

LAO PEOPLE'S DEMOCRATIC REPUBLIC

**Joint Submission to the Working Group for the Universal Periodic Review – Third cycle
*35th Session – January/February 2020***

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Reporting Organisations

1. **Harm Reduction International (HRI)** is a leading non-governmental organisation dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. We promote the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies. The organisation is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.
2. The **International Drug Policy Consortium (IDPC)** is a global network of 188 non-government organisations, established in 2006, advocating for drug policies that are based on evidence and principles of public health, human rights, human security and development.
3. The **Asian Network of People who Use Drugs (ANPUD)** is a community-led regional advocacy network that works to improve the quality of life of people who use drugs through the enjoyment of equal human rights and opportunities. The formation of ANPUD is underpinned by the principle of “*Meaningful Involvement of People who Use Drugs*” with a strong belief of unity, support, equality, inclusiveness, spirit of friendliness, collaboration and the will to change the current situation faced by people who use drugs in the Asian Region.

Introduction

4. HRI, IDPC and ANPUD welcome the opportunity to report to the Working Group for the Universal Periodic Review on drug laws and policies in Lao People’s Democratic Republic (hereinafter Lao) and their impact on the enjoyment of human rights. In particular, this report will examine the right to health of people who use drugs, the death penalty for drug offences and the arbitrary arrest and detention of people who use drugs and “drug offenders”.

The right to health of people who use drugs

1. An estimated 1,600 people inject drugs in Lao.¹
2. UN human rights and drug control bodies agree that people who use drugs retain their human rights, including their right to the highest attainable standard of health. Having ratified the International Covenant on Economic, Social, and Cultural Rights, Lao has binding legal obligations to respect, protect and fulfil the right to health of people who use drugs.

Harm reduction as a fundamental component of the right to health

1. The right to health requires all States to provide comprehensive harm reduction services for people who use drugs.² Harm reduction services and interventions are life-saving, evidence-based, and cost effective. On this basis, the World Health Organization (WHO) recommends harm reduction as an essential part of a comprehensive package of interventions to prevent HIV.³ The WHO also identifies harm reduction as one of the five core interventions necessary to achieve hepatitis C elimination by 2030,⁴ and considers harm reduction to be an effective approach to mitigating the risk of tuberculosis.⁵ Essential harm reduction interventions include needle and syringe programmes (NSPs) and opioid substitution therapy (OST) and overdose prevention and management.⁶ Evidence shows that these essential interventions are most effective when they are peer-led and supported by favourable drug laws and policies.



2. The only two needle and syringe programmes in Lao, which received support from the Asian Development Bank, were terminated when the project came to an end in 2017. There are currently no known harm reduction services available in the country.⁷

The death penalty for drug offences

3. Numerous human rights mechanisms have authoritatively stated that the “most serious crimes” to which the death penalty must be limited are “crimes of extreme gravity involving intentional killing.”⁸ Accordingly, drug-related offences have been determined not to meet this critical threshold. This opinion is shared by the United Nations High Commissioner for Human Rights, the Economic and Social Council, the General Assembly and the Secretary-General, the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions,⁹ and the Human Rights Committee.¹⁰
4. Nevertheless, Lao is one of 35 countries and territories that still retain the death penalty for drug offences in their legislation. The government states that the death penalty is only imposed for “especially serious crimes such as drugs trafficking.”¹¹ More precisely, the death penalty is envisaged as punishment for the production, trade, distribution, possession, import, export, and transport through Lao of specified (and modest) amounts of listed substances.¹² While the government has stated that “in practice” individuals sentenced to death “receive reduction of death sentence to life imprisonment,”¹³ Laotian law still envisages death as the mandatory punishment for certain drug-related crimes.¹⁴
5. The last recorded execution in Lao dates back to 1989, and the government has repeatedly stated that a moratorium has “in practice” been in place in the country for some years.¹⁵
6. While information on the imposition of capital punishment in the country is extremely limited, during its 2018 review by the Human Rights Committee, the government acknowledged that 311 out of the 315 people on death row at the time had been convicted for drug offences.¹⁶ This revelation provided a glimpse into the otherwise secretive practice of capital sentencing in the country, and confirmed that drug offences are the main category for which the death penalty is imposed.
7. During its last Universal Periodic Review in January 2015, Lao reiterated its commitment to review “the list of offenses subject to death penalty under the current Penal Law [...] to be in full compliance with Article 6 of the ICCPR”.¹⁷ Regrettably, there is no evidence that reforms to this effect have taken place since. During the review, Lao also received recommendations by several States to ratify the Second Optional Protocol to the ICCPR, establish an official moratorium on executions, restrict the application of the death penalty to the most serious crimes, and/or abolish the death penalty.¹⁸ The country did not accept any of these recommendations.
8. The Government has also repeatedly abstained from voting on UN General Assembly resolutions aimed at establishing a moratorium on the use of the death penalty.¹⁹



Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty

9. As of 2017, there were 12 government-run drug “rehabilitation” centres in Lao,²⁰ detaining over 4000 people who use drugs.²¹ Since 2011, human rights bodies and non-governmental organisations have reported violations and abuses suffered by individuals in so-called drug-rehabilitation centres in the country, such as (but not limited to): forced urine testing and drug dependence treatment (often not based on scientifically proven practices); involuntary commitment to, and lack of medical evaluation in facilities; forced labour; detention in unsanitary conditions; and sexual violence. What is formally described as treatment and rehabilitation in reality constitutes arbitrary detention following arbitrary arrest, lacking due process guarantees or judicial oversight, in a context where violence and abuse are commonplace.²²
10. The most infamous among these centres is Somsanga Rehabilitation Centre, where since 1996 more than 25,000 people have been “treated”²³ for drug dependence. Although the centre is still operational, no information is available concerning current conditions or available interventions.²⁴
11. In 2015, Lao and other Southeast Asian (ASEAN) countries plus China (9 countries in total) officially committed to moving from compulsory detention treatment towards voluntary community-based treatment services. Following this development, the United Nations Office on Drugs and Crime (UNODC) and all 9 countries announced a package to strengthen community-based health services for people who use drugs in November 2016. Unfortunately, Lao has not yet made much progress on these commitments.²⁵
12. HRI, IDPC and ANPUD wish to express their concerns regarding the failure of the State to provide updated and reliable information on drug detention centres, a lack of transparency and accountability, and failure to ensure justice and the provision of full reparations to those who have endured torture, ill-treatment, and other violations of their human rights while detained in these centres.
13. Equally concerning is the failure of the State to respond to reports of arbitrary arrest and detention of persons who use drugs, as requested by the Human Rights Committee in 2018.²⁶ More generally, although Lao noted that law enforcement is prohibited from using violence against “drug offenders”, and referred to an ongoing commitment to “developing better management of detention and correctional facilities,”²⁷ it did not elaborate specifically on national drug control strategies, on whether drug detention centres are still in operation, nor provide “relevant statistics on the number of reported cases of torture and ill-treatment, investigations, prosecutions of prison officials and convictions secured.”²⁸

Conclusions and Recommendations

14. HRI, IDPC and ANPUD urge Member States to recommend that the government of Lao:
 - a) Review domestic policies and practices to ensure access to evidence-based and health-centred approaches to drug use, including access to peer-led harm reduction services and interventions both inside and outside prison settings, in line with internationally recognised human rights standards;



- b) Ratify the Second Optional Protocol to the ICCPR;
- c) Adopt an official moratorium on executions with a view to amending the Penal Code, as a first step towards the definitive abolition of the death penalty;
- d) End the arbitrary arrest and compulsory detention and treatment of people who use drugs, and work towards providing voluntary community-based treatment services in line with internationally recognised human rights standards;
- e) Adopt measures to ensure all allegations of human rights violations in drug detention centres and reports of arbitrary arrest and detention of people who use drugs are “promptly and thoroughly investigated by an independent mechanism, that perpetrators are prosecuted and punished accordingly and that victims are provided with full reparation”.²⁹
- f) Make age and sex-disaggregated, non-cumulative, consistently updated and reliable information available on: death sentences and individuals in death row, executions and/or commutation of death sentences; the existence and functioning of drug detention centres; allegations of human rights violations in drug detention centres; and reports of arbitrary arrest and detention of people who use drugs.

¹ UNAIDS data 2018, p. 147, https://www.unaids.org/sites/default/files/media_asset/unaids-data-2018_en.pdf

² Paul Hunt, ‘Human rights, health, and harm reduction’, 8. Key human rights mechanisms have reiterated this principle, such as: Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, ‘Open Letter in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016’ (7 December 2015).

³ WHO, Consolidated Guidelines on HIV prevention, diagnosis, treatment and care for key populations, 2016 update, <https://apps.who.int/iris/bitstream/handle/10665/246200/9789241511124-eng.pdf?sequence=1>

⁴ WHO, Consolidated Strategic Information Guidelines for Viral Hepatitis, Planning and Tracking Progress Towards Elimination, 2019. <https://apps.who.int/iris/bitstream/handle/10665/310912/9789241515191-eng.pdf?ua=1>

⁵ WHO, Consolidated guidelines for integrating collaborative TB and HIV services within a comprehensive package of care for people who inject drugs, 2016.

https://apps.who.int/iris/bitstream/handle/10665/204484/9789241510226_eng.pdf;jsessionid=8109A3D2AC9E957C67F71480B33D80E6?sequence=1

⁶ The “harm reduction comprehensive package” recommended in WHO guidelines includes: NSP; OST; anti-retroviral treatment; HIV, tuberculosis & hepatitis testing, counselling and treatment; condoms for people who inject drugs; targeted information; and vaccination against hepatitis B.

<https://apps.who.int/iris/bitstream/handle/10665/246200/9789241511124-eng.pdf?sequence=1>

⁷ Personal communication, on file with HRI, 16 July 2019.

⁸ Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life (Advance Unedited Version), para. 39

⁹ Among others, see: Economic and Social Council, Resolution 1984/50: Safeguards guaranteeing protection of the rights of those facing the death penalty (25 May 1984); Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston: Civil and Political Rights, Including the Questions of Disappearances and Summary Executions (29 January 2007), para. 39-53. UN Doc. A/HRC/4/20; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (14 January 2009), para. 30. UN Doc. A/HRC/10/44.



¹⁰ Among others, see: UN Human Rights Committee. Concluding Observations: Thailand (8 July 2005), para 14. UN Doc CCPR/CO/84/THA; UN Human Rights Committee. Concluding Observations: Sudan (29 August 2007), para. 19. UN Doc CCPR/C/SDN/CO/3; UN Human Rights Council. Question of the death penalty: report of the Secretary-General (30 June 2014), para. 29. UN Doc. A/HRC/27/23

¹¹ Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Initial reports of States parties due in 2010, Lao People's Democratic Republic (27 April 2017), para. 39. UN Doc. CCPR/C/LAO/1 (hereafter: Lao People's Democratic Republic initial report)

¹² Lao People's Democratic Republic, Penal Law, art. 146. Accessible at:
http://www.wipo.int/wipolex/en/text.jsp?file_id=180194

¹³ Human Rights Council, Lao People's Democratic Republic initial report, para. 39

¹⁴ Lao People's Democratic Republic, Penal Law, art. 146(1), 146(2), 146(3). Accessible at:
http://www.wipo.int/wipolex/en/text.jsp?file_id=180194

¹⁵ Human Rights Council, Lao People's Democratic Republic initial report, para. 75; Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lao People's Democratic Republic, para. 77. UN Doc. A/HRC/29/7

¹⁶ Human Rights Committee. Lao People's Democratic Republic initial report, para 65.

¹⁷ Ibid., para. 36

¹⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lao People's Democratic Republic, paras. 121.4 – 121.9. UN Doc. A/HRC/29/7

¹⁹ UN General Assembly, 71st Session, 65th Plenary Meeting: official records (19 December 2016), pag. 25/47. UN Doc. A/71/PV.65; UN General Assembly, 69th Session, 73rd Plenary Meeting: official records (18 December 2014), pag.17. UN Doc. A/69/PV.73; UN General Assembly, 67th Session, 60th Plenary Meeting: Official records (20 December 2012), pag. 17. UN Doc. A/67/PV.60

²⁰ Asia Pacific Amphetamine Type Stimulants Information Centre, Lao PDR: Overview of the drug situation (14 February 2017) http://www.apaic.org/index.php?option=com_content&view=article&id=376&Itemid=807

²¹ International Drug Policy Consortium, 10 years of drug policy in Asia: How far have we come? A civil society shadow report. (19 February 2019)

²² Among others, see: Human Rights Watch, 'Somsanga's Secrets: Arbitrary Detention, Physical Abuse, and Suicide inside a Lao Drug Detention Centre (USA: Human Rights Watch, 2011); Joseph J. Amon et al., 'Compulsory Drug Detention Centers in China, Cambodia, Vietnam, and Laos: Health and Human Rights Abuses' 15/2 Health and Human Rights (December 2013), 126

²³ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lao People's Democratic Republic, para 89. UN Doc. A/HRC/29/7

²⁴ In July 2017, in the context of the Australia – Laos Human Rights Dialogue, a delegation of foreign officials was allowed to visit the centre. More information is available here:
<http://dfat.gov.au/news/media/Pages/5th-australia-lao-pdr-human-rights-dialogue.aspx>.

²⁵ United Nations Office on Drugs and Crime, *Community based treatment strategy for Southeast Asia moves ahead*, 30 November 2016, <https://www.unodc.org/southeastasiaandpacific/en/2016/11/community-based-drug-treatment/story.html>

²⁶ Human Rights Committee, List of Issues in relation to the initial report of the Lao People's Democratic Republic (28 March 2018), UN Doc. CCPR/C/LAO/Q/1, para. 15.

²⁷ Human Rights Council, Lao People's Democratic Republic initial report, para. 54.

²⁸ Human Rights Committee, List of Issues in relation to the initial report of the Lao People's Democratic Republic (28 March 2018), para. 12. Un Doc. CCPR/C/LAO/Q/1.

²⁹ Ibid., para. 12.