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# Linking National Legal Systems with the International Human Rights Framework:

Lessons from the International Law  
Project in Lao PDR

United Nations Development Programme

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# **Linking National Legal Systems with the International Human Rights Framework:**

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Project in Lao PDR

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**United Nations Development Programme**

Professor Chris Sidoti

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# ABBREVIATIONS

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<b>ASEAN</b>	Association of South East Asian Nations
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CERD</b>	Convention on the Elimination of all Forms of Racial Discrimination
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CPAP</b>	Country Programme Action Plan
<b>CSO</b>	Civil society organization
<b>HRC</b>	(United Nations) Human Rights Council
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILP</b>	International Law Project
<b>Lao PDR</b>	Lao People's Democratic Republic
<b>LDPA</b>	Lao Disabled People's Association
<b>LSMP</b>	Legal Sector Master Plan
<b>MoFA</b>	Ministry of Foreign Affairs
<b>MoJ</b>	Ministry of Justice
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>SELNA</b>	Support to an Effective Lao National Assembly project
<b>TMB</b>	Treaty Monitoring Bodies
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UPR</b>	Universal Periodic Review (of the United Nations Human Rights Council)

# FOREWORD

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Lao PDR has been making significant strides in its transition from a centralized planned economy to a market-oriented system over the past two decades. Establishing a coherent and transparent legal system to support this socio-economic transition is of critical importance. This will help to guarantee basic human rights and to ensure a stable and reliable environment for economic development and investments in the country.

The Ministry of Foreign Affairs and United Nations Development Programme (UNDP) launched the International Law Project (the Project) in 2001, with generous financial support from the Government of Finland and the European Union. The Project's ultimate goal is to assist Lao PDR in establishing a rule of law state, with national legislation and enforcement mechanisms aligned with international legal obligations, including universal human rights and relevant international instruments. This will ultimately further the country's integration and active participation within the international community.

Lao PDR has made significant progress in engaging with international law. The country is now party to 6 of the 9 core human rights treaties; and for the first time underwent the Universal Periodic Review (UPR) of the implementation of its human rights obligations before the Human Rights Council in Geneva in May 2010. National capacities to understand and implement human rights obligations have significantly increased as has the country's engagement with the Office of the High Commissioner for Human Rights. The project has been at the center of the country's activities in international human rights process.

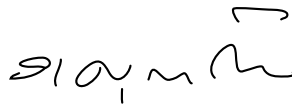
As a UNDP initiative that is implemented by the Ministry of Foreign Affairs and co-funded by our development partners, the project is well positioned and serves as a focal point for the delivery of assistance to Lao PDR in international law generally and in the field of human rights in particular. The work of the Project highlights the significance of international law in the everyday experience of Lao PDR. In today's fast-paced global environment, all nations, however big or small, are interlinked. This is especially true for Lao PDR in its effort to turn from a land-locked to a land-linked country. Lao PDR's engagement with the international legal system facilitated by the Project complements the

nation's strategic plans for poverty reduction and achieving national development goals, including the Millennium Development Goals (MDGs) by 2015 and graduation from Least Developed Country status by 2020.

In many respects this report is as much about the positive achievements of Lao PDR in international law as it is about the many challenges that confront the country. The report also highlights lessons learnt and how best we can translate these to promote respect for human rights, which lies at the core of the United Nations' mandate and serves as a foundation for Lao PDR's commitments to international law.



Minh Pham  
UNDP Lao PDR  
Resident Representative



Alounke Kittikhoun  
Ministry of Foreign Affairs  
Vice Minister

# EXECUTIVE SUMMARY

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The International Law Project (ILP) is a United Nations Development Programme project implemented by the Department of Treaties and Law at the Ministry of Foreign Affairs of Lao PDR through a project team located within the Ministry. UNDP, the Government of Finland, and the European Union provide the funding. The ILP seeks to strengthen Lao PDR's engagement with and participation in the international legal system, particularly the international human rights system, through assisting treaty ratification and implementation. This includes compliance with reporting obligations and education and training in international law, particularly international human rights and humanitarian law.

The project is now in its third phase, signifying a long-term commitment to strengthening Lao PDR's observance of international law. In Phase I (2001 to 2005) Lao PDR's capacities were developed to negotiate, sign, ratify and monitor international legal instruments effectively. Phase II (2005 to 2008) focused on harmonization of the domestic legal framework with the Lao PDR's international legal obligations, treaty implementation and international reporting. Phase III (2009 to 2012) seeks to enhance the participation of the Lao PDR in the international legal system by accelerating capacity development for the implementation of international treaty and human rights obligations. It has an estimated budget of USD 3.8 million for Phase III of four years.

The ILP has experienced many successes over the years. The Lao PDR has ratified almost all the core human rights treaties and is well advanced in meeting all of its reporting obligations. It has also ratified significant treaties dealing with corruption, trafficking and labour rights. It has participated in the United Nations Human Rights Council's Universal Periodic Review. During the first two years of Phase III, the ILP conducted 59 training activities over 177 days, training 3,000 people. It has promoted formal tertiary education in international law. It has involved professional organisations of lawyers and academic and research centres and has reached out to vulnerable and marginalised groups, especially to women and people with disability.

The ILP is a good example of what can be accomplished in strengthening observance of the international rule of law through a cooperative endeavour. The project's international supporters have made a long-term commitment, with expertise and adequate resources. The Government of Lao PDR has shared that commitment and contributed personnel, facilities and participants to project activities, as part of its plan to become a society that is fully governed by the rule of law by 2020.

This case study is a joint publication of UNDP Lao PDR and the UNDP Asia Pacific Regional Centre with the support of the UNDP Global Human Rights Strengthening Programme and the UNDP Asia Regional Governance Programme. It reviews the ILP and describes its successes and challenges. It makes findings and recommendations for its continued successful implementation. It also offers ten "lessons learned". These lessons can assist other states and other international agencies to develop and implement their own programs to strengthen observance of international law and engagement in the international legal system.

# INTRODUCTION

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## Purpose, objective and scope of the review

This case study is the result of a review of the International Law Project in the Lao People's Democratic Republic. Its principal purpose is to enable the lessons learned from the ILP to become more broadly known to ensure more effective work for the promotion of rights and justice.

The ILP is a UNDP project implemented by the Department of Treaties and Law in Lao PDR's Ministry of Foreign Affairs through a project team located within the Ministry. UNDP, the Government of Finland, and the European Union provide the funding. The project is now in its third phase, signifying a long term commitment to strengthening Lao PDR's observance of international law.

The review examined the project's achievements with a view to identifying those elements in the project that contribute to its effectiveness and could provide a basis for future learning, adaptation and application in Lao PDR and elsewhere. It was carried out between November 2010 and April 2011, at the mid-point in the implementation of the four-year Phase III of the ILP. It was not an evaluation.

## Methodology

The review has been undertaken in three stages: review of documents, interviews with project personnel and key stakeholders, and analysis.

The document review included all the key project documents, including plans, reports of project activities, draft and final State reports to international human rights mechanisms, programs for training courses and workshops, newsletters, and other relevant materials.<sup>1</sup>

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1 A full list of documents reviewed is contained in Annex 1.

The interviewees included government officials, UNDP Country Office staff, ILP staff and consultants, donor representatives, representatives of the Lao Disabled People's Association, the Lao Bar Association, and others.<sup>2</sup>

The analytical stage involved cross checking information in reports and interviews, isolating factors that either aided or impeded implementation of the project, identifying the connections among those factors and the impact of the external environment, and identifying positive and negative experiences (the "lessons learned") that could assist the development and implementation of similar projects in Lao PDR itself and in other states.

## The Lao People's Democratic Republic<sup>3</sup>

Lao PDR was established in 1975 at the conclusion of the second Indo-China War, following almost two centuries of foreign domination and colonialism. It is a landlocked country in Southeast Asia and shares borders with five other countries: the People's Republic of China, the Kingdom of Cambodia, the Socialist Republic of Vietnam, the Kingdom of Thailand and the Union of Myanmar. It has a population of about 6 million from 49 ethnic groups. Two-thirds of the population is Buddhist and almost a third animist, with small populations of Christians and Muslims. It is one of the least economically developed countries, with an annual per capita gross national income of USD 2,321. However, it is considered a medium human development country, ranking 122 of 169 countries in the UNDP World Development Index for 2010.<sup>4</sup> In 1986 it began a transition to a market economy and to a rule of law based society.

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2 A full list of persons interviewed is contained in Annex 2.

3 Unless otherwise stated, information in this section is taken from the Lao PDR national report to the Human Rights Council Universal Periodic Review, 22 February 2010, document A/HRC/WG.6/8/LAO/1. It can be accessed at [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=99&su=105](http://ap.ohchr.org/documents/dpage_e.aspx?c=99&su=105) (last accessed 15 April 2011).

4 UNDP Human Development Reports 2010 at <http://hdrstats.undp.org/en/countries/profiles/LAO.html> (last accessed 15 April 2011).

“Lao PDR is currently making significant strides in transition from a centralized planned state to a market system economy. As an essential foundation for its economic development, the state places high priority on establishing the Rule of Law to support the socio-economic transition. The Government also attaches high importance to its membership within ASEAN and to its standing among the global community as it aspires to become a “Rule of Law” state with national legislation and enforcement progressively being aligned with international legal obligations, including universal human rights standards.”

ILP Phase III Project Document<sup>5</sup>

Lao PDR adopted its first Constitution in 1991 and amended it in 2003 “in order to meet the needs of the socio-economic development, as well as regional and international cooperation and integration”.<sup>6</sup> The Constitution establishes the National Assembly, the Government, the People’s Courts and the Office of the People’s Prosecutor. It provides that the Lao People’s Revolutionary Party is the “leading nucleus” of the State.<sup>7</sup> The National Assembly and other state organs are established and function in accordance with the principle of democratic centralism.<sup>8</sup>

The National Assembly is the supreme organ of state power. The legislative branch, has powers to make decisions on fundamental issues of the country and to oversee the activities of the executive organs, the People’s Courts and the offices of the People’s Prosecutor. Members of the National Assembly are elected “through the principles of universal, equal and direct suffrage and secret balloting.”<sup>9</sup>

The Government of Lao PDR has 18 Ministries and 3 Ministry-equivalent organizations. The local administration is composed of 17 provinces and the capital city of Vientiane, together which breaks down into 143 districts and 8955 villages.

5 ILP Phase III Project Document p 7.

6 Lao PDR national report to the Human Rights Council Universal Periodic Review, 22 February 2010, document A/HRC/WG.6/8/LAO/1, p 3, at [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=99&su=105](http://ap.ohchr.org/documents/dpage_e.aspx?c=99&su=105) (last accessed 15 April 2011).

7 Constitution of the Lao PDR Article 3.

8 Constitution of the Lao PDR Article 5.

9 Constitution of the Lao PDR Article 4.

The People’s Courts constitute the judicial branch of the State, consisting of the People’s Supreme Court, regional courts, provincial courts, district courts, and the military courts.

The office of the People’s Prosecutor consists of the offices of the Supreme People’s Prosecutor, regional, provincial and district prosecutors, and military prosecutors. It monitors and supervises the correct and uniform implementation of laws and regulations.

In addition to the formal State organs, Lao PDR has a number of “mass organizations,” such as the Lao Front for National Construction, the Lao Federation of Trade Unions, the Lao People’s Revolutionary Youth Union, the Lao Women’s Union, and the Federation of Military Veterans.<sup>10</sup> It has an incipient but developing civil society sector, with organizations, for example, for lawyers and for people with disabilities. At this stage they remain state controlled organizations.

Chapter IV of the Constitution deals with the fundamental rights and obligations of citizens. It provides recognition of a number of rights that are contained in international human rights law, including equality before the law “irrespective of . . . gender, social status, education, beliefs and ethnic group,”<sup>11</sup> the right to vote and to be elected to public office,<sup>12</sup> the right to education,<sup>13</sup> the right to work,<sup>14</sup> freedom of settlement and movement,<sup>15</sup> the right to lodge complaints and petitions,<sup>16</sup> due process rights,<sup>17</sup> freedom of belief and non belief,<sup>18</sup> and freedom of speech, press, assembly and association.<sup>19</sup>

The adoption of the Constitution in 1991 and its amendment in 2003 reflected a growing recognition of the need to establish a firm legal basis for the State in all its dimensions – in relation to politics, economics,

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10 Constitution of the Lao PDR Article 7.

11 Constitution of the Lao PDR Article 35.

12 Constitution of the Lao PDR Article 36.

13 Constitution of the Lao PDR Article 38.

14 Constitution of the Lao PDR Article 39.

15 Constitution of the Lao PDR Article 40.

16 Constitution of the Lao PDR Article 41.

17 Constitution of the Lao PDR Article 42.

18 Constitution of the Lao PDR Article 43.

19 Constitution of the Lao PDR Article 44.

human rights, and so on. To further this objective, Lao PDR adopted the Legal Sector Master Plan (LSMP) on 11 September 2009. The LSMP sets out a comprehensive reform agenda for the legal sector as a whole, provides a series of guiding principles for developing a State governed by the rule of law to enhance access to justice and enable legal empowerment, and adopts an action plan to help achieve these goals by 2020. In recognizing the need to strengthen the rule of law in Lao PDR and in making firm commitments to achieve the goal of Lao PDR being a state fully governed by the rule of law by 2020, the Government has made the necessary first steps in transforming the legal sector, including by ensuring more effective performance of international legal obligations in the area of human rights and other areas.

The ILP supports the Government of Lao PDR to implement its strategies and achieve the goals set out in the LSMP. It assists Lao PDR to align its laws with its international legal obligations, including international human rights standards.

# THE INTERNATIONAL LAW PROJECT

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## Introduction

Through its three phases the ILP has promoted Lao PDR's participation in the international legal system. Before the project began, Lao PDR had very little capacity to engage with that system. There was too little capacity in the key ministries to undertake international negotiations, to assess treaties for ratification, and then to ensure implementation of ratified treaties. There was desperate need to build capacity in the State institutions involved at each stage of the treaty making and implementation process, including the Ministry of Foreign Affairs, the Ministry of Justice, the National Assembly, the courts, the police and the prosecutors.

In 1998 Lao PDR held a national workshop on human rights to celebrate the 50th anniversary of the Universal Declaration of Human Rights. The workshop was conducted with the assistance of the Government of Finland and UNDP. Following this, UNDP suggested a project to assist Lao PDR to strengthen its capacity to engage more effectively with the international legal system, including signing, ratifying, implementing and monitoring international legal instruments. The first phase of the ILP was developed and agreed. The budget for that phase was \$685,000, with UNDP contributing \$50,000 and Finland agreeing to contribute the remaining \$635,000.

The project went into a second phase and is now in its third phase. The current (third) phase is called "accelerated capacity development for Lao PDR in international law" because the need to build capacity was large, extensive and urgent.

With the support of the project since 2001, Lao PDR has moved, step by step, to engage with the international system by:

1. becoming more familiar with international law, particularly international human rights law;
2. ratifying major treaties; and
3. increasing measures to implement domestically the obligations it has accepted under the treaties.

In Phase I (2001 to 2005) the Lao Government's capacities were developed to negotiate, sign, ratify and monitor international legal instruments effectively. Phase II (2005 to 2008) focused on harmonization of the domestic legal framework with Lao PDR's international legal obligations, treaty implementation and international reporting. Phase III (2009 to 2012) seeks to enhance the participation of Lao PDR in the international legal system by accelerating capacity development for the implementation of international treaty and human rights obligations. It has an estimated budget of USD 3.8m for the full period of four years.

Over the nine years of the ILP, Lao PDR has moved from being a State with little involvement in the international legal system to one that is becoming increasingly engaged. It is working to meet its reporting obligations under the treaties and in the Human Rights Council and to broaden its cooperation with the mechanisms of the Human Rights Council. It has begun to seriously address implementation of its international obligations.

The ILP's first phases pre-dated the LSMP. However, the ILP has contributed significantly to developing a legal system that reflects the objectives of the LSMP. Phase III is now a key tool for the implementation of the LSMP component, building a rule of law based society.<sup>20</sup>

The ILP has made a major contribution to this legal development. It offers a good model of how UNDP and other partners can work collaboratively with a state to build its capacity to be an active participant internationally and an effective implementer domestically.

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<sup>20</sup> ILP Phase III Project Document p 11.

## Project background and strategy

Phase III of the ILP contributes to the implementation of the UNDP Lao PDR Country Programme Action Plan 2007-2011. Specifically it addresses two of the outcomes of the CPAP:

- Increased and more equitable access to justice and strengthened rule of law<sup>21</sup>
- Progressive realization of international treaty obligations, including protection of human rights, in accordance with the Lao Constitution and the Millennium Declaration<sup>22</sup>

Phase I, 2001 to 2005 and Phase II, 2005 to 2008, were successful in introducing the concept of human rights to government officials and others in Lao PDR, beginning a dialogue on human rights and international law, examining the ratification of significant international treaties- including the most important international human rights treaties, and achieving the ratification of many of these treaties. There are two challenges for Phase III:

- National implementation of the international obligations it has accepted; and
- Building and sustaining capacity.

The main objectives of the ILP Phase III are:

- Enhanced capacity of MoFA and line ministries to negotiate, analyze, implement, monitor and report on treaties
- Support for international law forums and UN annual treaty events
- Capacity development of the National Assembly, the judiciary, law enforcement and border cooperation agencies
- Awareness raising on international law and human rights for provincial administrations, associations and mass organizations
- Strengthening programme implementation capacity of MoFA

Its two expected results are:

- Capacity development to undertake more effectively tasks needed for implementation, application and progressive realization of international treaties; and

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21 UNDP Country Programme Action Plan for the Lao PDR 2007-2011, program outcome 7.

22 UNDP Country Programme Action Plan for the Lao PDR 2007-2011, program outcome 9.

- Raising awareness (within the Government and the public at large) about the importance of international law and human rights as a strategy and means for furthering Lao PDR's legal priorities and development objectives.<sup>23</sup>

## Seven main outcomes

- Improved national training in higher education in international law to enhance the national pool of graduates and human resources for employment by relevant state and other agencies;
- Developed capacity for MoFA and relevant line ministries' personnel to enhance their functions in negotiating, analysing, implementing, monitoring and reporting on treaties;
- Developed capacity of the National Assembly to enable timely consideration and ratification of treaties;
- Developed capacity in law enforcement and protection agencies to enhance their functions in monitoring and enforcing and successfully prosecuting breaches of implementing international obligations;
- Improved capacity of the national judiciary to adjudicate cases involving international issues;
- Enhanced capacity of civil society organisations to actively advocate for and engage in community awareness regarding international treaty issues particularly in the field of human rights; and
- Increased awareness for central and provincial authorities and enhanced capacity to monitor and implement state obligations in international law at the local and provincial levels where relevant.<sup>24</sup>

## Project management

The ILP is managed by a project board chaired by the Director General of the Treaties Department of MoFA. Members of the board are representatives of the principal beneficiary organisations (the National Assembly, MoFA, MoJ and National University of Laos) and the principal sponsoring organisations (UNDP, the European Union, and the Government of Finland). The board makes management decisions for the project by consensus. Based on the annual work plan approved by

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<sup>23</sup> ILP Phase III Project Document p 3.

<sup>24</sup> ILP Phase III Project Document p 7-8.

the sponsoring organizations, the board reviews and approves project quarterly plans when required and authorizes any major deviation from these agreed quarterly plans. It signs off on the completion of each quarterly plan and authorizes the start of the next quarterly plan. It ensures that required resources are committed and arbitrates on any conflicts within the project or negotiates a solution to any problems between the project and external bodies.

The board supervises the ILP secretariat, housed within the MoFA. The secretariat is headed by the project manager and has other national staff (assistant project manager, national technical adviser and administrative staff) and an international senior advisor. The secretariat also engages short term consultants as required to implement specific activities.

## Project results

### *Treaty ratification*

Phases I and, especially, II of the ILP focused successfully on treaty ratification. By 2009, when the ILP was entering its third phase, the Lao DRP was a party to almost all principal international human rights and international humanitarian law treaties, including:

- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- Convention on the Prevention and Punishment of the Crime of Genocide
- Four Geneva Conventions of 1949 and their two optional protocols

It was also a party to eight conventions of the International Labour Organization.

- Convention 4 on Night Work (Women) (now superseded)
- Convention 6 on Night Work of Young Persons (Industry)
- Convention 13 on the Use of White Lead in Painting
- Convention 29 on Forced or Compulsory Labour
- Convention 138 on Minimum Age
- Convention 182 on Worst Forms of Child Labour
- Convention 100 on Equal Remuneration
- Convention 101 on Discrimination (Employment and Discrimination)

It was party to major treaties on trafficking in persons and other international organized crime, including:

- Convention on the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others
- United Nations Convention Against Transnational Organized Crime
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime
- Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention Against Transnational Organized Crime
- Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime

There have been further significant developments since the commencement of Phase III of the ILP. On 25 September 2009 Lao PDR ratified the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities. On 25 September 2010 it ratified the International Convention on Anti-Corruption and on 21 September 2010 it signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It has also signed the International Convention for the Protection of All Persons from Enforced Disappearances.

One reason for the increase in treaty ratifications has been the ILP's role in convening an annual national seminar to consider what treaties Lao PDR could and should ratify. Many institutions in Lao PDR share responsibilities in relation to treaty ratification, including the Government, the National Assembly and the courts. The national seminar process ensures that all of them play a role and commit to supporting

the ratification of the treaties identified as priorities and develops momentum for the process of ratification. The discussion proceeds on the basis of a “national international analysis” of treaties that the Government should consider for ratification. The 2008 seminar identified 12 treaties as appropriate for ratification, of which three were ratified. The 2009 seminar identified five treaties and all were ratified. The 2010 seminar identified a further five treaties, of which all were approved.

All but one of the core human rights treaties provide an optional supplement by which states can agree to accept the jurisdiction of international treaty committees of experts to hear and advise on complaints of violations of the treaty’s provisions.<sup>25</sup> Any state that has accepted this jurisdiction can be the subject of a complaint of violating the treaty’s provisions. The relevant committee considers the complaint and the state’s response and any other information it receives and then expresses its views on the substance of the complaint and on any remedy that in its opinion should be provided. While being exemplary in treaty ratification, Lao PDR has not yet accepted any of these international mechanisms for handling individual cases, either through the treaty monitoring bodies for violations of treaty obligations or through the International Criminal Court for the most serious violations of international criminal law.

Although the ILP has focused on treaties, its influence has extended to other international legal instruments, encouraging a broader compliance with and implementation of international legal standards, including declarations and resolutions of UN organs.

Thanks to the ILP’s advocacy, advice, and awareness seminars on religious freedom as an essential element in the ICCPR, Lao PDR adopted the Decree on Religions in 2009 and followed this with the invitation of the UN Special Rapporteur on Religious Freedom. More significantly, Lao PDR, through MoFA, now actively investigates reports of violations of religious freedoms in the country, with the assistance of the project.

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25 The only core human rights treaty not to provide an optional complaint procedure is the Convention on the Rights of the Child. States are currently negotiating an optional protocol to the CRC to establish a complaint jurisdiction.

## Training and education

The ratification of treaties has been accompanied by ILP-sponsored national level training courses and workshops on monitoring and reporting and on implementation. These courses and workshops have been targeted to key government officials from mainline ministries and provincial authorities whose responsibilities include matters covered by the treaties. They have also included participants from universities, principally those who teach international law, and from legal and community organisations, who can be involved in monitoring implementation. In addition the ILP supported many Lao officials and academics to participate in significant international workshops and meetings to increase their knowledge of and expertise in the international legal system. It has also enabled Lao officials and academics to undertake study tours and attend short courses in universities outside Lao PDR.

Training topics during Phases I and II included issues relating to general principles of international law, international human rights law, private international law, arbitration, international trade law, anti-corruption, international humanitarian law, border security, and trafficking in persons.

In the first two years of Phase III, the ILP conducted 59 training activities – courses, workshops, seminars and briefings – over a total of 177 days.<sup>26</sup> It provided training for over 1500 persons each year. The training has focused on international law generally the reporting system under human rights treaties, and implementation of treaty obligations. The engagement of provincial officials has been important in relation to the implementation component, as many treaties need local and provincial action, not only national level action. The provision of services to people with disabilities, for example, has been best done at the local and provincial levels.

The ICCPR requires that, in states where the death penalty has not been abolished, it may only be imposed in respect of “the most serious crimes.”<sup>27</sup> Through the work of the ILP in its seminars and workshops which highlight international standards regarding the death penalty, Lao PDR is now looking at a review of what it considers as “serious offences” that might warrant capital punishment.

<sup>26</sup> Annex 3 contains the program of activities under Phase III for 2009 and 2010.

<sup>27</sup> ICCPR Article 6.2.

Phase III has also moved beyond training to formal education. Universities in Lao PDR have not offered significant courses in international law. The ILP began to reach out to universities through the involvement of academics and researchers in its training programmes. More recently, however, it has promoted the teaching of international law in the universities themselves. The project is now considering supporting the National University of Laos to establish a master's course in international law, to be taught locally with the assistance of internationally acknowledged experts. The introduction of this course will increase greatly the number of Lao lawyers with a high level of knowledge of international law.

The ILP also runs a three-week National Human Rights Summer School that brings together up to ten students from each of the country's law faculties. Starting in 2011, the Project has also been entrusted with organizing the annual Lao PDR National Human Rights Seminar. This event will run alongside the EU-Laos Human Rights Dialogue. The first seminar took place on 16 February as a major academic and diplomatic event. The EU approached the project to run the Seminar. The main sponsors are the EU, UNDP, and MOFA. Each year the Seminar will be based on a selected theme. In 2011 the theme was Lao PDR's Implementation of the UPR Recommendations'.

The ILP has also sponsored and actively participated in seminars and workshops for members and staff of the Lao PDR National Assembly during the period between the two sessions of the Assembly each year. The National Assembly has an important role in the Lao constitutional system as it has to approve the ratification of treaties and then oversee their implementation. The seminars and workshops have enabled members and staff of the Assembly to understand better the international processes of negotiation and adoption of treaties and the measures required for implementation.

The Lao Government and the National Assembly have supported a number of significant initiatives to protect and defend women's rights in implementing CEDAW. In 2010 Lao PDR accepted the UPR recommendation to criminalize marital rape. It published a compilation of the 'Constitutional and Legal Provisions in Lao PDR Relating to the Rights and Obligations of Women' with the assistance of the UNDP through the International Law Project. The compilation highlights new laws promoting and protecting the rights of women in several pieces of legislation adopted since 2007, including the following:

- Law on Elections 2010
- Amended Family Law 2009
- Law On Contractual Relations and Torts 2008
- Law on Enforcement of Judgments 2008
- Law on Inheritance 2008

The ILP has supported internships for young MoFA officials in Lao PDR's Permanent Missions to the United Nations in New York and Geneva. In 2009 two interns went to New York and two went to Geneva, further in 2010, five went to New York and three to Geneva. These interns were able to observe the international system in operation and participate in relevant meetings, including those relevant to negotiation of resolutions and reporting on compliance with international legal obligations. Their learning was reinforced and utilised on their return through their participation in training sessions and mock meetings of international bodies, attended by other Lao officials.

One of the identified obstacles to expertise in international law is the limited English language capacity among Lao officials. International treaties, international, regional and national jurisprudence, and international law texts were rarely in Lao before the commencement of Phase I of the ILP in 2001. The ILP has promoted the translation of the most important treaties and some texts into Lao but it has also recognised that English language skills must be increased if Lao officials are to be able to access key documents and participate in international forums, including those relating to the negotiation of new treaties and reporting on the performance of existing treaties and other international legal obligations. The project, therefore, has supported English language training for officials as part of its work in building capacity in international law.

## *International law resources*

The ILP has contributed to the development of good resource bases on international law, both electronic and hardcopy publications. As well as translating treaties, resolutions and other international legal texts into Lao, the project has contributed to the MoFA international law handbook, published papers and other materials (such as the compilation on women's rights previously mentioned), developed a treaty database, and provided books for law and other libraries. In addition, the project operates the best international law library in Lao PDR and will publish a manual on international law in Lao. The project website provides a great deal of information about the project itself and international law and regular newsletters on project activities are produced.

These legal resources are being used extensively by government officials seeking guidance in implementing international legal obligations, academics in the course of education and training programs, and as part of ILP training courses and other activities. They represent the most extensive publication effort on international law in Lao PDR. Their effectiveness is seen in Lao efforts in treaty ratification, lawmaking and other treaty implementation.

## *Reporting*

Lao PDR has encountered great difficulties in meeting its reporting obligations under the international treaties it has ratified. Most of its reports have been overdue.

In the first two years of Phase III of the ILP, Lao PDR has nevertheless made significant progress in bringing its reporting status up to date. With the support of the ILP, in February 2011 it lodged its Common Core Document, the major submission providing the overview of Lao PDR to be used by all treaty monitoring bodies (TMBs), and its first report under the ICESCR. It has reported on its performance under CEDAW and in 2009 it lodged its second report under the Convention on the Rights of the Child. It is working on its first report under the ICCPR. Its latest report under CERD, due in 2007, is nearing completion.

Most significantly Lao PDR completed and presented its State report for the UPR and underwent the review in May 2010.

## Implementation

Implementation of obligations under treaties is critical to the effectiveness of the international legal system. Whereas Phases I and II of the ILP focused on ratification and reporting, implementation is an additional objective in Phase III.

The concern for implementation has required the project to reach beyond MoFA and its officials. Initially this was challenging. Other State institutions did not have the same sense of ownership of and commitment to the project that MoFA demonstrated. However, the relevance of ILP activities has ensured their popularity. The ILP has now provided training and support for implementation for central government institutions, including the National Assembly, the courts, the police and the prosecutors and mainline ministries, and for provincial administrators. Every provincial government has an international relations section and those sections' officials are also targeted for international law training. Demand for participation in ILP activities and other collaboration with the project is growing, becoming difficult for the project staff to manage and address.

Perhaps the single most important on the ground contribution by the ILP over the years is its role in increasing community awareness of human rights issues. It is generally accepted that less than a decade ago there was little discussion of human rights as such in Lao PDR. Today, human rights feature prominently in the media and officially sponsored or sanctioned national seminars. Human rights education has become a routine element in the training programs for the police and law enforcement agencies and the judiciary. More profoundly, the Human Rights Research Centre recently completed a research paper, Party Policy on Human Rights.

Implementation requirements have also led to ILP support for the development of legislation. For example, ILP is supporting the Lao Disabled People's Association (LDPA) to develop disability rights legislation to implement the Convention on the Rights of Persons with Disabilities in the Lao PDR.<sup>28</sup> The project is focusing especially in working with the LDPA to raise awareness of the CRPD among persons with disability and to involve them in consultation on better protection for

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<sup>28</sup> Australia has also been a strong supporter of the Lao Disabled People's Association.

their rights. This requires increased activity at provincial level since more people with disability live in the provinces than in Vientiane. However the capacity of provincial structures is low and they need support to be able to implement their responsibilities towards people with disabilities.

The ILP began before the adoption of the LSMP but the LSMP is bound to play an important role in treaty implementation in and through the legal sector. The ILP is making key contributions to the LSMP's aim of making Lao PDR a rule of law society by 2020.

At present Lao PDR has a total of about 90 laws. The National Assembly is now passing about ten laws each year, five at each of its two sessions annually, either as new laws or amendments to modernise existing laws. The ILP is contributing its expertise to ensure that those laws are consistent with international law obligations.

### **Lao PDR and the UPR**

The UPR process provides a good example of how the ILP works across a number of functional areas (international engagement, training, reporting and implementation) to achieve a holistic transformation in national capacity. It demonstrates the commitment of the Lao Government to meet its reporting obligations in a serious manner. It also demonstrates the contribution the ILP can make to that.

The UPR is one of the mechanisms of the United Nations Human Rights Council.<sup>29</sup> It requires the Council to review each state's performance in its international human rights obligations. The review is conducted by a Working Group of the Council, consisting of all members of the Council, through an examination of state and other reports and an interactive dialogue with the state delegation. The final report of the review, with recommendations to the state under review, is adopted by the Council itself in plenary session. In 2007 the Council decided to conduct the first series of reviews over a four year cycle, from 2008 to 2011.<sup>30</sup>

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29 General Assembly Resolution 60/251 paragraph 5(e).

30 Human Rights Council Resolution 5/1 Institution-building of the United Nations Human Rights Council paragraph 14.

Lao PDR was scheduled for review in 2010. This required the preparation and presentation of its State report in February 2010 and the appearance of its delegation before the Working Group on 4 May 2010. The report of the review was considered and adopted by the Council in plenary session on 21 September 2010.

Before drafting the report began, the ILP supported a high level national committee established by the Lao Government to prepare the report. It also provided training for government officials on the UPR process as a whole and on the requirements and expectations of the report. States are “encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders.”<sup>31</sup> The Lao process involved officials from all relevant ministries, representatives of official bodies for women and other groups, and representatives from other organisations with an interest in human rights. All participated in the ILP training and then contributed to the report.

The delegation to the UPR Working Group was led by Lao PDR’s Vice Minister for Foreign Affairs, His Excellency Mr Phongsavath Boupha, and consisted of 18 officials. The ILP supported the attendance of four Lao delegates. The delegation spoke to the report at the meeting of the Working Group, answered questions and responded to comments and recommendations made by other states. When the Working Group report was considered by the Human Rights Council itself on 21 September 2010 Lao PDR indicated that it accepted 71 of the 107 recommendations in full and another 15 recommendations in part. It rejected only 21 of the 107 recommendations.<sup>32</sup>

Following the Council’s adoption of the report, the ILP again played a role in promoting the implementation of the recommendations accepted by the Lao Government. It arranged an implementation workshop for officials of relevant ministries to discuss the recommendations and plan an implementation schedule. The MoFA is convening a steering group to monitor implementation. All relevant line departments and authorities are represented on the steering group. They will report to the steering group regularly on their progress with implementation.

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31 Human Rights Council Resolution 5/1 Institution-building of the United Nations Human Rights Council paragraph 15(a).

32 See Annex 4.

# FINDINGS AND RECOMMENDATIONS

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## Effectiveness and efficiency

With the assistance of the ILP Lao PDR has become heavily engaged in the international human rights and international legal systems. In the 1980s and 1990s it was essentially isolated from the international legal system. By 2010 its engagement covered all aspects of the international human rights system and it was a regular reporter under human rights treaties and in the UPR.

The ILP demonstrates the importance of ensuring that human rights and legal capacity projects are adequately funded for a significant period of time. Those projects in general are inexpensive compared with other forms of development assistance, but they tend to be funded on an ad hoc or activity specific basis for a short period of time. The ILP has been funded at a reasonable level relative to other legal capacity projects, currently at about USD 950,000 a year. It has been implemented over a period of nine years and is now in its third phase.<sup>33</sup> It is likely to be extended to a fourth phase and may well continue until the end of the implementation of the LSMP in 2020 either as a standalone project or as a component of a broad implementation programme of the LSMP. There are very few human rights and legal capacity projects that are funded at this level and for this period of time.

The funding has not been extravagant, however. It has been adequate and reasonable. That is, the ILP has been efficient. Its annual lists of activities are impressive by any standard. In the training area alone, the first two years of Phase III have seen 59 training activities over a total of 177 days for over 3,000 persons.<sup>34</sup> In addition there have been consultations on and preparation of international reports, participation in international meetings, national activities to implement international

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33 Phase II was for three years but Phase III was extended to four years because three years was found to be too short: Phase III Project Document p 11.

34 Annex 3 contains the program of activities under Phase III for 2009 and 2010.

obligations, and so on. The relatively good level of funding has produced a very impressive number and range of activities, all directly related to the objectives of the project and the needs of the Lao PDR, and enabled effective engagement with national and provincial partners and beneficiaries of the project.

The effectiveness of the ILP lies in its continuation over an extended period of time on an adequate financial basis and in its collaborative partnership of international supporters and national implementers. This in turn has been possible because of the support the ILP has received from UNDP and from other donors.

## Objectives and results

The ILP Phase III has been a well focused project. One of the lessons learned from Phase II was the importance of proper focusing to ensure implementation of all planned activities.<sup>35</sup> The objectives of Phase III, therefore, are clear and its implementation has been successful in that all of the activities planned to be undertaken have been undertaken, even if at times a little later than expected. Because it has been well focused, its results reflect the project objectives. The Lao Government has ratified a large number of treaties. Government officials have received training in international law and, in particular, in reporting to international human rights mechanisms on the performance of human rights obligations. Reports to the international human rights mechanisms, both treaty bodies and the UPR, have been submitted. Plans have been made for the implementation of recommendations from the international mechanisms. Implementation is being followed up and monitored. In the case of the UPR, for example, an inter-departmental steering committee, convened by MoFA and consisting of representatives of all relevant ministries and organisations, meets regularly to receive reports on implementation of UPR recommendations. This process for follow up and monitoring is also being used to address recommendations of the CEDAW Committee and could be replicated for recommendations of other treaty monitoring bodies when Lao PDR's periodic reports are considered.

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35 ILP Phase III Project Document p 8.

The ILP's success is additionally due to its being quite specific and realistic in its objectives and in its planned activities.

## Responsiveness

The ILP has been appropriately responsive in its implementation. It has clear objectives, activities and anticipated results and yet it has displayed admirable flexibility. A current notable example is the decision to give greater support to tertiary education in international law, including human rights. The project itself had identified the need for capacity building in international law and the project activities were oriented towards that. However, the project team saw that many trainees in project-supported workshops had little or no prior education or training in international law. This was even true of law graduates. The team also saw that, although the project workshops effectively increased the knowledge of participants, many trainees later moved into roles that were not relevant to the implementation of international law. They considered the best way to address these challenges was to widen the base of international law scholarship, so that more law graduates, perhaps all of them, had a good grounding in international law, wherever they might eventually work. They also sought to increase the number of government officials who had had international law training before moving into positions for which international law was relevant.

The fact that the project has become a long term project is itself an example of its responsiveness. It began with limited and modest objectives but, because of its demonstrated effectiveness, it was extended into a second phase and then a third. It has come to reflect a continuing commitment on the part of all the stakeholders – the Government of Lao PDR and the project's sponsors and funders – to the building of capacity in international law and international engagement.

## Innovation

The ILP has been very innovative in the way that it has introduced knowledge and understanding of international law and human rights into a political system that had not been especially engaged with the international legal system prior to the project's intervention.

A good example of innovation is the way in which the ILP has promoted treaty ratification. Since 2008 the project has convened an annual meeting of 70 to 80 representatives of all relevant ministries and the National Assembly to consider which treaties identified by the project are suitable for ratification by Lao PDR and to discuss priorities among those treaties for ratification. By involving all relevant actors in a common process, the project has been able to build consensus on the treaties that should be ratified and commitment to that consensus on the part of those whose cooperation is required. The meeting enables the Lao Government to make use of the UN Secretary General's annual treaty event to make major announcements about ratifications, thereby enhancing its international standing as a good international citizen. The ILP meeting has proved to be very successful in increasing the number of treaties ratified by Lao PDR. In 2008 twelve treaties were proposed by the meeting for ratification and three of those were ratified. In 2009, five treaties were put forward by the meeting and all five were ratified, acceded to or signed. The involvement of the National Assembly, whose approval is required for ratification, ensured facilitation of the approval process.

Of necessity the project has worked with and within the Government. This has fostered a sense of governmental ownership of the project activities. Importantly it has also ensured that the Government is comfortable with the project itself and with the activities undertaken under it. It has been essential in the political context of Lao PDR to work closely with the Government and to build its confidence in and commitment to the project. The project is an excellent example of what can be accomplished through this kind of close engagement between government and international agencies.

## Cross cutting issues

The ILP has identified two cross cutting issues for particular attention, gender issues and the human rights based approach.<sup>36</sup> The project is also having a substantial impact in relation to a third cross cutting issue, disability rights, although that issue is not specifically referred to in the project document as a cross cutting issue.

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36 ILP Phase III Project Document p 11.

## Gender issues

An important element of the ILP strategy is gender mainstreaming. Women constitute over 50% of the Lao population but only a very small proportion of the legal sector and an even smaller proportion of those engaged in international law. The ILP's mainstreaming approach targets women for participation in project activities, requiring organisations nominating participants to take affirmative actions to identify and include women. The project also partners with women's organizations and organizations working for women's empowerment.

The ILP identified English language proficiency as an obstacle to women's participation in its activities. While men too had language difficulties, they had had greater opportunities to learn English and so were not as disadvantaged in this regard as women were. The project sought to address language deficits by providing English language training and, because of women's relative disadvantage, it gave priority to women for language training so that more of them would be able to participate in international law courses, workshops, and activities.<sup>37</sup> However, significantly more men have received ILP language training than women in reality and so, while this important initiative is addressing a basic need among Lao government officials, it still faces some challenges in addressing the fundamental inequalities between men and women.

The ILP annual plans have set targets for women's participation in project activities. Generally, however, these targets have not been met. Whereas the targets are around 40% of participants, the actual participation rate has been around 25%. This is a result of the low proportion of women among government officials and staff generally and specifically in MoFA. Women are participating in project activities but more is required by way of affirmative action if the mainstreaming objective is to be met.

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<sup>37</sup> ILP Phase III Project Document p 11.

## Disability rights

The ILP works actively in raising awareness of relevant state authorities concerning the rights of people with disabilities. This has led to Lao PDR's ratification of the CRPD. The work of the project in assisting the Lao Disabled People's Association in provinces has produced useful on the ground results. For example, the National Assembly is now considering a narrower interpretation of the 'good health' requirement in the Election Law for eligibility to hold an election to enable people with disabilities to stand for election.

Lao PDR ratified the CRPD in 2009. The ILP responded to this by placing disability rights officers with the Lao Disabled Persons' Association in ten provinces. Five placements were scheduled for 2010 and another five in 2011 but only three had been recruited by the end of 2010. These officers will work to promote understanding of the Convention and to assist provincial authorities and others to implement the Convention.

One difficulty encountered in the employment of these provincial workers has been identifying people with disability suitably qualified for the positions. The ILP vacancy notices encouraged applications from people with disability but few applied and to date none have been employed. Because of their personal experiences, people with disability are qualified to raise awareness of disability issues and disability rights in ways that other persons are not. Their recruitment for these positions should be a high priority for the project. The LDPA has been successful in finding and training a large number of talented people with disability for positions in the Association. There is no reason why the ILP cannot do the same. The ILP needs to re-examine the job descriptions, selection criteria and selection procedures for the positions to achieve a better result in its own employment practices. It should also examine experiences elsewhere in devising and implementing strategies for employment of people from disadvantaged groups.<sup>38</sup>

Representatives of the LDPA have also participated in ILP workshops and seminars, both to increase their knowledge of international law and to increase the awareness of disability rights issues among other participants.

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<sup>38</sup> Many organisations have had to address this issue and have done so successfully. One experience worth studying is the workforce diversity policy and strategy adopted by the UNDP Country Office in Nepal.

The ILP's partnership with the LDPA in these activities is consistent with the overall objectives of the ILP. In addition, by providing a specific disability focus, it will ensure greater awareness of disability rights issues in project activities generally and in Lao ministries and institutions resulting in a disability mainstreaming impact.

### *Human rights based approach*

The Human Rights Based Approach to development has three fundamental characteristics:

- All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
- Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
- Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.<sup>39</sup>

The ILP is not merely human rights based. It has human rights at its heart because its focus is international law. It implements all three elements of the Human Rights Based Approach. It is firmly directed towards furthering the realisation of human rights in the Lao PDR. It is guided by the standards in international human rights instruments and in fact has as one of its goals the ratification of all core human rights treaties and their implementation in Lao PDR. It works to develop the capacities of government officials, including police and prisons officials (the duty bearers), to meet their obligations and with rights holders, including people with disability and women, to claim their rights. It also works to develop the capacities of those able to offer protection for the human rights of rights holders, such as judges and lawyers.

39 UN Development Group UN Statement on Common Understanding on Human Rights Based Approaches to Development Cooperation and Programming 2003 at [http://hrbaportal.org/?page\\_id=2127](http://hrbaportal.org/?page_id=2127) (last accessed 15 April 2011).

The following elements are necessary, specific, and unique to a human rights-based approach:

- Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
- Programmes assess the capacity of rights-holders to claim their rights and of duty-bearers to fulfil their obligations. They then develop strategies to build these capacities.
- Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under the HRBA, include:

- People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
- Participation is both a means and a goal.
- Strategies are empowering, not disempowering.
- Both outcomes and processes are monitored and evaluated.
- Analysis includes all stakeholders.
- Programmes focus on marginalized, disadvantaged, and excluded groups.
- The development process is locally owned.
- Programmes aim to reduce disparity.
- Both top-down and bottom-up approaches are used in synergy.
- Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
- Measurable goals and targets are important in programming.
- Strategic partnerships are developed and sustained.<sup>40</sup>

These elements primarily deal with process; the ways in which a program is planned, undertaken and evaluated. The ILP meets many of these process requirements to a high standard. It is clearly focused on people— as duty holders, rights holders and rights protectors, and assists them to understand Lao PDR's international legal obligations, particularly in the area of human rights. Its activities reach a large number of people in

40 UN Development Group UN Statement on Common Understanding on Human Rights Based Approaches to Development Cooperation and Programming 2003 at [http://hrbaportal.org/?page\\_id=2127](http://hrbaportal.org/?page_id=2127) (last accessed 15 April 2011).

each of the target areas each year and places particular concern on two key groups who are marginalised, disadvantaged and often excluded: women and people with disability. Strategic partnerships have been developed with key organisations in these sectors and they will be further strengthened during the remainder of Phase III.

There is certainly public participation in most implementation activities under the ILP. The project has reached literally thousands of people over the decade of its three phases. Further, there was public participation, or at least consultation, in the process by which the project was designed and approved. To ensure proper national ownership and empowerment, there were extensive consultations particularly with national stakeholders including provincial administrators and representatives, women's groups, ethnic associations, and disabled people's associations in the Phase III development period.

The under-developed state of civil society in Lao PDR when the Phase I began, and when proposals for Phase II, and even Phase III, were being developed made broader public participation in the project development difficult. The ILP's success in building links with emerging civil society organisations enables the meaningful participation of these organisations in the analysis and planning of any further phases of the ILP. This will ensure the increased responsiveness of the project to the needs of marginalised groups and their organisations as they see them.

One significant way to increase participation by disadvantaged and marginalised groups is to ensure that project positions are structured and defined so that people from marginalised groups are eligible to apply and are able to be selected on merit. There are many examples of ways in which UNDP projects have been able to do so.<sup>41</sup> Employment of qualified people from marginalised groups assists a project to be more human rights based and human rights focused.

Any future phases of the ILP should broaden its reach to marginalised groups as part of enhancing the human rights based approach. In particular, future phases should look towards engaging ethnic minorities in project activities in the way that women and people with disability are currently engaged. Lao PDR has 49 recognised ethnic groups, many of which live in remote areas of the country and are less economically developed than the majority Lao population.

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41 See footnote 37.

## Ownership

A fundamental element in the strategy for Phase III of the ILP is to ensure “the continued ownership, leadership and commitment by MoFA by ensuring the Ministry’s role as the centre of activity for the Project”.<sup>42</sup> That strategy has been vindicated in the strong sense of ownership that the Ministry has in relation to the project. The project is not seen as one that is externally imposed and externally managed. Its bilateral nature and the involvement of Ministry personnel have underpinned its character as a Lao Government project with external support. The willingness of MoFA to provide its officials to manage the project and office accommodation for the project embodies that sense of ownership.

The ILP steering committee is chaired by a senior official from the MoFA and includes representatives from a number of Lao Government ministries and from UNDP. This too reflects the ownership that the Lao Government has. All key decisions in relation to the ILP, including planning and reporting on performance, are made by the steering committee as collaborative management. This has been an important means of ensuring that project activities reflect both the international timetables that Lao PDR encounters and the priorities of the Lao Government itself.

## Sustainability

The ownership of the project contributes to its sustainability. That the steering committee is chaired by a senior official of MoFA, that the project office is located within MoFA premises, and that the project staff are MoFA officials or recruited by MoFA all ensure that when the project comes to an end, there will be institutional support and trained personnel for the continuation of the kinds of activities that the project has undertaken. This has been part of the formal strategy of Phase III since its inception.<sup>43</sup>

Sustainability has also been addressed through the project’s increasing emphasis on formal education in international law. Although this aspect of the project had not been considered a priority in earlier phases,

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42 ILP Phase III Project Document p 8.

43 ILP Phase III Project Document p 10.

it is now featuring prominently in project activities of Phase III. It is anticipated that the project will lead to increased tertiary education in international law, thereby significantly increasing knowledge of this area of law among Lao lawyers, both inside the government and outside. One of the legacies of the project will be a cadre of lawyers who have been trained in and are familiar with international law generally and international human rights law in particular. These lawyers will be well qualified to continue Lao PDR's engagement with the international legal system, including in treaty reporting, once the project comes to an end.

Sustainability is also being promoted through training of trainer activities. In addition to conducting direct training through courses and workshops, the ILP trains judges to train judges, prosecutors to train prosecutors, ministry officials to train other officials and police to train police. The strategy is to ensure there is a cadre of trained trainers available for peer education once the project itself is completed.

## Capacity development

Capacity development is at the heart of the ILP. It is called an "accelerated capacity development project" because of its wish to be active, innovative and aggressive in addressing capacity gaps. One of the two challenges for ILP Phase III is "building and sustaining capacity" and its first objective is "enhanced capacity of MoFA and line ministries to negotiate, analyse, implement, monitor and report on treaties". Its first expected result is "capacity development to undertake more effectively tasks needed for implementation, application and progressive realisation of international treaties".<sup>44</sup> The ILP addresses both immediate capacity needs through, for example, training key government officials, and addresses longer term capacity needs, through its involvement of academics and tertiary students and of members of emerging civil society organisations.

Through both the formal education initiatives and the broader training activities undertaken with the ILP government officials, lawyers, judges and prosecutors, and leaders in emerging civil society organisations have an enhanced capacity to understand and engage with the international system. The selection of participants for training courses has been very

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44 ILP Phase III Project Document p 3.

strategic, though in the case of equal participation from women it has not been completely successful. The most relevant ministries and governmental bodies have been identified and participants have been selected on the basis of their roles within these bodies. This has ensured the development of capacity not only at the individual level but also at the institutional level.

The inclusion of persons from agencies outside government – universities and other training institutions, research institutions, women’s and disability organisations – has ensured that the development of capacity has not been confined to government officials but has been extended to those in positions to monitor government implementation of international legal obligations and able to take up policy issues associated with implementation. This is significant in any State but especially so in a State with little history of independent civil society activism.

The ILP’s record in meeting its key objectives – ratifications, reporting, implementation, and so on – demonstrates the effectiveness of its capacity development. There is no doubt that officials and others are more able to respond effectively to Lao PDR’s international legal obligations.

## Partnership and synergies

The ILP’s domestic partners include ministries, state institutions and civil society organisations. The implementing partner is the MoFA but the MoJ is also a most important partner. The project also relates to the National Assembly, the Supreme People’s Court, the Office of the Supreme People’s Prosecutor and the Police. It includes in its activities the Human Rights Research Centre at the Lao National Academy of Social Sciences, the Lao Bar Association, the Lao Disabled People’s Association, the Faculty of Law and Political Science of the National University of Laos, the National Academy for Politics and Public Administration, the Lao Women’s Union and the Lao National Commission for the Advancement of Women. Its involvement with these organisations contributes not only to building the expertise and capacity of key individuals in international law but also to influencing key institutions to ensure that their policies and activities are conforming to international legal obligations.

The ILP has worked closely and well with the Support to an Effective Lao National Assembly project. The National Assembly has a key constitutional role in the Lao PDR in relation to the ratification and implementation of treaties and so cooperation between these projects is natural and desirable. It has been effective, especially in the inter-sessional seminars for National Assembly members and staff. Certainly National Assembly members now know more about international law and so are more knowledgeable and have greater understanding when exercising their responsibilities in relation to treaties.

The ILP has been very successful in developing strong domestic partnerships and in drawing international partners into making significant contributions in Lao PDR. These partnerships have contributed to the effectiveness of the project. The domestic partnerships have ensured the kinds of ownership and sustainability already described and are contributing to achievement of the project's goal of promoting implementation of international law in the Lao PDR. They have also ensured wide and increasing knowledge of the project and its activities, which is already presenting challenges in terms of the project's capacity to meet growing expectations and demands.

The ILP's international partners provide financial resources and international law expertise. UNDP, the European Union and the Government of Finland have been strong and consistent donors to the project, providing it with continuity and stability. UNDP and Finland have contributed funds to all three phases of the project and the European Union contributed to Phases II and III. They have been prepared to make a long term commitment to the project and to donate significant resources relative to other legal capacity projects. The international partnerships have provided the project with access to international law expertise at senior levels for project activities, both within Lao PDR and externally. The nature and the level of their support have been very important to the project's success.

Other UN agencies have provided expertise that has enabled the ILP to maintain a consistently high standard of quality in its work, including training, research and publications, and in its international law advice to the state and other institutions. Two agencies have played especially strong roles. The Regional Representative of the Office of the High Commissioner for Human Rights has been very generous in providing his time and expertise, participating in many project activities. The UN Office

on Drug and Crime, through its Lao country office, has also been actively and heavily engaged, especially in relation to border security, drug smuggling and trafficking issues. Some universities outside Lao PDR have conducted training courses for the project or provided expert staff to the project. These partnerships between Lao organisations and international agencies will persist beyond the life of the project because of the opportunities the project has provided for contact and collaboration not only of a personal nature but of a sustainable institutional nature.

UNDP also had a project in support of the Lao Bar Association but there has been little or no collaboration between the ILP and the LBA project. There are areas for cooperation between these projects that could have been profitably explored.

## Relevance and strategic positioning

The ILP is relevant because international law is relevant to all States. Its success, however, is due to its strategic positioning. Its basic strategy is set out in the project document:

Consistent with the Legal Sector Master Plan 2020, the Project focuses on capacity development to meet the long term and immediate needs of the country. It targets the national training infrastructure in international law (for the long term needs). For the country's immediate needs, the project targets national institutions that deal with negotiation of treaties, and the domestic implementation, monitoring and enforcement with particular emphasis on the Department of Treaties and Law (MoFA). As a necessary foundation for national capacity development, the project also focuses on awareness-raising in the community.<sup>45</sup>

The ILP is a partnership project that, as has been described, is characterised by a high level of ownership on the part of the Lao authorities. Through the sustainability strategies described (location within the MoFA, inclusion of the most relevant ministries in the project steering committee, participation of representatives of ministries, institutions and organisations in training courses and workshops, and so on) the project is well located within Lao PDR

45 ILP Phase III Project Document p 8.

governmental structure and is able to have direct influence on those with responsibilities associated with implementation of Lao PDR's international legal obligations.

## Monitoring and evaluation

Each of Phases I and II of the ILP have been externally evaluated. This case study has provided an opportunity for a review of the project halfway through Phase III. A full evaluation of Phase III will occur at its end.

Evaluation of a project like this is difficult, however. It is easy to list treaties ratified, reports submitted and training activities conducted but far more difficult to measure the impact of capacity development work, especially capacity development that is directed towards strengthening the rule of law and implementation of international legal obligations. This work is long term and many actors are involved. It is impossible to measure effectiveness in the short term and hard to link cause and effect – that improvement generally or any specific improvement is due to the actions of one project or one institution. Nonetheless this monitoring and evaluation is necessary. The project's evaluation at the end of each phase has been highly positive and very useful in shaping the next phase.

The ILP undertakes an evaluation of individual activities through evaluation questionnaires completed by participants. This method has limited use but it is an important source of information about how the most involved people have experienced the project. Unfortunately data in the evaluation questionnaires have not been aggregated and the questionnaires have not been collectively analysed either on the basis of individual activities or on a project wide basis.

## Challenges and recommendations

This review has not been an evaluation of the ILP. Nonetheless, during the course of the review, various issues have been identified concerning the effectiveness and sustainability of the project. These recommendations are offered to the ILP, the Lao Government, the UNDP Lao Country Office and the ILP's donors to increase both.

1. The Lao Government has been committed to making Lao PDR a rule of law society by 2020. It has adopted the LSMP as the principal means of achieving that. The ILP, now in its third phase, is making a substantial contribution. Although the ILP seeks to transfer expertise to the Lao institutions, ministries and organisations and to do so within a definite timeframe, the project has been so successful because of its patient long term approach. The project should continue throughout the process of strengthening the rule of law, rather than withdrawing while the job is only half done. The ILP should extend through further phases, possibly until 2020, so that it can continue to build international law capacity in Lao PDR and contribute to the achievement of a rule of law society by 2020. As has occurred to date, each phase should be evaluated towards its end and any following phase developed on the basis of the results of the evaluation. The current donors should be encouraged to continue their long term commitment to the project and potential new donors should be explored.
2. One challenge the ILP faces as it continues is to meet increasing demand on it to provide additional activities or additional places in training activities. As it becomes more widely known and valued, existing Lao partners want more from it and other Lao institutions and organisations are seeking to participate in it. Managing demand is already difficult. The project needs to remain well focused and to resist the temptation to do too much and to please everyone. It should consider, nonetheless, opportunities for extending its work to new areas and new organisations when appropriate, if and when additional resources become available.
3. A second challenge is maintaining the momentum of the project. For a variety of reasons, Phase III was slow to build up, with many activities scheduled for 2009 not occurring until 2010. It has been running very well and the activity rate has been very high from 2010. With the project containing so many individual activities it will find it difficult to maintain that rate but it needs to do so. The project board, in conjunction with the UNDP Lao Country Office, should consider strategies to ensure that the current level of activity is maintained.
4. The ILP faces the challenge of extending its activities outside Vientiane to the provinces. Lao PDR remains a predominantly rural society and provincial administrations have significant responsibility for the implementation of its international legal obligations. The ILP has been working well with provincial administrations and has

conducted some activities in provincial areas. It will need to extend this work in future.

5. With the social and economic transition underway in Lao PDR, civil society organisations are beginning to emerge and develop. The ILP has been working very effectively with one of these, the LDPA. It should seek out other emerging CSOs and look for ways to involve them in project activities to strengthen their capacity in international law, particularly human rights.
6. The ILP has established a good relationship with the Human Rights Research Centre of the Lao National Academy of Social Sciences by funding three researchers within the Centre, involving centre staff in project workshops and courses, and providing computers and internet access for the staff. It should explore whether the Centre has the potential to become a key resource for research on and teaching human rights in Lao PDR and, if so, what additional support can be provided to accomplish that objective. It could consider whether the Centre would benefit from increased contact with similar institutions in the region.
7. The ILP's work in promoting formal tertiary education in international law should be extended. In particular it should look at the possibility of assisting the development of a master's course in international law that is locally taught but able to utilise international experts on a short term basis. The course should be available not only to full time students but also to government and civil society workers who wish to undertake postgraduate studies at master's level.
8. The ILP has funded MoFA officials to undertake short term internships in Lao PDR missions to the UN in New York and Geneva. These placements have been very beneficial for the individual officials and have contributed to higher capacity within the Ministry. Interns now are selected by a special test and they have terms of reference for their placements. The programmes for the first interns were not well planned. The interns usefully contributed their services as additional staff in the missions during their internships, attending meetings that the missions would not otherwise be able to attend. However, they did not have planned programmes that included key meetings and opportunities for learning that were taking place respectively in New York or Geneva during the internships.

9. To promote gender mainstreaming the ILP has set targets for the participation of women in most project activities. These targets have generally not been met, however. In conjunction with its partner institutions, the ILP should do further work to identify barriers to women's participation and adopt further strategies to address them. Then, it should be more insistent with organisations invited to nominate participants for project activities that they meet their targets for women's participation.
10. The ILP, through its three phases, especially Phase III, has involved hundreds of Lao parliamentarians, judges, prosecutors, lawyers, government officials, academics, civil society representatives and others in its activities. It now has a large core of alumni who have been trained in and worked on international law issues. The project newsletter has successfully maintained a minimum level of contact with these alumni, but it appears irregularly. Since 2008 it has only appeared in English. Greater efforts should be made to produce the newsletter quarterly, in both English and Lao. The project website should also be expanded to appear in Lao as well as English. There has been no mechanism to encourage communications among the alumni or interaction with the project itself. The ILP should consider new means of doing this. They might include an alumni event, once or twice a year, in Vientiane and in more populous provincial cities where the project has undertaken activities.
11. The ILP has been asking participants in each project activity to complete an evaluation questionnaire at the conclusion of the activity. Those questionnaires have been individually examined but there has been no overall aggregation and analysis of the data either for the individual activity or for the activities in total over the year. The ILP should adopt a more rigorous approach to evaluating individual activities and activities collectively.

# TEN LESSONS LEARNED

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1. Legal capacity work in general, particularly human rights work, is necessarily long-term work that involves both substantial social and political change and widespread attitudinal change. Nonetheless, international development practice tends to see human rights work as a series of one-off projects on a short-term basis. Donors look for quick returns on their “investment” but human rights work does not work like that. It requires consistent, patient, long-term commitment on the part of donors. On that basis it can be highly effective.
2. Human rights work is relatively inexpensive, far less expensive, for example, than building roads or bridges or running an education or health care system. However, human rights work must be adequately funded if it is to be effective. Being relatively inexpensive does not mean that it can be undertaken successfully if it is under-funded. If funded reasonably and adequately, a human rights project can achieve a great deal in advancing human rights for relatively modest cost.
3. Human rights work also requires cooperation and not merely criticism. There is certainly a place for criticism in identifying and exposing human rights violations. However, where a state is serious about improving its human rights performance and willing to accept international support in this, then cooperation builds the state’s capacity to do better. A cooperative relationship also provides a basis for trust that enables a more honest exchange about deficiencies in human rights performance. Human rights capacity building requires close engagement between the government and international agencies and donors.
4. Too often human rights projects tend to be vague and poorly focused. Unrealistic objectives are set and so the results tend to be disappointing. There are also unrealistic expectations of how much can be accomplished how quickly. Realistic objective setting and well-focused activities are prerequisites for effective human rights projects.

5. While human rights projects need to be well-focused, they must also be sufficiently responsive to changed circumstances and new needs, if they extend beyond one activity or one short period, so that they can adapt. They should also be able to develop in response to lessons learned during the course of implementation.
6. Human rights projects are most effective when they are based on strong domestic and international partnerships. These partnerships combine local knowledge, expertise and networks on the ground with the knowledge and expertise of well experienced international actors. They should include both governmental and non-governmental organisations at national and sub-national levels. Partnership is a model that respects and uses the expertise of each participating agency and individual and builds on that for the benefit of the project as a whole.
7. Sustainability after the completion of the project is critical. To be sustainable the project must build institutional capacity and not only personal capacity. It must be owned by the government, not merely supported by it. A key ministry should want to act and be authorised to act as project sponsor, promoter and driver within the government.
8. Sustainability also requires individuals with relevant knowledge and commitment in order to maintain successes. Building the capacity of individuals may require the project to move beyond exclusively human rights objectives and activities to those that build essential underlying skills and capacities, for example, through formal tertiary education and language training.
9. Addressing the needs of specific population sectors is difficult and requires affirmative strategies that are well targeted and implemented. Good intentions are insufficient to redress historic disadvantage and inequality. It is important to identify underlying barriers to equality and then to provide ways to overcome those barriers. The barriers may include, for example, inadequate access to education or language training or experience, physically or economically inaccessible services, and job descriptions and selection criteria that are too prescriptive or unnecessarily high.

10. Monitoring and evaluation is an essential component of all development projects. Because human rights work is long term, however, monitoring and evaluation is very difficult in human rights projects. It is not possible to point to tangible results – a bridge or a road that has been constructed or a school that has achieved higher retention rates for students or a disease that has been eliminated or at least controlled. Nonetheless, monitoring and evaluating human rights projects is essential for the effectiveness of the work. Projects should be evaluated as a whole but there should also be means for quick, inexpensive evaluation of each individual activity within a project.

# Annex 1

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## List of documents reviewed

1. Constitution of the Lao People's Democratic Republic
2. European Commission *Monitoring Report Accelerated Capacity Development for Lao PDR in International Law* 8 October 2010
3. Human Rights Council *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 – Lao People's Democratic Republic A/HRC/WG.6/8/LAO/1* 22 February 2010
4. Human Rights Council *Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir – Addendum: Mission to the Lao People's Democratic Republic A/HRC/130/Add.4* 27 January 2010
5. Human Rights Council *Report of the Working Group on the Universal Periodic review – Lao People's Democratic Republic A/HRC/15/5*
6. International Law Project *Activities 2006 – 2010* at [www.ilp.gov.la](http://www.ilp.gov.la)
7. International Law Project *Lao International Law Newsletter*
  - a. Volume 1 No. 1, February – March 200
  - b. Volume 1 No. 2, April – May 2006
  - c. Volume 1 No. 3, June – July 2006
  - d. Volume 1 No. 4, August – September – October 2006
  - e. Volume 1 No. 5 & 6, November – December 2006
  - f. Volume 2 No. 1, January – February 2007
  - g. Volume 2 No. 2, March – April 2007
  - h. Volume 2 No. 3, May – June 2007
  - i. Volume 2 No. 4, July – August 2007
  - j. Volume 2 No. 5, September – October 2007
  - k. Volume 3 2008
  - l. Volume 4 2009, April – September 2009
  - m. 2010 Volume 1, January – June 2010
8. International Law Project *List of Recommendations under the Universal Periodic review for Lao PDR* 2010

9. Lao People's Democratic Republic *Combined sixth and seventh periodic report on implementation of the Convention on the Elimination of all forms of Discrimination Against Women* 2008
10. UNDP *Human Rights in UNDP: Practice Note* April 2005
11. UNDP Lao PDR *International Law – Phase III* Fact Sheet 06/2010
12. UNDP and Government of the Lao PDR *Accelerated Capacity Development for Lao PDR in International Law* International Law Project Phase III Project Document 4 December 2008
13. UNDP and Government of Lao PDR *Annual Work Plan 2010* International Law Project
14. UNDP and Government of Lao PDR *Annual Project Report January – December 2009* International Law Project January 2010
15. UNDP and Government of Lao PDR *Second Quarterly Progress Report July – September 2010* International Law Project October 2010

# Annex 2

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## List of persons interviewed

### ILP Management Team

Phoukhong Sisoulath	Project Manager
Sengprarthid Snookphone	Assistant Project Manager
Professor Sam Blay	Senior Technical Adviser

### UNDP Country Team

Ian Holland	Deputy Resident Representative and UN Deputy Country Coordinator
Dirk Wagener	Assistant Resident Representative and Head, Governance Unit
Laurent Pouget	Legal Programme Specialist, Governance Unit

### Embassy of Finland

Helena Ahola	Counsellor, Head of Development Cooperation
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### European Union Delegation to Lao PDR

Henry Prankerd	Charge d'Affaires
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### Human Rights Research Centre, Lao National Academy of Social Sciences

Phanvongsa Khampanya	Senior Researcher
Visaphone Mingboupha	Researcher

### Institute of Foreign Affairs, Ministry of Foreign Affairs

Khampao Ernthavanh	Deputy Director General
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### **Lao Bar Association**

Ounheuan Kenpaseuth      President

### **Lao Disabled People’s Association**

Misouda Heuansoukhon      President and Legal Adviser  
Nouaneta      Researcher

### **Lao National Commission for the Advancement of Women**

Chanhdy Pankeo      Director of the Secretariat

### **Ministry of Justice**

Ketsana Phommachane      Director General, Law, Research and  
International Cooperation Institute

### **National University of Laos**

Professor Vilay      Faculty of Law and Political Science

### **Support to an Effective Lao National Assembly (SELNA) Project**

Sousada Phoummasak      Director General  
Khampasong Ratsachak      Senior Programme Coordinator  
Franck Boulin      Senior Technical Advisor

### **Supreme People’s Prosecutor**

Khampet Somvolachith      Director, Treaties and International  
Cooperation Division

# Annex 3

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## Program of activities conducted in Phase III of the International Law Project 2009 and 2010

### 2009

#### February

- 5 Launch of International Law Project Phase III
- 26-27 First Workshop on Universal Periodic Review

#### March

- 9-10 Workshop on Treaties on Mutual Legal Assistance with OSPP
- 25-26 Workshop on Treaty Implementation

#### April

- 29 -14 May Teaching of International Law for Police Academy Undergraduate Programme.

#### May

- 20 Follow up Workshop on MLA with OSPP
- 28-29 Workshop on International Law for provincial and district authorities of Vientiane province

#### June

- 2 Human Rights Seminar with the Human Rights Centre of National Academy of Social Science;
- 10 -10 July Vientiane Intensive Course
- 16 Workshop on International Covenant on Civic Political Right
- 17-18 Second Workshop on Universal Periodic Review

## July

- 9 Treaties Event Workshop
- 23 Working Group on Treaties, National Assembly, Ministry of Foreign Affairs and Ministry of Justice
- 27- 28 First Meeting of the International Working Group on Treaties, Ministry of Foreign Affairs and National Assembly
- 30 Workshop on Universal Periodic Review

## August

- 10 Celebration of World Indigenous People's Day
- 14 Workshop for Trade Unions
- 17- 19 Workshop on international law for provincial and district authorities of Bolikhamxay province
- 21-22 Workshop on UN Minimum Standards for Prison Management
- 27 Briefing on Treaties for National Assembly members and officials

## September

- 14-15 Workshop on international law for judges and lawyers
- 28-29 Workshop on Universal Periodic Review

## October

- 8-17 Teaching of international law for masters programme of Policy Academy
- 13-14 Workshop on reporting under ICESCR
- 21-22 Workshop on international law for provincial and district authorities of Savannakhet province

## November

- 6-7 Teaching of international law for Police Academy masters programme
- 10 Workshop on reporting under CRC Optional Protocols

- 12-14 Workshop on international environmental law
- 20 Universal Periodic Review National Consultation
- 23-24 Workshop on international law for provincial and district authorities of Champasack province

### **December**

- 1 Celebration for World Day Against Corruption
- 10 Seminar on Human Rights Day: “Embrace Diversity End Discrimination”
- 25- 26 Workshop on international law for MoFA officials

## **2010**

### **January**

- 14-15 Seminar on human rights with Human Rights Studies Centre, National Academy of Social Science

### **March**

- 1 Pre-departure workshop for judge training
- 5- 6 Workshop on international law for provincial and district authorities of Khammuan province
- 24-25 Review meeting on Beijing platform of action
- 30 - 2 April National Assembly inter-sessional workshop

### **April**

- 26 Universal Periodic Review mock session

### **May**

- 17-18 Workshop on right to a fair trial
- 18 Workshop on double taxation
- 27 Informative and preparatory workshop on the UNCAC self assessment process

## **June**

- 7-8 Workshop on international law for National Police Academy
- 18 Workshop on Universal Periodic Review debriefing
- 22 Consultative workshop on UN Treaty Event 2010
- 24-25 Seminar on human rights

## **July**

- 6 Treaty Working Group National Assembly, MOJ and MoFA
- 8-9 Workshop on PDR Recommendations

## **August**

- 2 Workshop on international law and consultation meeting on the first draft of the report on implementation of ICESCR
- 5 Workshop on Presidential Ordinance on Treaty Formulation, Accession and Implementation
- 12-13 Workshop on international law for MoFA officials
- 16 National debriefing on the UN Human Rights Council Universal Periodic Review of Lao PDR
- 16-18 2nd Consultative workshop with NCAW to discuss recommendations of CEDAW
- 23 -10 September Vientiane Human Right Summer Course for Legal Students
- 30-31 Workshop on Human Trafficking

## **November**

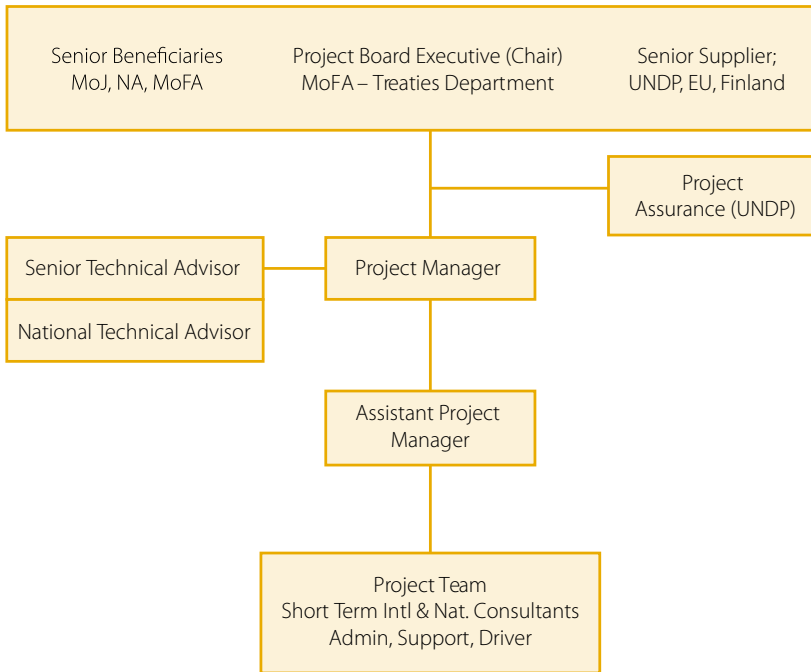
- 4 UPR follow up workshop at ICTC, Vientiane
- 14-19 Training on human rights treaty reporting
- 25-26 Workshop on UNCAC review mechanism

## **December**

- 3-4 Workshop on ILP Retreat 2010, Vangvieng, Vientiane
- 9-10 Workshop on human rights, Paksan, Bolikhamxay
- 14-15 Initial stakeholders workshop on UNCAC self-assessment, ICTC, Vientiane
- 15 Celebration of International Day Against Corruption, ICTC, Vientiane
- 23-24 Workshop on international law for MoFA officials

# Annex 4

## International Law Project Phase III Organisation Chart



# Annex 5

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## Conclusions and/or recommendations of the Human Rights Council's Universal Periodic Review<sup>46</sup>

*June 2010*

96. The recommendations listed below have been examined by Laos and enjoy its support:

96.1. Continue its recent efforts in the area of the ratification of important human rights conventions, and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accede to the Convention against Torture (France);

96.2. Sign and ratify the Convention against Torture (Italy, Spain); ratify the Convention against Torture (Denmark, Switzerland); ratify the Convention against Torture in a timely fashion (Japan); sign and ratify the Convention against Torture as soon as possible and implement its provisions (United Kingdom); become a party to the Convention against Torture (Canada);

96.3. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Spain);

96.4. Review periodically its reservations to the ICCPR, as recommended by the Human Rights Committee in its general comment 24 (Brazil);

96.5. Harmonize national legislation with the international obligations under the respective conventions (Germany);

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<sup>46</sup> Report of the Human Rights Council's Universal Periodic Review of the Lao PDR, 22 February 2010, document A/HRC/WG.6/8/L.4, paragraphs 96 to 99, at [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=99&su=105](http://ap.ohchr.org/documents/dpage_e.aspx?c=99&su=105) (last accessed 12 April 2011)

96.6. Continue its efforts to ensure that the provisions of international human rights conventions to which it is a party are incorporated into domestic law (Thailand);

96.7. Pursue the adoption of the draft law on the rights of persons with disabilities in accordance with its international obligations, particularly under the International Convention on the Rights of Persons with Disabilities, ratified in 2009 (Qatar);

96.8. Enhance the level of cooperation with treaty bodies and special procedures mandate holders, which implies submitting overdue national reports, such as in the case of CERD and CESCR, and give consideration to responding to questionnaires and requests for visits of the mandate holders (Hungary);

96.9. Continue to cultivate its cooperation and interaction with the human rights mechanisms in seeking the support and technical assistance that will enable the Lao People's Democratic Republic to develop and implement its policies consistently and effectively (Indonesia);

96.10. Follow up on the recommendations addressed to it by the treaty bodies and special procedures (Canada);

96.11. Adopt and implement efficient measures to combat the persistence of trafficking and sexual exploitation (Slovakia);

96.12. Continue efforts to curb trafficking, in cooperation with neighbouring countries, non-governmental organizations and the United Nations, including by developing safe channels of labour migration and by strengthening law enforcement, policing and awareness-raising activities (New Zealand);

96.13. Adopt and implement a comprehensive national action plan for combating trafficking, and improve the implementation of the 2005 memorandum of understanding with Thailand on trafficking, especially along the border areas (Slovenia); examine the possibility of drafting and adopting a special law to combat trafficking in persons (Belarus);

96.14. Continue to strive for the inclusion of a gender perspective in all of its development plans and programmes, with positive measures

to achieve the effective promotion and protection of the rights of women (Bolivarian Republic of Venezuela); pay special attention to the promotion of the rights of women and girls by adding a gender perspective to all national strategies and action plans, including development projects (Kazakhstan); incorporate gender policies in all development plans and projects (Belarus);

96.15. Continue to strengthen its efforts to ensure equal access for girls and women to all levels of education, including by taking concrete steps to overcome obstacles for girls' and women's access to, and completion of, education in rural areas (Norway);

96.16. Undertake measures to assist and protect the most vulnerable social groups (Kyrgyzstan); strengthen programmes to promote and protect the human rights of vulnerable groups, such as women and children in rural areas, and persons with disabilities (Philippines); continue efforts undertaken to promote the rights of women and children, particularly in areas such as education, safety and health (Islamic Republic of Iran);

96.17. Strengthen its efforts to combat all forms of exploitation of children in line with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Netherlands);

96.18. Continue its policies and efforts to enhance the solidarity and equality among its multi-ethnic population (Pakistan);

96.19. Issue travel and identification documents to all Lao Hmong returnees in a timely manner, and guarantee freedom of movement (Australia);

96.20. Continue reform programmes with the support of the international community, as reflected in the Government's Development Strategies Plan and Policies, in its efforts to further advance human rights and improve the wellbeing of its people (Cambodia);

96.21. Expedite reform of governance, public administration and the legal system aimed at deepening and broadening democratic norms, principles and standards (Malaysia);

96.22. Continue efforts on public administrative reforms (Viet Nam);

- 96.23. Continue efforts to further strengthen its capacity to effectively implement domestic laws (Democratic People's Republic of Korea);
- 96.24. Pursue efforts to promote a culture of law and transform Lao society into a society ruled by equity and justice (Libyan Arab Jamahiriya);
- 96.25. Focus efforts on successfully achieving improvements in the judicial system (Belarus);
- 96.26. Provide human rights training to judges, police officers, prison guards and all law enforcement officers (Brazil);
- 96.27. Increase efforts to provide human rights education to everyone involved in the judicial process, particularly people working in prisons (Japan);
- 96.28. Intensify training for its police and other enforcement authorities to improve capacities in dealing with the problem of gender violence and trafficking in women and girls (Malaysia);
- 96.29. Continue its effective policies to combat organized crime (Kyrgyzstan);
- 96.30. Strengthen its legal complaints system to ensure that women have effective access to justice (Finland);
- 96.31. Continue efforts to eradicate poverty and ensure sustainable development (Russian Federation); continue efforts to eradicate poverty (Belarus); continue efforts to alleviate poverty as a means to enhance the lives and well-being of the people (Thailand); continue efforts to achieve the country's poverty alleviation goals (Pakistan); continue efforts towards achieving the poverty alleviation goals, and implement strategic plans and programmes related to poverty alleviation, including the national strategy for growth and the realization of the development goals (Libyan Arab Jamahiriya); continue efforts to achieve the country's poverty alleviation goals (Tajikistan);
- 96.32. Continue the implementation of existing programmes and projects to enhance various socio-economic rights with a view to achieving the Millennium Development Goals (Islamic Republic of Iran); continue the steadfast implementation of its national development strategies and plans aimed at poverty alleviation (Philippines); continue to support the implementation of the socio-economic development plan aimed at the eradication of poverty in the country (Cuba);

96.33. Continue to take active measures to develop remote mountainous areas in order to reduce the gap between mountainous regions and urban regions (China); enhance efforts to build and improve infrastructure in rural areas (Pakistan);

96.34. Continue its fight against poverty and in particular against malnutrition in rural areas and, to that end, identify its needs in terms of technical and financial assistance, and consider requesting the aid of United Nations agencies and programmes competent in this area (Algeria);

96.35. Continue efforts to provide basic health and education services for vulnerable segments of its population, and continue its commitment to a people oriented development policy by tackling poverty-related issues through investment in social infrastructure and by addressing the probable shortcomings in this regard (Myanmar);

96.36. Further strengthen measures to promote health care, the quality of education and job creation for the people living in rural and remote areas (Viet Nam);

96.37. Continue the implementation of ongoing policies and programmes to guarantee access for the entire population to health services and quality education (Cuba);

96.38. Undertake the efforts necessary to increase the budget for social programmes, particularly regarding education and adequate food (Mexico);

96.39. Continue the implementation of the national health care programme (Tajikistan);

96.40. Continue to strengthen efforts to reduce maternal and infant mortality, including by developing the midwifery workforce and making the services of skilled birth attendants available, accessible and, where necessary, free of charge (Norway);

96.41. Take further action to further reduce the high rate of maternal and infant mortality and provide full access to health care and health education by women, and address problems relating to poverty, hard work and illiteracy (Kazakhstan);

96.42. Provide vaccination to all segments of society, especially women and children, in order to reduce mortality rates and raise life expectancy (Libyan Arab Jamahiriya);

96.43. Continue to improve the quality of education and further increase access to education for the Lao multi-ethnic people (Democratic People's Republic of Korea); improve the quality of education and increase access to education (Tajikistan); continue its commendable efforts with a view to improving access to education for its citizens (Algeria);

96.44. Continue its current reform programme in the education system to provide a better education for its people throughout the country, particularly in rural areas (Islamic Republic of Iran); further pursue efforts to develop education, particularly in rural areas of the country (Kyrgyzstan);

96.45. Undertake more effective measures to ensure the accessibility of crucial public services, such as education and healthcare, to the general population, particularly those living in rural areas (Malaysia);

96.46. Continue to increase investment in education to endeavour to raise the level of education for the whole nation in order to meet the requirements for social and economic development (China);

96.47. Continue activities to increase access for children to education, promote maternal and infant health, and eradicate trafficking in persons (Belarus);

96.48. Seek to introduce human rights sensitization in school and university curriculums (Qatar);

96.49. Enhance cooperation at the regional and international levels with relevant stakeholders with a view to achieving relevant Millennium Development Goals, related to poverty eradication, nutrition, sanitation and environmental sustainability (Malaysia);

96.50. Seek further technical assistance from relevant international organizations to ensure continual success on the path towards achieving human rights and equal access to education, health, employment and livelihood for all (Maldives);

96.51. Seek the technical assistance of the international community, in light of the present stage of development in Laos, in order to provide it with needed assistance in strengthening the capacity of its national mechanisms responsible for preparing periodic reports for treaty bodies, and in training its law enforcement officials, judges and police officers in the area of human rights (Egypt);

96.52. Further enhance and strengthen the work of the ASEAN Intergovernmental Human Rights Commission to effectively promote and protect the human rights and fundamental freedoms of the peoples of ASEAN (Indonesia);

96.53. Involve civil society, including human rights non-governmental organizations, in the follow-up to this review (United Kingdom).

97. The following recommendations enjoy the support of Laos, which considers that they are already implemented or in the process of implementation:

97.1. Strengthen its commitment to ensuring that the fundamental rights of minorities are better respected (Switzerland);

97.2. Allow privately owned media outlets to be established (New Zealand);

97.3. Remove all Internet monitoring and control facilities restricting the use of the Internet (Netherlands).

98. The following recommendations will be examined by Laos, which will provide responses in due course, but no later than the fifteenth session of the Human Rights Council, in September 2010:

98.1. Ratify the two optional protocols to the ICCPR (Canada, Luxembourg, Spain);

98.2. Accede to and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (Australia, Slovenia);

98.3. Ratify the Second Optional Protocol of the ICCPR, and formally establish a moratorium on the use of the death penalty with a view to its abolition (Italy);

98.4. Sign and ratify the Optional Protocol to the Convention against Torture (Switzerland, Spain);

98.5. Ratify the Optional Protocol to CEDAW (Canada, Spain);

98.6. Ratify/accede to the Rome Statute of the ICC (Canada, France, Luxembourg);

98.7. Sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities (Spain);

98.8. Consider acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Egypt);

98.9. Ratify the 1967 Protocol relating to the Status of Refugees (Switzerland);

98.10. Become a party to the Ottawa Convention on Landmines (Canada);

98.11. Further harmonize its national legislation with the international obligations of Laos under the respective conventions, and accede to instruments allowing for individual complaints (Finland);

98.12. Develop a national human rights plan of action to improve awareness of the conventions to which the Lao People's Democratic Republic is a party, and encourage civil society engagement on human rights issues (Germany);

98.13. Consider issuing a standing invitation to special procedures (Brazil); consider extending an open invitation to the special procedures (Armenia);

98.14. Extend an open and standing invitation to all special procedures (Spain); issue a standing invitation to the special procedures (Canada);

98.15. Invite the Special Rapporteur on human rights defenders to visit the country in the near future (Norway);

98.16. Seek the assistance of the Special Rapporteur on adequate housing to mitigate the problem of the lack of adequate land and assistance to the rural population (Spain);

98.17. Adopt measures to legally abolish the death penalty (Germany);

98.18. Broaden the current de facto moratorium on the death penalty so as to abolish it in all cases, including serious crimes, and sign and ratify the Second Optional Protocol to the ICCPR (Spain);

98.19. Impose an immediate de jure moratorium on executions, with a view to the complete abolition of the death penalty for all crimes (Belgium);

98.20. Commute without delay death sentences to prison terms, and definitively abolish capital punishment in all circumstances (France); abolish the death penalty, which is still in effect despite the de facto moratorium on capital punishment (Finland);

98.21. Adopt and implement a national action plan to combat trafficking in persons, emphasizing the protection of indigenous women and migrants (Mexico);

98.22. Take measures to guarantee effective access for women victims of gender-based violence to justice, redress and protection (Brazil); heed the advice of CEDAW by adopting comprehensive measures to address all forms of violence against women and girls, in accordance with CEDAW general recommendation 19 (Hungary);

98.23. Widen the definition of rape in its Penal Code to include any sexual relations without the woman's consent, and remove the exception for marital rape (Slovenia);

98.24. Recognize the rights of persons belonging to minorities and indigenous peoples as set out in international law, regardless of the names given to such groups in domestic law (Hungary);

98.25. Ensure equitable treatment of all groups in society and, as a first step, invite the Independent Expert on Minority Issues to undertake a country visit (New Zealand);

98.26. Include a definition for discrimination in the Constitution or other legislation (Germany);

98.27. Consider the greater participation and incorporation of indigenous peoples in governmental decisions, and ensure that the Hmong are integrated into society on an equal footing with other citizens (Denmark);

98.28. Adopt and implement the measures necessary to grant the Hmong the same rights and freedoms as the other members of the Lao population in accordance with international human rights standards, including through genuine engagement with the international community on the issue (Slovakia);

98.29. Take all measures necessary to find a lasting solution to the situation of the repatriated Hmong, notably by settling the question of the legal status of persons concerned and granting refugee status to those to whom the United Nations High Commissioner for Refugees (UNHCR) has accorded the status of "person of concern", in full cooperation with UNHCR, and allowing the delivery of international assistance for resettlement, as proposed by certain States (France);

98.30. Deepen dialogue with UNHCR regarding the situation of individuals belonging to the Hmong minority returned from third countries (Brazil);

98.31. Allow international humanitarian organizations, including UNHCR and the diplomatic community, unfettered access to Hmong returnees, and further ensure that the Hmong people repatriated from Thailand are treated in accordance with international law, including the 158 eligible for third-country resettlement (United Kingdom); allow the international community meaningful and confidential access to Lao Hmong returnees from Thailand (New Zealand); ensure independent access for UNHCR and other international humanitarian agencies to all Lao Hmong returnees from Thailand to Lao, including in Phonekham, and assess their well-being (Australia); allow meaningful and confidential access for international groups to persons returned to the Lao People's Democratic Republic from Thailand (Canada);

98.32. Fulfil its obligation under article 12 of the ICCPR by allowing the Lao Hmong refugees who have received third-country invitations to migrate to these countries if they wish to do so, and provide the means for them to do so (Netherlands);

98.33. Conduct more human rights training programmes for law enforcement and judicial officials; allow access for independent international observers, especially to the penitentiary and detention centres; and offer more guarantees of independence to the judicial power, in accordance with article 14 of the ICCPR (Spain);

98.34. Take effective measures, assigning adequate resources, to ensure respect for international standards, notably concerning the food, health and sanitation of persons deprived of their liberty, and accept the assistance and cooperation of international actors such as the ICRC (Switzerland);

98.35. Adopt adequate measures to protect freedom of religion or belief with a view to ensuring for all the full enjoyment of the right to practice one's religion (Italy); ensure the right to practice religion freely without discrimination and in accordance with international human rights standards (Netherlands);

98.36. End all restrictions on the right to practice one's religion of choice without discrimination (Denmark);

98.37. Implement measures, including through legislation, to protect all citizens from discrimination due to their religious beliefs; and prosecute those involved in the persecution of religious groups (New Zealand);

98.38. Implement all recommendations made by the Special Rapporteur on Freedom of Religion in order to remedy the situation described in her most recent report, which noted the persistence of discriminatory legal provisions and practices, which run counter to freedom of religion (France);

98.39. Reform decree No. 92 such that it guarantees the rights to freedom of religion and belief, opinion and expression as set out in the ICCPR, and take steps to improve the awareness of State officials of their duty to protect these rights (United Kingdom);

98.40. Ensure that relevant authorities, particularly at the local and district levels, are aware of their duty to protect individuals' right to freedom of religion (Australia);

98.41. Fully implement legal provisions protecting freedom of speech in accordance with the ICCPR (Canada);

98.42. Lift existing restrictions on freedom of expression, and guarantee the free activity of civil society and human rights organizations (France);

98.43. Review domestic legislation on the media in order to bring it into line with article 19 of the ICCPR (Italy);

98.44. Amend further its Law on the Media, the Law on Publication and other related regulations to comply with international human rights standards (Slovakia);

98.45. Revoke laws that allow for the suppression of the rights to freedom of assembly and expression (New Zealand);

98.46. Allow media and civil society organizations to undertake education, advocacy, monitoring and reporting on human rights issues (Australia);

98.47. Comply fully with article 25 of the ICCPR, relating to the right to political participation (Mexico);

98.48. Increase the budget for health so as to strengthen primary care, in particular in rural areas, including sexual education, and ensure

that programmes for family planning and awareness duly take into account the traditions and physical obstacles faced by women in rural areas (Luxembourg).

99. The recommendations set out below did not enjoy the support of Laos:

99.1. Consider establishing a national human rights institution in accordance with the Paris Principles (Egypt);

99.2. Establish an independent national human rights institution, in conformity with the Paris Principles (Germany); establish a national human rights institution in accordance with the Paris Principles (Canada);

99.3. Free those persons who were detained owing to their participation in peaceful demonstrations, and in particular the student leaders who were arrested in 1999 (Belgium).

Lao PDR subsequently accepted the following recommendations on which it had deferred at the time of the Working Group report:<sup>47</sup>

**Fully accepted:** recommendations 98(8) (Egypt), 98(16) (Spain), 98(22) (Brazil and Hungary), 98(26) (Germany), 98(37) (New Zealand), 98(35) (Italy and the Netherlands), 98(38) (France), 98(39) (United Kingdom), 98(40) (Australia), 98(41) (Canada), 98(47) (Mexico), 98(48) (Luxembourg), 98(23) (Slovenia), 98(43) (Italy) and 98(44) (Slovakia), all.

**Partially accepted:** recommendations 98(6) (Canada, France and Luxembourg), 98 (10) (Canada), 98(11), (Finland), 98(12) (Germany), 98(21) (Mexico), 98 (24) (Hungary), 98(25) (New Zealand), 98 (27) (Denmark), 98 (28) (Slovakia), 98(29) (France), 98(31) (United Kingdom, New Zealand, Australia and Canada), 98(32) (Netherlands), 98(33) (Spain), 98(34) (Switzerland), 98(46) (Australia), all.

**Rejected:** recommendations 98(2) (Australia and Slovenia), 98(3) (Italy), 98(4) (Switzerland and Spain), 98(5) (Canada and Spain), 98(7) (Spain), 98(9) (Switzerland), 98(13) (Brazil and Armenia), 98(14) (Spain and Canada), 98(15) (Norway), 98(17) (Germany), 98(18) (Spain), 98(19) (Belgium), 98(20) (France and Finland), 98(30) (Brazil), 98(36) (Denmark), 98 (42) (France), 98(45) (New Zealand),

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47 See the response of the Lao PDR document A/HRC/15/5/Add.1, at [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=99&su=105](http://ap.ohchr.org/documents/dpage_e.aspx?c=99&su=105) (last accessed 12 April 2011).











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