

CONTRIBUTION BY THE UNITED NATIONS COUNTRY TEAM IN LAO PEOPLE'S DEMOCRATIC REPUBLIC FOR THE UNIVERSAL EIGHT SESSION, 2010

I. Introduction

1. The aim of the present contribution is to serve as reference for the compilation to be prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(B) of the annex to Human Rights Council Resolution 5/1. It was prepared by the United Nations Country Team (UNCT) in Lao People's Democratic Republic (Lao PDR) under the auspices of the UN Resident Coordinator. This contribution highlights the main issues being addressed by the UNCT in support of the country's commitments on the further realization of human rights.

II. Background and framework

2. Lao PDR is one of the world's least developed countries (LDCs), and is currently ranked 130 out of 177 nations in the UNDP's human development index ranking (115 out of 157 nations for the Gender-related Development Index).¹ The Human Rights Council is referred for more information to the Millennium Development Goals Progress Report for Lao PDR 2008 for background reading on the country (attached for easy reference).²

1. Constitutional and legislative background and context

3. The first modern Constitution of the Lao PDR was adopted on 15 August 1991 and was amended on 6 May 2003. Article IV of the Constitution sets out the rights and obligations of citizens.
4. Under the Constitution, the Lao People's Revolutionary Party (LPRP) is the leading nucleus of the one party political system of Lao PDR. The Constitution outlines a system composed of executive, legislative, and judicial branches and assigns the National Assembly as the highest organ of the State, vested with representative, legislative and oversight functions.
5. Since 1989 the Lao National Assembly has adopted more than 50 laws covering a wide range of areas with relevance in the promotion and protection of human rights.³ Although the domestic legislation is not yet fully harmonised with all the provisions in all the international conventions ratified by Lao PDR, these laws can be observed as a substantive contribution towards the implementation of the mentioned conventions⁴. The Government has recently finalised (not adopted) an Ordinance on Treaty Making, establishing clear procedures on treaty making, participation and implementation and clarifying the status of international law vis-à-vis the Lao PDR legal system; providing for the prevalence of international law.
6. In 2009 the Government approved the Decree on Associations, which will allow local not-for-profit associations to register and operate as independent entities for the first time and provide a guideline for officials as they consider applications for the establishment of associations in the Lao PDR.⁵ This is a positive step forward.

2. Institutional structure for the promotion and protection of human rights

7. While there is no Paris Principles-based body dedicated to the overall promotion and protection of human rights per se in Lao PDR, the Government has established human rights coordinating mechanisms and bodies tasked with reporting and promoting core human rights treaties that Lao PDR is a party to. Also, there is support for the Government to develop a decree on national non-governmental organisations in 2010. The Lao National Commission for the Advancement of Women (Lao NCAW) reports to CEDAW. The National Commission for Mothers and Children (NCMC) – reports on the CRC. Both commissions receive support from UN agencies, including UNIFEM, UNFPA (NCAW) and UNICEF (NCMC). The Lao PDR mass organisations, which are recognized by the Constitution⁶ are likely to remain the main actors in this area in the medium term.

¹ Human Development Report 2007/2008, UNDP, 2007

² <http://www.undplao.org/official%20docs/MDG%20Progress%20Report%20ExecSummary%20110409.pdf>

³ These include: Penal Code (1989); Law on Criminal Procedure (1989, amended 2004); Law on Lao Nationality (1990); Family Law (1990); Law on Family registration (1991); Labour Law (1994); Law on Education (2000); Law on Sanitation, Protection and Promotion of Health No. (2001).

⁴ Second CRC Report, 2008

⁵ Decree on Associations, 2009

⁶ Second CRC Report, 2008

8. A localized version of the Paris Declaration, the Vientiane Declaration on Aid Effectiveness and Harmonization was signed in December 2006. The draft Country Action Plan matrix includes specific actions to ensure that sectoral strategies and plans are consistent with international commitments on gender equality and human rights. Institutional capacity building and UNCT support to take these actions forward and ensure accountability will be critical.

III. Promotion and protection of human rights on the ground

1. Cooperation with human rights mechanisms

9. With the ratification in October 2009 of the International Covenant on Civil and Political Rights (ICCPR), the UN Convention against Corruption (UNCAC), and the Convention on the Rights of People with Disabilities (CRPD), Lao PDR became a state party to 6 of the 9 international human rights instruments providing protection for all human rights in the civil, cultural, economic, political, governance and social spheres. These recent ratifications will strengthen the platform for implementation of the provisions in these treaties.⁷ In effect, in 2009 the nation has also seen an increased substantive engagement the International Human Rights Treaty Bodies and the Special Procedures.
10. The Ministry of Foreign Affairs (MoFA) is the key focal point for the Government's engagement with human rights mechanisms and has been supported by UNDP since 2001 (also with the technical support from OHCHR) to participate in the international human rights framework, resulting in the aforementioned coordination mechanisms for treaty body reporting.
11. In 2009 the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) considered the combined 6th and 7th report of the Lao PDR on the implementation of the Convention. The UNCT supported the Government's preparation of the report and its participation in the Committee session.
12. The CEDAW Committee's Concluding Observations identified a number of priority areas in this report. Subsequently the UNCT has begun supporting the Government on in its efforts towards reporting on its progress in 2011.
13. The Committee on the Rights of the Child considered the initial report of Lao PDR in 1997 and adopted the concluding observations which include a number of recommendations and highlighted areas requiring the specific attention of the state party. Since then the Government of Lao PDR, supported by UNICEF, has made efforts to align the domestic legislation and the internal structures with the provisions of the Convention of the Rights of the Child and its optional protocols, to which Lao PDR is a state party. The second periodic report has been submitted by the Government to the CRC Secretariat in March 2008.
14. Lao PDR is currently finalizing its periodic reports to the Committee on the Elimination of Racial Discrimination (CERD) and its initial report to Committee on Economic, Social and Cultural Rights (ICESCR) according to the new harmonized guidelines on treaty reporting. This also includes the preparation of a new version of the human rights core document. This effort is supported by UNDP and OHCHR.
15. Furthermore, Lao PDR has engaged in the ASEAN Intergovernmental Commission on Human Rights as a member of ASEAN (since 1997).

2. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

Women's rights

16. The Constitution guarantees equality between men and women. However, the 44th CEDAW Committee noted its concern that the Constitution does not include a definition of discrimination that encompasses both direct and

⁷ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

indirect discrimination, and discrimination in public and private spheres, in accordance with Article 1 of the CEDAW Convention, recognizing substantive equality and state obligation.

17. In addition, the current law, Penal Code 1990 article 119, does not criminalize marital rape. Despite Article 177 of the Penal code 2005, which penalizes discrimination against women, in gender-sensitive area such prostitution, sex workers and pimps are criminalized but not the customers.
18. The Law on the Development and Protection of Women covers aspects related to equal rights of women, human trafficking, domestic violence and, for the first time, specifies penalties for trafficking. This law also defines counselling and protection mechanisms for women and children at the central, provincial, district and village levels (PM Decree No. 6).
19. Measures for penalizing offenders on these aspects are focused on mediation rather than the filing of criminal charges. Furthermore, members of mediation units still need to be trained which is critical for an effective system on domestic violence.
20. There is limited data available on gender based violence, including domestic violence, as well as limited studies and/or surveys on the extent of violence and its root causes, disaggregated by age and ethnic group. The Center for Counseling and Protection for Women and Children, which is managed by the Lao Women's Union and supported by UNICEF, has limited capacity.
21. The main victims of human trafficking in Lao PDR are young women and girls coerced into commercial sex and labor exploitation in Thailand. Trafficking to other countries and trafficking into Lao PDR takes place, although the evidence base is scant. Once women are returned to Lao PDR, trafficking victims are often stigmatized. UN agencies provide support to raising awareness on migration issues, risk and vulnerabilities and trafficking, trafficking coordination activities and support of survivors of trafficking including domestic workers are UNIAP, UNDP, UNFPA, UNICEF and UNIFEM.
22. Inequality in the women's access to resources to is a concern. In the area of land rights, the Lao Women's Union has worked with land titling authorities to increase women's understanding of the Land Law in conjunction with their rights and duties and ensure their rights to land are protected, with the result that 37 percent of land titles are issued in women's names only, and about 26 percent of titles were issued in joint conjugal names.⁸

Children rights

23. Children under the age of 18 constitute nearly half of the population of Lao PDR. They are among the most vulnerable to abuse, violence and exploitation. With increased globalization, traditional social networks (families and communities support system) are slowly eroding, making children more vulnerable and exposed to harm. In addition, increasing numbers of young people are migrating both within the country as well as other countries (predominantly Thailand).
24. Frameworks have been put in place with the adoption of the Children's Law. A child protection policy framework would further strengthen the implementation of the law.⁹ Child Protection Networks (CPNs) established in selected villages, have raised awareness and willingness to discuss child protection issues.
25. Formal birth registration practices continue to need improvement with 71.5 percent of children currently registered¹⁰. Overall 11.3 percent of children in Lao PDR are engaged in child labor; however 72.2 percent of these children also attend school¹¹. 8.2 percent of children aged 2-9 years have at least one reported disability¹², though institutional capacity for identification and monitoring are limited. The Ministry of Labor and Social Welfare has demonstrated, through its Master Plan 2006-2020, a long-term commitment to incrementally reform the structures and mechanisms to ensure children's welfare. Considerable efforts have been made in this regard.

⁸ Lao Women's Union, 2008

⁹ as recommended in the Analysis of the Social Welfare System in Lao PDR conducted in July 2009 by Ministry of Labour and Social Welfare (MLSW) and UNICEF

¹⁰ MICS3 2006

¹¹ Children are considered to be involved in child labor if during the week preceding the survey if they performed at least one hour of economic work or 28 hours of domestic work per week at age 5-11 or if they performed at least 14 hours of economic work or 28 hours of domestic work at age 12-14 (MICS3); MICS 3

¹² MICS3 2006

Racial Discrimination

26. CERD/C/LAO/CO/15 noted the absence of (i) a definition of racial discrimination (ii) legislative provisions criminalizing acts of violence and incitement to violence on racial grounds. Reports of racial discrimination by Government, in the name of preserving social order, have been made. Instances include cancelling visa-on-arrival services for citizens of certain countries, and exclusion of “undesirables” non-documented migrants from Vientiane.

B. Right to life, liberty and security of the person

27. The recent ratification of the ICCPR, the CRPD and the signature of the Convention on the Protection of All Persons from Enforced Disappearance, in September 2008, prove significant progress of the country’s increased engagement in the international framework.

28. Further work is required in implementing the provisions in the ICCPR and transporting them into domestic legal frameworks in compliance with the increasing number of international voluntarily-accepted obligations. Capacity strengthening is required to fully implement a criminal justice system in accordance with basic human rights principles.

29. While the Government of Lao PDR is considering becoming a party to the legally binding instrument specifically prohibiting the use of torture, cruel, inhuman or degrading treatment (CAT), occurrences of these have been reported. Furthermore, constitutional provisions (a) lack protection of right to life, (b) does not guarantee the inalienability of fundamental rights, (c) does not safeguard against arbitrary arrest and detention, and (d) does not guarantee protection of people deprived of their liberty, and providing for fair trials. Access to prisons or legal counsel, is restricted.

30. While the ICCPR in Article 9.3 required that “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release”, concerns remain on the Article 62 paragraph 6 & 8 and article 65 of the Law on Criminal Procedure as regards to the time periods of detention up to one year and three days without being determined for prosecution.

C. Administration of justice and the rule of law

31. The Constitution¹³ and related laws of Laos establish a framework for the administration of justice and rule of law. Nevertheless, implementation of this framework is an ongoing challenge for the country. Civil liberties more broadly for Lao citizens are set out under Chapter 4 of the 2003 amended Constitution, which covers obligations as well as fundamental rights. Four of the 18 articles are new—the right to vote, to work, to lodge complaints and petitions, and to be free of arrest or search without a court order. Of these, the last is the most significant, for it provides some guarantee against arbitrary arrest and reinforces the slow evolution toward rule of law.

32. Improvements to the legislative process are currently being supported by a joint UN joint programme with the National Assembly. The programme seeks to enhance the effectiveness and efficiency of the National Assembly to further strengthen its legislative, oversight and representational capacities through initiatives involving parliamentarians, the parliamentary committees, committee support staff, and the office of the National Assembly.

33. A permanent challenging feature of the Lao legal system is the practice of appealing against court decisions to the National Assembly, public prosecutors and even local authorities, long after the appeal period has ended. Overall, the rate of judgment enforcement remains very low in spite of a recent Law on Judgment enforcement.

34. In 2009 the Government finalised the country’s first legal sector plan ‘Master Plan on Development of the Rule of Law in the Lao PDR toward the year 2020’ (LSMP). The plan is frank statement of the current needs of the Lao legal system; providing guiding principles and actions for developing a rule of law state.

¹³ See Article 6 of the Constitution

35. UN Agencies (UNDP, UNODC, UNICEF) currently support the Ministry of Justice and other key justice institutions in the area of criminal justice reform, access to justice and other rule of law initiatives; it is anticipated that the LSMP will encourage a broader programme for assistance to the Government in the justice sector.
36. Child-friendly juvenile justice procedures have been established in some provinces, districts and villages and efforts are on-going to expand their reach. Also a juvenile coordinating committee has been established and oversees the application of juvenile procedures and guidelines. Furthermore, guidelines for mediating cases involving children have been approved by the Ministry of Justice and will shortly be disseminated to all concerned.
37. Despite efforts by the Government, legal awareness remains very low in Laos and available justice mechanisms fall short of international human rights standards. A recent policy to promote “free case villages” (villages with no record of cases being referred beyond the mediation unit for resolution), motivates village officials to resolve serious offences or crimes which are more appropriately dealt with in outside forums i.e. courts.
38. With support from the UNDP and other partners, the Government is implementing an access to justice survey and a customary law survey. It is anticipated that data from these surveys will inform activities under the LMSP to respond to the needs of people in the formal and informal justice sector, thereby aligning initiatives with human rights principles.
39. Lao PDRs ratification in September 2009 of the UN Convention Against Corruption (UNCAC) indicates Government commitment to improve on its current ranking of 158 out of 180 countries in the Transparency International CPI Index of 2009: down from 151 in 2008, and equal with Cambodia.

D. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

Freedom of belief

40. Article 9 of the Constitution declares “the state respects and protects all lawful activities of the Buddhists and of other religious followers mobilizes and encourages the Buddhist monks and novices as well as the priests of other religions to participate in activities which are beneficial to the country and people All acts of creating division of religions and classes of people are prohibited ”
41. Freedom of religion is officially guaranteed by the Constitution. Outside the three official Christian churches (Lao Evangelical Church, Catholic Church and the Seventh Day Adventist Church) and the national religion of Buddhism, permission is required to meet, or build places of worship. Such permission is determined by local government. The recent visit of the Special Rapporteur on Freedom of Religious or Belief¹⁴ in November 2009 will assess the situation in the country.

Freedom of association and assembly

42. While the Constitution guarantees freedom of assembly, rights to political or other forms of assembly remain restricted in practice. Movement and assembly is subject to increased surveillance during high-profile national events by reference to decrees and other sub-legislative tools.
43. The entry into force of the Decree on Associations in 2009, which will allow civil society associations to register for the first time, will have an influence on the enjoyment of this important right. The Decree allows for registration of associations, giving them legal personality. Civil society is currently represented by mass organizations, including the Lao Women’s Union (LWU), the Lao Revolutionary Youth Union (LRYU), the Lao Front for National Construction (LFNC), the Lao Federation of Trade Unions (LFTU) and social organizations. The Lao Front for National Construction, the successor to the LPF, served as the political front for the party during the revolutionary struggle. Its mandate is to mobilize political support and raise political consciousness for the party's goals among various organizations, ethnic groups, and social classes within society. Other mass organizations are assigned to pursue these goals among their target populations of workers, youths, and women.

¹⁴ 23-30 November 2009

44. The Lao Media is primarily state owned and controlled. Some recent changes in the media landscape point to a number of new opportunities for a more pluralistic and inclusive media situation in the country. These changes have been echoed in a Media Law passed in 2008, introducing some changes including the possibility of private ownership. Recently, information flow and access have increased through the introduction of the internet cafes and satellite and cable TV broadcasting networks.
45. The population living in the rural areas still have limited access to information due to insufficient language skills, infrastructure and resources. The national media outreach, especially print and electronic media, has yet to reach the population due to the capacity and resource constraints.

Right to participate in public and political life

46. Under the Constitution ‘citizens have the right to lodge complaints, submit petitions and propose ideas to the relevant State organizations in connection with issues pertaining to public and/or individual rights and interests. Complaints, petitions and ideas of citizens must be examined and resolved as provided by the laws’. Yet this right is currently limited to the National Assembly petitions process.
47. The Petitions & Nationality Department, which is responsible for this task, reviews and considers complaints from citizens and may refer the matter to the Standing Committee for further consideration. Parliamentary representation of citizens has been enhanced in recent years by the establishment of a National Assembly "hotline" complaints service for direct contacts between the constituents and the NA when the NA sits for its 2 annual sessions

E. Right to work and to just and favorable conditions of work

48. Lao PDR is in a transition from a state-owned to a market economy and the fundamental requirements of a functional labor market, i.e. freedom of association and the right to collective bargaining are still in their infancy.
49. The 1994 Labor Code recognizes the workers’ right to organize but the trade union freedom is limited: the right to join organizations of their own choosing is not recognized and the trade unions are not independent from the authorities. The right to collective bargaining is not recognized under the national law. Lao PDR has not ratified the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87) and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No.98).
50. Lao PDR is promoting gender equality and non-discrimination in employment. Lao PDR ratified the ILO Equal Remuneration Convention, 1951 (No. 100) and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) in 2008. The Government is expected to submit its first reports on the application of these two Conventions to the ILO by September 2010. Meanwhile, the ILO has recommended the Government to review its legal framework and bring it in conformity with the provisions of the two ILO Conventions, particularly with respect to the recognition of “equal pay for the work of equal value” and the introduction of a clear and accurate definition of discrimination in the national law. Awareness raising and promotional measures on equality and non-discrimination are taking place at the national level involving governments, organizations of employers and workers and civil society.
51. Lao PDR ratified the ILO Forced Labor Convention, 1930 (No.29) in 1964, which requires prohibition and penalization of forced and compulsory labor in both public and private sectors. The 1994 Labor Code prohibits “[A]ny form of using workers by obligatory measures is prohibited” but does not elaborate on the definitions of forced labor. Under Article 4 of the Labor Code, forced labor for the purpose of public work or services may be permitted. The ILO Committee of Experts on the Application of Conventions and Recommendations requested that the Government supply information on any penalties applying to the illegal exaction of forced or compulsory labor. The Government is currently considering the ratification of the Abolition of Forced Labor Convention, 1957 (No.105). To that effect, in December 2008, the Ministry of Labor and Social Affairs issued an instruction to establish an ad-hoc Working Committee on ILO Conventions to carry out a research and study on Convention No.105.
52. Lao PDR is addressing child labor, in particular its worst forms, and ratified the ILO Minimum Age Convention, 1973 (No.138) and the ILO Worst Forms of Child Labor Convention, 1999 (No.182) in 2005. First reports on C.138 and C.182 have been submitted to the ILO and will be reviewed by the ILO Committee of Experts in December 2009. The minimum age for admission to employment is currently set at 14 years old. Children between 14 and 18

years old are prohibited from performing “arduous work or work which is damaging to their health (Article 40 of the Labor Code). In the following years, ILO-IPEC will provide some technical support to the Government to determine a hazardous work list, and this would in turn contribute towards the formulation of a national Plan of Action on the worst forms of child labor. To compliment this, a national child labor survey will shortly commence with the support of the ILO, which is expected to provide a better picture of the nature and extent of child labor, including the worst forms; the survey will be also be looking at migration related dimensions of child labor.

F. Right to food, health and adequate standard of living

53. The 2008 Millennium Development Goal (MDG) Report indicates that Lao PDR is off track to reach Goal 1 to eradicate extreme poverty and hunger. While poverty has decreased from 46 percent in 1992-to 26 percent from 2007-8¹⁵ and the country is on target to halve poverty by 2015, malnutrition remains a serious issue: 23% of the population and 37% of children under five are undernourished¹⁶.
54. Special attention should be paid to the protection of vulnerable populations, in particular women and children, especially among ethnic communities in the remote rural areas. While foreign direct investment has had a positive impact on growth and revenue generation, it has also put pressure on competing demands for land. Concerns have been raised relating to FDI effects on livelihoods, proper use of land and environmental conservation¹⁷, which are all directly linked to rural food security.
55. Relocation of populations associated with development policies such as Land Forest Allocation, village consolidation, opium eradication, and eradication of swidden agriculture has, when poorly implemented, contributed to adverse effects on human health, livestock disease, and shortage of land for cultivation¹⁸
56. With the support of the UN system including ORC, FAO, WFP, UNICEF, WHO, an inter-ministerial National Nutrition Policy has been prepared and a Plan of Action has been approved to address the high prevalence of malnutrition and micronutrient deficiencies and emphasize the importance of food security, quality and safety, which will need a strongly coordinated approach and adequate resources to implement effectively.
57. While the National Nutrition Policy recognized the need for clear multi-sectoral coordination, further emphasis on accountability is needed where the food insecure and vulnerable (rights holders) are empowered through a complaints mechanism holding ministries/sectors (duty holders) accountable to fulfil their responsibilities. Realizing the right to food requires government to ensure people’s access to adequate food. In the NNP, the issue of accountability for nutrition is limited to compliance with the environmental and social impact assessments.
58. The Maternal Mortality Ratio remains high at 405/100.000 live births especially in rural and remote areas. There is a strong concern regarding the inadequacy of health services, especially in regard to services relating to emergency obstetrics, skilled birth attendance and men and women continuous lacking access to quality sexual and reproductive health services.
59. The Ministry of Health recognizes the challenges to improve maternal and child health focused on equitable poverty alleviation in Lao PDR. The Ministry of Health has launched an initiative to provide an integrated package of essential maternal, neonatal and child health services at different levels. This initiative receives wide support of the UN system, including WHO, UNICEF, UNFPA and donor partners.
60. Government spending in the health sector remains low at 2.7 percent of Government expenditure. This is amongst the lowest in the region. Although a decree has been issued that poor people do not have to pay for health service, in practice, this policy is not always applied. There is a perception by the public that health services are expensive and

¹⁵ LECS IV, quoted in Ministry of Planning and Investment presentation, Round Table Implementation Meeting, November 2009

¹⁶ WFP Comprehensive Food Security and Vulnerability Analysis 2008

¹⁷ Background Document, Recent Socio-Economic Developments, Opportunities and Outlook, draft for Discussion Round Table Implementation Meeting, Ministry of Planning and Investment, 2009

¹⁸ Participatory Poverty Assessment, National Statistics Centre/ADB 2006

that costs are neither predictable nor transparent. In the absence of any social health protection mechanisms that ensure wide population coverage, out-of-pocket expenditure for treatment is a major barrier in accessing such services and exacerbate impoverishment.

61. While there is still limited access to improved drinking water and sanitation facilities in rural areas, positive steps have been taken towards achieving Goal 7, with 52.0 percent of households using improved sources of drinking water and 45.1 percent of households using improved sanitation facilities¹⁹. Urban areas continue to have greater access to improved water and sanitation facilities. Both UNICEF and UNHABITAT provide support in the WASH sector, especially for schools, only 24% of which have access to water and sanitation.
62. While HIV/AIDS prevalence in Lao PDR remains low, the rapid increase in internal and cross-border travel, as well as socio-economic changes, increases the country's vulnerability to an AIDS epidemic. The gap between knowledge and application of disease transmission needs to be addressed to offset such an epidemic. The spread of malaria and TB has been successfully curtailed in Lao PDR. With widespread use of mosquito netting, rates of malaria infection have declined significantly falling from 9 to 0.4 deaths per 100,000 from 1990 to 2006²⁰. Polio free status was achieved in 2000 and tuberculosis detection and treatment rates have improved, with the related MDG 6 achieved in 2005.

G. Right to education and to participate in the cultural life of the community

63. With regard to education, steady progress has been made towards the achievement of MDGs 2 and 3, universal primary education and gender parity respectively, although considerable challenges remain.
64. Primary net enrolment rates have increased from 80 percent in 2001 to 91.6 percent today, compared to the target of 98 percent by 2015. A particular priority is to 'reach the unreached' – that is, the near 10 percent of children who are out of school, unable to enjoy their rights to education. Completion rates at 68.4 percent remain a concern, and accelerated efforts will be needed in order to reach the target of Universal Primary Education by 2015²¹.
65. For MDG 3, gender parity in enrolments has increased steadily across all levels, though disparities widen at each stage of the educational ladder, reflecting the remaining significant hurdles girls face to complete a full cycle of education to tertiary level. The fastest rate of progress towards parity has been made at the higher levels, where disparities are greatest²². UNICEF provides support to the education sector by assisting the Ministry of Education to coordinate aid more effectively and implement their rights-based Schools of Quality approach, in close partnership with WFP, which provides school meals and special food rations to families that send their children to school.
66. Steps have been taken to strengthen the policy environment through the Amended Law on Education of July 2007, the adoption of the Educational Sector Development Framework (2009-2015), and ongoing development of an Inclusive Education policy, which aims to ensure that all groups, regardless of gender ethnicity, disability, social status or other attribute, are able to enjoy educational opportunities to the full.
67. Concerns remain, however²³, at the very high illiteracy rates among women (37 per cent), especially among certain ethnic groups, between gender and between urban and rural women's levels of education. Inadequate educational infrastructure, including the high number of incomplete schools, is also a serious constraint, as well as the limited number of qualified teachers, and the marked difference in the quality of, and access to, education between urban and rural or remote areas. Traditional attitudes also constitute obstacles to girls' education as well as drop-out rates owing to involvement in domestic chores. As noted by the CEDAW Committee, education is particularly key to the advancement of women, and the low level of education of women and girls remains one of the most serious obstacles to the full enjoyment of their human rights.
68. Government resources allocated to education, at US\$61 per child per year, are among the lowest in the region²⁴, and may be even lower when translated into provincial budgets. Steps to reach the 18% domestic budget share stipulated

¹⁹ MICS3 2006

²⁰ MDG Report 2008

²¹ Ministry of Education figures, 2009

²² *ibid*

²³ As noted in the Concluding Observations of the 44th Committee on the Elimination of Discrimination Against Women on Lao PDR's 6th and 7th Reports, 2009

²⁴ Global Monitoring Report 2009

in the Amended Education Law and reflect budget norms at provincial level will be essential to meet these challenges and implement improved policies effectively.

H. Migrants, refugees, repatriated and displaced populations

69. In 2008, nine groups comprising some 1,675 Lao Hmong individuals, to whom the UNHCR did not have access, reportedly returned voluntarily from Thailand to Laos. In 2009, seven groups comprising some 1,270 individuals have allegedly returned under similar voluntary arrangements. The voluntary character of returns could not be verified in the absence of direct and meaningful access to the population concerned.
70. However, in December 2008, the Lao PDR organized a visit by the diplomatic community to Hmong returnees in Kasy and Vang Vieng districts, Vientiane. Some UNCT members and five diplomatic representatives were part of the group. The visit enabled some degree of contact with returnees. Access to the settlements was allowed and the visit, included open question and answer sessions with returnees albeit there was no opportunity for private individual interviews of any kind. Overall, it was an encouraging first step in building some confidence and openness around the issue of return. However, since that visit, no additional follow-up visits have organised by the Lao PDR.
71. In this context and pursuant to LPDR's international obligations under the International Covenant on Civil and Political Rights which in Article 12 states that "Everyone shall be free to leave any country, including his own", and the Universal Declaration of Human Rights which in Article 14 provides that "Everyone has the right to seek and to enjoy in other countries asylum from persecution", any repatriation of the Lao Hmong to Laos would have to be voluntary and fully consistent with international standards including possible written agreements that could serve as framework for genuinely voluntary returns. The importance of upholding relevant international principles cannot be overemphasized.

Achievements, best practices, challenges and constraints

72. The Government has achieved landmarks results in 2008 and 2009 in engaging the country in the international human rights framework. Becoming a state party to 6 of the core 9 human rights treaties is an important first step towards ensuring effective enjoyment of rights by the people. By ratifying these legal instruments, Lao PDR is committed to , amongst other actions, enact laws and other measures to improve the lives of the disabled including cluster munitions victims, and to protect all individuals within its jurisdiction from torture and arbitrary arrest and detention. It also reflects a pledge: to actively protect individuals against all forms of discrimination and to promote equality before the law; to promote individual rights to freedom of belief, speech, press association, as well as the right to hold assembly and political participation.
73. The challenge for the country now is to ensure the realisation of these rights in legislation, policy and implementation, especially in the face of accelerated socio-economic changes underway in the country.
74. Recently, the Lao economy has undergone rapid transition due to globalisation, underpinned by increasing revenues from natural resource investments. However, this development has also seen a rise in inequality and regional disparities, with income inequality rising by 3 percent in the last five years²⁵, threatening Millennium Development Goal achievement by 2015 and aspiration to exiting Least Developed Country status by 2020. A key challenge for the country is to ensure that continuing economic growth is balanced, rights-based and environmentally sustainable. Overcoming this challenge will require the Government to work closely with its development partners, building on existing best practices and exploring new avenues for coordination and support. Thus, the ongoing support by the UN, via the Round table process, for the development of national development strategy (five-year National Socio Economic Development Plans – NSEDP is critical.
75. The current 6th NSEDP focuses on 1) promoting economic development, with human development as a key vehicle 2) increasing competitiveness and utilizing comparative advantages to implement effectively international economic commitments in the framework of the ASEAN and other bilateral and multilateral commitments, including WTO and 3) strengthening the positive linkages between economic growth and social development, in addressing social issues such as poverty and other social evils, and help keep the socio-political situation stable. The upcoming 7th NDESP 2010-2015 currently under development will specifically focus on achievement of the Millennium Development Goals by 2015 and exiting Least Developed Country status by 2020 through balanced economic growth, socio-

²⁵ Background Document, Recent Socio-Economic Developments, Opportunities and Outlook, draft for Discussion Round Table Implementation Meeting, Ministry of Planning and Investment, 2009

cultural development and environmental conservation. Throughout the NSDEP process, UNDP plays a key role in supporting its formulation and implementation.

Recommendations

Legal reform

76. Harmonize national legislation with existing international obligations, especially the ICESCR and ICCPR.
77. Adopt and implement the Ordinance on Treaty Making
78. Improve the criminal justice process, beginning from law enforcement through to criminal investigations and prosecution to the process in criminal courts, to meet international minimum standards
79. Improve access to justice: improve and increase public legal education, and develop capacities of village mediation forums to oversee disputes and complaints in accordance with basic human rights principles.
80. A definition of discrimination in its Constitution or other appropriate legislation that encompasses both direct and indirect discrimination and discrimination in the public and private spheres, in accordance with article 1 of CEDAW convention.
81. A definition of rape in the Penal code should include any sexual relations without women's consent, and to remove the exception of marital rape from the definition of rape

Institutions

82. Review the possible options of establishing a National Human Rights Institution according to the Paris Principles;
83. Ensure that the existing inter-ministerial groups preparing the reporting to the treaty bodies have the mandate, capacity and resources to follow-up their concluding observations.
84. Further strengthen the coordination mechanisms such as the LaoNCAW and NCMC to effectively implement their mandate.

Policies to address human rights issues

85. Establish a National Human Rights Plan of Action that (i) improve public awareness of human rights conventions that Laos is a party to (ii) and encourage engagement of civil society on human rights issues in treaty reporting and regional forums.
86. Specifically address human rights treaty body recommendations in national policies and planning.
87. Strengthen implementation of the Children's Law: develop and implement a comprehensive child protection policy, based on holistic approaches and outlining clear accountabilities.
88. Approve and implement comprehensive national action plan for combating trafficking. This is vital to ensure that trafficked women and girls have access to quality medical care, counselling, financial support, adequate housing and opportunities for further training, as well as access to free legal services. Systematic monitoring and periodic evaluation, including the collection and analysis of data is also recommended²⁶.
89. Improved implementation of the 2005 Memorandum of Understanding with Thailand on trafficking, especially along the border areas is also key to improving child rights. Substantial capacity building of relevant judiciary and law enforcement officials in all parts of the country is needed, and institutional capacity for social work developed.

Women and Children

²⁶ CEDAW Report – Additional Observations

90. Support to the implementation of the recent concluding observations of the Committee on the Elimination of Discrimination against Women should remain a priority.
91. Give priority attention to combating gender based violence and adopting comprehensive measures to address all forms of gender based violence.
92. Ensure the promotion of women's full and equal participation in decision making in all areas of public, political and professional life by adopting, wherever necessary temporary special measures, in order to accelerate women's full and equal participation.
93. Provision of adequate resources to the education sector to reach a level of 18 percent of budget share in line with the Amended Education Law of 2007 is essential for effective implementation of improved policy.
94. Provincial budgets should be aligned to reflect national policy priorities for women and children
95. Support and capacity building should be provided to structures which are implementing juvenile justice according to international standards and guidelines and UN Rules on Juvenile Justice.
96. Efforts should continue so that the decrease in overall poverty levels and increased investments in social development benefit all groups in society. In this regard, special attention should be paid to the protection of vulnerable populations, in particular women and children, especially among ethnic communities in the remote rural areas, including relocated populations. While foreign direct investment (FDI) has had a positive impact on growth and revenue generation, it has also put pressure on competing demands for land, and concerns have been raised relating to FDI effects on livelihoods, proper use of land and environmental conservation²⁷, all of which are directly linked to rural food security.
97. There is a continuing need for building heightened awareness of child rights across all sectors, and in particular of coordinated, multi-sectoral approaches to promoting all the rights of the child, through greater emphasis on linkages between health, nutrition, education and child-focused protection.
98. A child and family-focused welfare system should be established throughout the country, at national and sub-national levels, based on the lessons learned from existing on-going initiatives such as the child protection networks at community level.

END

²⁷ Background Document, Recent Socio-Economic Developments, Opportunities and Outlook, draft for Discussion Round Table Implementation Meeting, Ministry of Planning and Investment, 2009