficking in Persons Report: Lao PDR.
423 ASEAN, Progress Report on Criminal Justice Responses to Trafficking in the ASEAN Region, July 2011, 116.
424 US State Department, 2010 Trafficking in Persons Report: Lao PDR.
425 Ibid.
It has been noted that the common practice of resolving disputes and addressing offences via village mediation units first may have a bearing on the extent to which complaints are pursued. The weak judicial sector may also be a factor.

Rights and Protections During Investigations and Judicial Proceedings

The following rights and protections stated in the Law on the Protection of Women are relevant during investigations and judicial proceedings, and apply only to women and children:

- the right to testify and present evidence relating to the case to concerned officials;
- the right not to be photographed, video-recorded or broadcast;
- confidentiality for victims and witnesses involved in the investigation and prosecution of cases of trafficking in women and children;
- the right to protection and care for personal safety;
- the right to receive suitable assistance in terms of shelter, food, clothing, and medical services;
- during the criminal process, police officers are obliged to cooperate with doctors, social workers and other parties in order to give necessary and urgent assistance, to provide medical treatment and counselling services to the victims and to send them to safe shelter.

However, according to the US State Department, the government reportedly has not provided such protection to victims, despite encouraging them to cooperate in prosecutions.

Access to Justice in Thailand

Under the 2005 Lao-Thai MOU on trafficking, Thailand agreed to afford justice and legal assistance to victims of trafficking awaiting repatriation. Under Thailand’s Anti-Trafficking in Persons Act, victims can claim compensation from the offenders for any damages caused by human trafficking. Whether this entitlement has been or can be invoked by Lao victims of trafficking while in Thailand, to take advantage of Thailand’s arguably stronger judicial system, is not known.

c. Protection and Rehabilitation

Government efforts in this area appear weak. The government relies “almost completely” on NGOs and international organisations to provide victim assistance.

Investigation, Identification and Rescue

National victim identification guidelines have been drafted with support from UN agencies and NGOs. They remain unenforced, however, due to lack of funding and human resources and a lack of government endorsement.

Labour Exploitation

Key reports made no reference to any efforts to investigate and identify cases of forced or child labour and other labour exploitation through raids on factories, etc. or labour inspections.

Victims of Trafficking and Sexual Exploitation in Lao PDR

Raids of nightclubs and other places used as fronts for commercial sex in Lao PDR are limited. Authorities reportedly do not employ screening procedures to identify trafficked victims among persons found in prostitution during these raids.

Trafficing Victims in Thailand

The following table sets out the 2005 to 2010 figures on persons formally identified as victims of trafficking from Lao PDR to Thailand who were repatriated through the official channel between Thailand and Lao PDR.

428 ARCPPT, Gender, Human Trafficking and the Criminal Justice System in Lao PDR, December 2003, revised April 2006, 34.
429 Articles 25, 27 and 28 of the Law on the Protection of Women.
430 US State Department, 2010 Trafficking in Persons Report: Lao PDR.
431 Whether this applies to foreign nationals has not been investigated.

Delphia Lim
The following table compares the numbers of identified victims of trafficking with the total numbers of returnees.

**Table 34: Comparison of Numbers of Identified Victims of Trafficking and the Total Numbers of Returnees**

<table>
<thead>
<tr>
<th>Year</th>
<th>All official returnees</th>
<th>Identified victims of trafficking</th>
<th>Boys</th>
<th>Over 19 years old</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>9750</td>
<td>65</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>2002</td>
<td>11400</td>
<td>76</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>2003</td>
<td>12150</td>
<td>81</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>2004</td>
<td>9600</td>
<td>66</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>2005</td>
<td>27677</td>
<td>245</td>
<td>21</td>
<td>-</td>
</tr>
<tr>
<td>2006</td>
<td>37591</td>
<td>239</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>2007</td>
<td>39905</td>
<td>264</td>
<td>6</td>
<td>39</td>
</tr>
<tr>
<td>2008</td>
<td>27550</td>
<td>235</td>
<td>1</td>
<td>34</td>
</tr>
<tr>
<td>Total</td>
<td>175623</td>
<td>1312</td>
<td>39</td>
<td>73 (499)</td>
</tr>
</tbody>
</table>


According to one NGO report that surveyed a sample of 12 residents at its trafficking shelter in the Vientiane capital, the escape routes of victims of trafficking generally take the course of one of the following scenarios:

- After their escape or rescue, victims approach the police, who send them to the Immigration Detention Centre. Officials then conduct screenings to determine if they are victims of trafficking.
- Victims are arrested for being illegal migrants during police raids on places of prostitution or labour employment, and are then interviewed by the police, assisted by social workers, to determine if they are victims of trafficking.
- Victims arrested in Thailand for being illegal migrants during raids may be sent to Immigration Detention Centres, and thereafter fined and deported to the Thai-Lao border. \[444\]

The identification of victims of trafficking was erstwhile conducted almost exclusively by Thai authorities. Identification efforts by Thai authorities were questionable, particularly as all trafficking victims identified in 2006 were identified in Bangkok, while 4 of the largest Immigration Detention Centres in Thailand outside of Bangkok did not identify any trafficking victims among the 822 illegal migrants deported to Lao PDR that year. \[445\]

In this regard, efforts to identify trafficking victims among those deported from Thailand to Lao PDR are now being made by Lao PDR officials. According to the government, in some groups of deportees, 50 to 100 sex and labour trafficking victims were identified by Lao PDR officials and referred to the police for investigation. \[446\]

**Non-prosecution of Victims**

Women and children identified as trafficking victims are exempted from criminal prosecution for unlawful acts committed as a direct result of trafficking. \[447\] Article 25 of the Law on the Protection of Women provides that victims of trafficking (as defined in the same law) have the right to not be “prosecuted and detained on any charge of trafficking in women and children, prostitution, or illegal immigration.”

The same does not appear to apply to victims of sexual exploitation, who are not regarded as trafficked victims, since engaging in prostitution is an offence. Child prostitutes below 15 years would not be criminally liable, while child prostitutes 15 to 18 years of age may receive reduced punishment (see above).

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\[438\] UNIAP, “SIREN Human Trafficking Datasheet,” March 2008, citing figures from the MLSW.

\[439\] Ibid.

\[440\] Ibid.

\[441\] US State Department, 2010 Trafficking in Persons Report: Lao PDR.

\[442\] UNIAP, Mekong Region Country Datasheets. Human Trafficking. 2010, 15, citing figures from MLSW.

\[443\] US State Department, 2011 Trafficking in Persons Report: Lao PDR.


\[446\] US State Department, 2011 Trafficking in Persons Report: Lao PDR.

\[447\] Ibid.
Rehabilitation and Reintegration

The government and NGOs are hampered in their efforts to provide assistance to victims because of an insufficient number of trained social workers and vocational teachers, too few shelters, the remoteness of many villages, and lack of funds, including for income-generation projects or investment by the returnees. This was noted in relation to trafficking, but may well be of general applicability.

While efforts relating to trafficked survivors have been in the limelight, the adequacy of government efforts to address recovery and reintegration of women who wish to leave prostitution is of concern.

Shelters

There are a number of shelters in the country for vulnerable populations, including victims of trafficking and sexual exploitation. These shelters provide medical and legal assistance, and vocational training. Some may also assist victims in finding employment.

<table>
<thead>
<tr>
<th>Organization</th>
<th>Shelter</th>
<th>Location</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>MLSW</td>
<td>1 transit centre</td>
<td>Vientiane</td>
<td>Accepts only those who have been officially repatriated from Thailand, but also reportedly receives victims referred by local law enforcement officials from domestic cases. Medical checkups are undertaken.</td>
</tr>
<tr>
<td>2 small repatriation assistance centres</td>
<td>2 small repatriation assistance centres (run with the support of IOM)</td>
<td>Vientiane</td>
<td>The effectiveness of these centres is limited, reportedly due to their small budget, inadequate international assistance, and a lack of trained personnel.</td>
</tr>
<tr>
<td>Village Focus International (supervised by the Ministry of Education)</td>
<td>1 shelter</td>
<td>Champasak</td>
<td>Receives domestic violence and trafficking victims. In 2009 to 2010, 84 trafficking survivors were referred to the Shelter.</td>
</tr>
<tr>
<td>Lao Women’s Union</td>
<td>Counseling and Protection Center for Women and Children</td>
<td>Vientiane</td>
<td>Receives women and children who are victims of domestic violence, exploitation and trafficking.</td>
</tr>
<tr>
<td>Acting for Women in Distressing Situations (AFESIP)</td>
<td>2 rehabilitation centres</td>
<td>1 in Vientiane (in collaboration with the MLSW), 1 in Savannakhet</td>
<td>For women and girls who are victims of sex trafficking. The Savannakhet centre gives direct victim support to up to 40 residents at one time through secure and protected accommodation, on-site juridical, social, psychological and medical services and vocational training. The Vientiane centre can accommodate up to 16 residents.</td>
</tr>
</tbody>
</table>

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The IOM has recommended that walk-in centres or other outreach mechanisms be established in cities/provinces such as Vientiane, Savannakhet and Champasak, so that survivors of trafficking or exploitation who have returned on their own can seek assistance and reintegration support.462

Challenges in Reintegration / Re-victimisation

The extent to which survivors of trafficking and exploitation, particularly sexual exploitation, are able to find gainful employment within Lao PDR is unclear. The extent to which the skills learnt during their vocational training at shelters prove useful to survivors’ reintegration is also unclear. It has been said that opportunities to use these skills are more common and lucrative in Thailand.463 Survivors then migrate again to Thailand, where they may be re-victimised.

Indeed, police have reported that persons caught once have been caught again for illegal immigration.464 The repeated illegal migration attempts, despite previous bad experiences may be explained by a number of other push factors:

- Stigmatisation465
- There is a view that each migration experience is a matter of luck, and despite previous bad experiences, the next trip might turn out differently.466
- Villages may also appear too small and backward to one who has been in Thailand.467

Survivors who were illegal migrants may also have to deal with criminal penalties. Fines are commonly imposed by village leaders on persons who have migrated illegally, which especially impacts those with no savings.468

Deportees from Thailand, who may be unidentified trafficked survivors, have been fined and/or imprisoned by local authorities in the districts they return to.469 Fines may be large, ranging from 700,000 to 1,000,000 Kip.470

Trafficked Survivors from Thailand

Survivors of trafficking identified in Thailand are provided with medical care, counselling and vocational training. Before they are repatriated, family tracing is conducted in Lao PDR, presumably to verify that the survivors are nationals or residents of Lao PDR. Family assessments are also conducted to determine whether reunification with the family should take place.471

Most returns are through the Nong Khai-Vientiane border to the transit centre in Vientiane. The IOM has called for the development of a return process directly to the southern provinces, rather than through Vientiane, as the majority of trafficking victims come from these provinces.472

Returnees typically spend a few days at the transit centre, before being returned home to be reunited with their families. Should they not wish to return, or the family assessment is not positive, the returnee may stay in another shelter, such as the LWU and AFESIP shelters, until other arrangements can be made.473 Some shelters allow stays for up to 1 year.474

There is no systematic way or any guidelines for developing reintegration plans for returnees. Some NGOs are of the view that the lack of uniformity is offset by flexibility. According to the IOM, follow-up on the survivor takes place for 6 to 12 months after reintegration.475

465 Ibid, 49.
d. Prevention Measures

Prevention activities, such as campaigns and education, are implemented mostly in source areas for trafficking, mainly along the Mekong River towards Thailand. Whether law enforcement efforts are also concentrated in specific locales is unclear.

The government continues to be largely dependent on the international donor community to fund anti-trafficking activities.

Law Enforcement in Lao PDR

Anti-commercial Sex Operations

Efforts by the government to reduce demand for commercial sex acts, e.g. through periodic raids of nightclubs and discos used as fronts for commercial sex are reportedly limited, or non-existent.

Trafficking Prosecutions

The following table sets out numbers of recent trafficking cases investigated and trafficking convictions:

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Investigated</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>38</td>
<td>15</td>
</tr>
<tr>
<td>2009</td>
<td>50</td>
<td>4</td>
</tr>
<tr>
<td>2010</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>48</td>
<td>33</td>
</tr>
</tbody>
</table>

The sources do not indicate whether these cases involved cross-border or internal trafficking, or the type of exploitation involved.

Law Enforcement Mechanisms

Standard Operating Procedures for the Anti-Trafficking Division are being completed. There are also guidelines for tourism police to ensure consistent enforcement of trafficking, sexual exploitation and tourism laws.

The following areas for improvement in respect of law enforcement mechanisms have been identified:

- Inter-agency networking and cooperation. The extent to which the units regularly consult with local colleagues and other multi-agency partners, especially those delivering victims support, is unclear. There are no formal arrangements regarding cooperation between police, prosecutors and victim support agencies in cases not involving the Anti-Trafficking Division. It has however been reported that the Anti-Trafficking Division “draws on expertise” from the Prosecutor’s Office, the police and victim support agencies.
- Covert operations. The Anti-Trafficking Division and Units are not empowered to conduct surveillance and undercover operations.

Law Enforcement Training and Capacity-Building

Efforts to train law enforcement officers appear substantial. Also, regional actors, such as ARTIP and the ARCPPT, and

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478 Ibid.
480 Ibid.
481 US State Department, Trafficking in Persons Report 2011: Lao PDR.
482 Convictions refer to those made during the reporting period for the US TIP reports.
483 US State Department, Trafficking in Persons Report 2009: Lao PDR.
484 Ibid.
485 Ibid.
486 Ibid.
the Royal Thai police have been involved in delivering or funding training courses.

Table 37: Examples of Law Enforcement Training Efforts

<table>
<thead>
<tr>
<th>Examples of Training Efforts</th>
</tr>
</thead>
<tbody>
<tr>
<td>• In 2009, trafficking case analysis workshops were held for prosecutors, judges and police officers in 2009.</td>
</tr>
<tr>
<td>• In 2007, intensive workshops were conducted for judges, prosecutors, lawyers, law enforcement and ministry officials examining national legislation applicable to the crime of human trafficking.</td>
</tr>
<tr>
<td>• Law enforcement officers throughout the country have had the benefit of courses under the ASEAN Training Program on Trafficking in Persons for Front Line Law Enforcement Officials.</td>
</tr>
<tr>
<td>• Anti-Trafficking Division officers have participated in training designed specifically for the police and delivered by police trainers funded by the ARCPPT, e.g. the Human Trafficking Investigation Course, which includes training in the use of reactive investigative techniques while protecting victims’ human rights.</td>
</tr>
<tr>
<td>• Anti-trafficking training courses have been organised by the ARTIP Project for the Anti-Trafficking Units, front line law enforcement and legal officers.</td>
</tr>
<tr>
<td>• The UNODC and the Royal Thai Police Department have each been involved in efforts to train local trainers, and conducting investigative skills courses.</td>
</tr>
</tbody>
</table>

A National Training Manual on human trafficking for front-line counter-trafficking officers is being developed. A training curriculum based on the ASEAN Training Program on Trafficking in Persons for Front Line Law Enforcement Officials has been developed or is being finalised, to provide all new police recruits with a basic understanding of the crime of trafficking in persons and the core elements of an effective front line response.

Cross-border Law Enforcement Collaboration

There have been intelligence exchanges on trafficking-related cases by the Anti-Trafficking Division, particularly with Thailand. Border liaison posts have been established at the China/Lao border areas to facilitate police cooperation on human trafficking cases between the 2 countries.

Pursuant to the 2005 Lao-Thai MOU on trafficking, meetings have been held to strengthen bilateral cooperation, and workshops and case management meetings held to exchange information and experiences on human trafficking.

Challenges in Law Enforcement

The following have been identified as key impediments of the government’s ability to combat trafficking in persons:

- A “severe” lack of resources. Further, the task of capturing traffickers is difficult in itself; the long border between Lao PDR and Thailand makes it difficult to police. This criticism was made despite ongoing efforts to train law enforcement officials. One practical consequence of poor training is that officials are unable to distinguish between a case of illegal migration and one of trafficking, and consequently fine trafficking victims for illegal migration instead of pursuing investigations into trafficking.
- An ongoing corruption problem. Observers of trafficking believe that some public officials, particularly at local levels, are involved in facilitating human trafficking, sometimes in collusion with their Thai counterparts. There is evidence that border officials permit smuggling of all kinds, including of humans. Impunity of corrupt government officials remains a

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problem. The government has never administratively or criminally punished any public official for complicity in trafficking in persons.\textsuperscript{511} 

- A weak judicial sector and the population’s general distrust of the court system.\textsuperscript{512} Judicial proceedings reportedly lack due process and transparency, and the judicial system remains weak and inefficient.\textsuperscript{513} The public’s reluctance to use the court system hampers the government’s ability to effectively pursue trafficking cases.\textsuperscript{514}

Combating Exploitation in the Destination Country

It has been pointed out that the majority of migrants are not delivered directly by traffickers to situations of exploitation but tend to be unwitting self-recruits once across the border, hence the true and much larger problem is the practice of exploitation by some Thai employers.\textsuperscript{515} In this regard, law enforcement efforts against exploitation in Thailand, being the main destination country, play a significant role in prevention.

Deterring Illegal Migration

Illegal migrants are punished with heavy fines and detention in immigration and correctional centres on both the Thai and Lao sides. This has reportedly failed to discourage illegal migration, and has only contributed to additional burdens on migrants and their families,\textsuperscript{516} as well as re-victimisation.

Promoting Safe Migration

Interviews with NGOs conducting trafficking projects in Lao PDR reveal that the prevailing view is that migration is a positive phenomenon, as it is a way for individuals, families and communities to improve their conditions. Safe migration, rather than preventing migration, has recently been described as a “standard package” for all anti-trafficking interventions.\textsuperscript{517}

There are efforts to support the continued implementation and improvement of legal labour recruitment channels within the framework of the Lao-Thai MOU on labour cooperation.\textsuperscript{518} However, long waits of 3 to 8 months, and in some cases, even 1 year, for job placements, and high recruitment fees that take approximately 10 to 12 months to pay off, are deterrents against using the legal channel.\textsuperscript{519} Moreover, the formal channel does not guarantee safety. Formal contracts bind workers even where the job is not what the worker was promised.\textsuperscript{520}

Further, awareness of how legal channels work may be low. In a 2006 awareness survey, around 60% of respondents were aware that there were employment centres where prospective migrant workers to Thailand could register, but only half knew where they were located.\textsuperscript{521}

With foreign funding and UNIAP’s cooperation, efforts have also been made to publicise the dangers of trafficking, and explain the harmful consequences and risks of illegally looking for work abroad.\textsuperscript{522}

Social networks

This “information, education and communication” approach to promoting safe migration, while worthwhile, may however be missing an important aspect of prevention: the formation of social networks. This has been highlighted as the most effective defence against trafficking, due to the fact that the exploitation occurs usually only at the end of a victim’s voluntary migration.

\textsuperscript{511}Ibid.  

\textsuperscript{512}Ibid.  

\textsuperscript{513}Ibid.  

\textsuperscript{514}Ibid.  

\textsuperscript{515}James Haughton, \textit{Situational Analysis of Human Trafficking in the Lao PDR. With an emphasis on Savannakhet}, World Vision Lao PDR, 2006, 45.  


\textsuperscript{519}IOM, \textit{An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers}, 2008, 21, 27, 53.


\textsuperscript{521}Lucy O’Connor, People Trafficking Baseline Awareness Survey in Three Lao Provinces, ILO, December 2006.


\textsuperscript{519}IOM, \textit{An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers}, 2008, 21, 27, 53.  


\textsuperscript{521}Lucy O’Connor, \textit{People Trafficking Baseline Awareness Survey in Three Lao Provinces}, ILO, December 2006.  


These social networks refer to networks of friends, family and fellow community members who have migrated previously, who know how to cross to Thailand, and who have established relationships with non-exploitative employers across the border. Research has found cases of villages with high rates of migration, but no incidences of trafficking, because the migrants have formed an effective network of information and recruitment. Conversely, traffickers are free to operate and take advantage of weaknesses in villages with only limited pre-existing networks, where would-be migrants are obliged to place themselves in the hands of agents.523

Promoting social networks could be done through community building exercises, as well as providing access to cheap mobile phones.524 Key reports however make no specific mention of such projects by the government to promote the formation of such social networks.525

Creation of Employment

Initiatives to alleviate poverty and create employment locally attempt to mitigate the “push” factors for migration. The government has, with the assistance of ILO-IPEC, given grants to villagers to help them generate additional income.526 Poverty alleviation projects, using micro-credit schemes, are also noteworthy.527 One project, in collaboration with the Consortium of World Education and World Learning, has reportedly provided employment to 1,100 young people at risk of illegal migration and trafficking in 2 districts in Vientiane.528

However, NGO officers in Lao PDR have described such measures, including education, micro-credits and alternative crops, as futile in combating trafficking. “Pull” factors are recognised as the stronger motivators for migration, and “push” factors as having a weaker impact.529

Anti-trafficking efforts now generally assume that people will migrate.529

Strengthening the Labour Regime

In February 2012, Lao PDR signed its first Decent Work Country Programme (DWCP). The DWCP has 4 priorities: promoting employment and skills development to support more equitable growth and poverty reduction; improving labour market governance; improving and expanding social protection; and improving the capacity of constituents and strengthening social dialogue. Linked to these four priorities are 15 specific outcomes, including rural employment, skills development, child labour, social protection, migration, gender, occupational safety and health, and support for labour-related policy and legal frameworks.530

The expansion of technical and trade related education in the new Savannakhet Economic Zone has been recommended, to prevent a “race to the bottom” to provide cheap and unprotected labour. Key reports however make no mention of such efforts.531 A Skilled Workforce Development centre was set up in Vientiane, in collaboration with the Consortium of World Education and World Learning, which was funded by the US State Department. This was set up to stem illegal migration to Thailand.532

Public Awareness and Education

Trafficking

The MLSW has engaged in continuing efforts, in collaboration with UNICEF and other NGOs, to raise public awareness on the risks of trafficking.533 Campaign

523 James Haughton, Situational Analysis of Human Trafficking in the Lao PDR. With an emphasis on Savannakhet, World Vision Lao PDR, 2006, 45.
524 Ibid, 46, 49.
525 These are the government’s reports to the CEDAW Committee, the CRC Committee, the said Committees’ concluding observations, the US State Department Trafficking in Persons reports, and progress reports under the COMMIT Sub-regional Plans of Action.
531 These are the government’s reports to the CEDAW Committee, the CRC Committee, the said Committees’ concluding observations, the US State Department Trafficking in Persons reports, and progress reports under the COMMIT Sub-regional Plans of Action.
533 US State Department, Trafficking in Persons Report 2011: Lao PDR.
In a 2006 awareness survey in 3 Lao PDR provinces, more than 75% of respondents were familiar with the Lao-language term for human trafficking, although understanding of the issue varied. Most respondents had seen or heard media reports about human trafficking and migration.

Child Sex Exploitation

The Lao National Tourism Administration ran a child safe tourism campaign during the 2009 Southeast Asian Games. Tourism-sector employees, including taxi drivers, were trained on how to report suspicious behavior relating to child sex tourism and child sexual exploitation. A national radio campaign was run from 2009 to April 2010 to raise awareness about human trafficking, safe migration and child rights.

4. Role of Non-State Actors

Lao PDR is heavily reliant on the funding, expertise and efforts of international non-State actors, which have made substantial contributions in the country.

a. Assistance to Victims

The following is a snapshot of ongoing efforts by non-State actors to assist victims of exploitation and trafficking:

Table 38: Ongoing Efforts by Non-State Actors to Assist Victims of Exploitation and Trafficking

<table>
<thead>
<tr>
<th>Area</th>
<th>Type of effort</th>
<th>Details / Service Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outreach and Protection</td>
<td>Outreach to prostitutes and victims of sex trafficking and exploitation</td>
<td>An AFESIP outreach social team regularly visits the entertainment sector, transportation areas (such as bus stations and boat piers) and villages at risk to identify victims and provide exit strategies. Efforts are focused in Vientiane, Savannakhet and Champassak provinces and other provinces in the north including Udomxay, Luang Namtha, Bokeo, Xieng Khuang.</td>
</tr>
<tr>
<td>Protection against trafficking and exploitation of children and youth</td>
<td>Protection against trafficking and exploitation of children and youth</td>
<td>World Vision’s Voices of Victims Project in Savannakhet has established child and youth protection committees, with watchdog volunteers and a referral network. Child Protection Units were set up by Village Focus International in 30 villages in Lao Ngam District, Salavan Province.</td>
</tr>
<tr>
<td>Shelters (Rehabilitation and Reintegration)</td>
<td>2 AFESIP-run shelters in Vientiane and Savannakhet respectively</td>
<td>Provides healthcare, psychological and counselling services and vocational training</td>
</tr>
<tr>
<td></td>
<td>1 Village Focus International-run shelter in Champasak</td>
<td>Provides health and psychological care, vocational training, job placement, etc., as well as village outreach program focusing on youth empowerment and prevention. Main beneficiaries include ethnic minority women and youth, who are survivors of trafficking and domestic violence or potential victims of trafficking.</td>
</tr>
<tr>
<td></td>
<td>1 Village Focus International-run Drop-In Centre</td>
<td></td>
</tr>
</tbody>
</table>

534 US Department of State, 2008 Human Rights Report: Lao PDR.
535 US State Department, Trafficking in Persons Report 2011: Lao PDR.
536 Lucy O’Connor, People Trafficking Baseline Awareness Survey in Three Lao Provinces, ILO, December 2006.
538 US Department of State, 2008 Human Rights Report: Lao PDR.
b. Prevention Programmes

The following is a snapshot of ongoing efforts by non-State actors to prevent exploitation and trafficking:

Table 39: Ongoing Efforts by Non-State Actors to Prevent Exploitation

<table>
<thead>
<tr>
<th>Issue Type of effort</th>
<th>Details / Service Providers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour in migration</td>
<td>TRIANGLE (Tripartite Action to Protect Migrants in the Greater Mekong Sub-region from Labour Exploitation) project, which aims to reduce the exploitation of labour migrants by contributing to the development of legal and safe recruitment channels and improved labour protection mechanisms (ILO)</td>
</tr>
<tr>
<td>Promoting Safe Migration</td>
<td>Migrant Advice Centre in Savannakhet (World Vision)</td>
</tr>
<tr>
<td>Other forms of Reintegration</td>
<td>AFESIP (also runs a fair trade social enterprise in Vientiane to train and generate income for victims of trafficking and sexual exploitation). Village Focus International (in Savannakhet)</td>
</tr>
<tr>
<td>Funding for business startups by victims</td>
<td>AFESIP (Vientiane and Savannakhet), Village Focus International (small business loans, in Champasak)</td>
</tr>
<tr>
<td>Family tracing, and family assessment</td>
<td>LWU, AFESIP</td>
</tr>
</tbody>
</table>

Research

As evidenced by the bibliography at the end of this report, research by non-State actors to investigate and understand various aspects of issues of exploitation and trafficking affecting Lao PDR have been fairly substantial.

### c. Monitoring and Collaboration

**Collaboration with the government:** The government restricts the activities of NGOs, which has reportedly impeded progress in anti-trafficking efforts. For instance, according to a US embassy cable leaked via WikiLeaks, the implementation of World Vision's Voices of Victims project in Savannakhet was stalled due to lengthy negotiations with the government over the memorandum of understanding.

Collaboration with other non-State actors: Various NGOs and UN agencies have collaborated on research, capacity-building and awareness-raising projects. However, in 2009 interviews with NGO officers, repeated references were made to project overlaps and report/manual replication. Efforts to coordinate the sector were seen as insufficient and described as “halfhearted” or “ineffective”. An unwillingness to exchange information among NGOs was attributed to the perceived need to safeguard project funding from donors.

### 5. Progress Indicators and Challenges

Lao PDR's progress is difficult to gauge, perhaps indicating a need for more monitoring and evaluation. Lao PDR's National Plan of Action on commercial sexual exploitation of children was implemented, but faced resource constraints. Its effectiveness is unclear. Capacity-building

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563 US State Department, Trafficking in Persons Report 2011: Lao PDR.


measures for authorities, such as trainings, seminars and workshops, have been substantial, but whether their effect is felt on the ground is not known.

Plans to implement a National Plan of Action on human trafficking, victim protection guidelines and standard operating procedures have been initiated and developed, but have yet to come to fruition. The National Plan of Action against trafficking has been finalised and is simply awaiting government approval. Projects by non-State actors have reportedly been delayed due to negotiations with the government.

Efforts by non-State actors have been vigorous and seek to make up for the lack of State capacity and infrastructure. The inevitable drawback to non-State efforts is the lack of overall oversight and planning. With the myriad efforts to combat exploitation and trafficking in Lao PDR taking place simultaneously and at national and regional levels, a database tracking the various projects and programmes, and their locations, would be useful to avoid duplication of efforts, and to identify areas with unmet needs.
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For further information about HRRC:

**Human Rights Resource Centre**
University of Indonesia - Depok Campus
Guest House Complex (next to Gedung Vokasi)
Depok Indonesia 16424
Phone/Fax : (62 21) 786 6720
Email: info@hrrca.org
Web: www.hrrca.org