

ANNEX: Questions on best practices that promote and protect the rights to freedom of peaceful assembly and of association

It would be deeply appreciated if responses were brief. Responses in bullet-points are encouraged. For non-governmental organizations (NGOs), should they so wish, their identity will remain confidential (only the country where they operate will be disclosed).

It should be noted that access to updated information around laws which have been promulgated is not available; one needs to either work in law or have links to law practitioners; public access to laws and related information/publications are not available.

Right to freedom of peaceful assembly:

1. Please a) describe positive legislative/institutional measures taken to facilitate the exercise of the right to freedom of peaceful assembly in your country; and b) provide one or more recent examples where the right to freedom of peaceful assembly in your country has been adequately enjoyed and the reasons for citing this example(s).

- National Constitution, 2003, part 4 addresses rights and duties of Lao citizens. For example: article 44 on the rights for expression, assembly and association.
- Ex: Online networking self-managed by civil society group members; ability to operate unregistered networks (iNGO & local) and learning centers with government awareness; Media law, 2008
- National Assembly law, 2003, article 43 expresses the rights of national assembly member to represent people in their area
Ex: People have right to call and petition the national assembly
- official recognition of the iNGO network enabling meetings between members and participation in public forums; government and non-government

2. Please a) describe positive legislative/institutional measures taken to protect peaceful protesters, including against *agents provocateurs* and/or counter-demonstrators; and b) provide one or more examples where peaceful protesters were effectively protected.

- There are no measures to protect peaceful protesters unless the protest is organized by the government agencies/ in Lao context there are no protests; if people assemble they do so to 'promote or support' a cause, like International Day Against Poverty
- There is no positive public protest record since the country's independence since 1975 but there are successful examples of petitioning since 2000 onward.
- There are known incidents at community level of villagers/groups who have attempted to protest/lobby for their rights and faced severe penalties, including indefinite incarceration

3. Please describe measures taken to ensure that any restrictions on the free exercise of the right to freedom of peaceful assembly are in accordance with your obligations under international human rights law (proportionality test and due process guarantees). Please explain the legal status of spontaneous assemblies.

- The measures are not in line with the Lao law and human rights policies
- The penal law is often used to threaten civil society movement to promote the right for assembly such as:
 - Article 52 (New): Any person participating to activities causing commotion in view of overthrowing or weakening the administration shall be punished by imprisonment from ten to twenty years and fined from Kip 10,000,000 to Kip 500,000,000, with the possibility that their assets may be confiscated as provided under article 32 of this law and placed under house arrest, or life imprisonment or capital punishment. Any preparation and attempts to commit such offense shall also be punished.
 - Article 65 (New): Any person responsible for the safekeeping, preservation and use of documents pertaining to state secrecy and disclosing such secrecy or allowing the disclosure of such secrecy or loosing such documents shall be punished by three to five years of imprisonment and shall be fined from Kip 500,000 to Kip 10,000,000. In the case of

administrative secrecy, the offense shall be punished by one to three years of imprisonment and a fine between Kip 100,000 to Kip 5,000,000.

- Article 72 (New). Any person organizing or participating to the gathering of groups of persons to conduct protest marches, demonstrations and others with the intention of causing social disorders, which have caused damage to the society shall be punished by one to five years of imprisonment and shall be fined from Kip 200,000 to Kip 50,000,000. Attempts to commit such offense shall also be punished.
- UPR of Human Rights is an accountable platform to address still not properly implemented restrictions

4. Please a) describe positive legislative/institutional measures taken to ensure accountability for i) arbitrary restrictions to hold assemblies; ii) arbitrary or excessive use of force by law enforcement officials against peaceful demonstrators; and iii) violence by *agents provocateurs* and/or counter-demonstrators; and b) provide one or more examples for each of these situations where such measures have been implemented.

- Police and military are undergoing reform under UPR accepted recommendations, International Law Project (ILP/UNDP) trainings, and Access to Justice & Governance program supported by the EU/UNDP

5. In this context, please describe positive legislative/institutional measures taken to build and strengthen the human rights capacity of administrative and law enforcement officials in your country.

- See above comment
- Ratified law in 2011 which legally enables lawyers to disseminate policy
- Anti-corruption law, 2005
- ILP Project carries out trainings for law enforcement

6. Please describe one or more recent examples where the right to freedom of peaceful assembly may have not been respected and the reasons for citing this example(s). In particular, please describe challenges faced in the implementation of laws, policies or programmes for the promotion and protection of the right to freedom of peaceful assembly in your country. Please provide details of any lessons learnt in that regard. Briefly evaluate, in both law and practice, the enjoyment of the right to freedom of peaceful assembly in your country, including by women, individuals facing discrimination or violence because of their sexual orientation and gender identity, as well as persons with disabilities, espousing minority or dissenting views or beliefs, and belonging to other groups at risk.

- There is significant gap between policy in theory and implementation in practice:
 - Ex: to arrest someone you need to get an arrest warrant from the prosecutors office, however there are repeated reports which illustrate the contrary is happening
- Laws, decrees and institutional measures discriminate against disadvantaged groups: elderly, disabled, ethnic, drug addicts/homeless/sex workers and poor
 - Ex: recent policy passed which allows the imprisonment of 'recovered drug addicts' in case of rebound; also marital rape is not recognized; ethnic minorities 'do not exist' because according to the constitution 'everyone is equal'; therefore UPR recommendations which address these issues were not accepted by the Lao PDR; Resettlement strategy which aims to consolidate villages to provide improved services has seen many already disadvantaged villages displaced and worse off without pre-informed decision making or complaint mechanisms facilitated
- The national constitution article 44 allows organization of protest as long as these respect the laws. However, how law is interpreted by authorities assumes that all forms of protest are anti-government and therefore a threat to security and solidarity.
- Law implementers are often also law breakers, where conflicting interests sway implementation of policies. Again often times no recourse mechanisms for affected people
- Access to law related information and justice mechanisms for rural citizens is very limited; often local authorities are misinformed themselves or knowingly misinform.
- Chronic corruption affects transparent and accountable implementation of policies and programs. Ex: Un-necessary public investment on state buildings, cars and meetings while public debts and deficits are increasing.
- Citizens are not aware of laws or feedback mechanisms therefore they are simply unaware of their

- rights and obligations and options
- Executive and legislative responsibilities overlap creating increased instances of conflicts of interest

Right to freedom of association:

7. Please a) describe positive legislative/institutional measures taken to facilitate the exercise of the right to freedom of association by national and international organizations (e.g. are associations free to decide on their objectives, activities and board composition?); and b) provide one or more recent examples where the right to freedom of association has been adequately enjoyed in your country and the reasons for citing this example(s).

- National Constitution, 2003, part 4 addresses rights and duties of Lao citizens. For example: article 44 on the rights for expression, assembly and association.
- Prime Minister Decree on Association, 2009 provide a framework for registration and operation of local non-governmental organizations
- Since the 2009 Non Profit Associations decree, there are over 50 local organizations in process of registration
- iNGO decree #13 and official working permit provided to iNGO network coordinator
- 2010 Farmer's Cooperative decree

8. Please detail the procedures to be followed to establish an association in your country, including the legal grounds upon which an application for registration can be rejected, where applicable. Please a) describe positive legislative/institutional measures taken to ensure a non-discriminatory, expeditious, easily accessible and inexpensive registration process; and b) provide one or more examples where such measures have been implemented. Are there effective remedies in case the registration is denied or delayed? Please indicate, if available, how many people have pursued these remedies, and the result thereof. Please specify the legal status of unregistered or *de facto* associations.

- The Decree 115 on Non Profit Associations was promulgated at the end of 2009 and at the end of 2011 only 11 non-Profit Associations were registered although more than 70 Non-Profit Associations submitted their registration application – this bottleneck refrains the freedom of association:
 - Lack of institutional autonomy to select name of organization, steering committees and members and other; everything and every step is closely monitored and requires 'authorization'
 - Criminal records & family history verified by authorities
 - Qualification and experiences (leader profile) and
 - Agreements of line government line agencies
 - In decree it states 30 day delay for decisions per each of the three steps but in reality majority of applicants have been in process for 2 years or more.
 - Even post registration, civil society organizations cannot independently carry out activities without government authorization and partnership
 - Although the decree includes recognition and promotion of unincorporated/ (unregistered) civil society associations, in practice remaining unregistered can impose limitations vis-à-vis legality of operations and possible sanctions because can be more easily judged as operating outside the law
- iNGO decree; more than 180 iNGO active in country;
- iNGO network with over 70 members which it can recruit freely which interacts with GoL
- Operations are insecure with limited term permits, contradictory work permit allowances and operational permits; registration can take more than a year; MoU – lack of available info about registration processes to help iNGO engage in the application process more smoothly
- No record available of iNGO applications accepted/ refused
- Decree 456 Management of local staff by iNGO requires iNGOs carry out local staff recruitment with government approval
- Lao staff working with iNGOs to be issued special ID cards
- iNGO which deal with human rights related issues are limited to operating outside the country

9. Please explain the procedure available to suspend or dissolve an association in your country. Are there effective remedies in case an association suspended or dissolved? Please indicate, if available, how many people have pursued these remedies and the result thereof.

- Under the association decree, all types of associations are overseen by the ministry of home affairs. The registered associations that are evaluated to be operating effectively or against the law will be suspended or closed down.
- All associations operating under previous permits/license before 2009 had to re-register under the new association decree/ their previous permits revoked/unrecognized.
- Article 29 of iNGO decree 13 includes a sanction but no apparent remedy or arbitration mechanism and clear delegation of powers; boundaries of what would be considered inside or outside law are vague Ex: (...) an iNGO or its staff who carry out an activity a contrary to the policy of the Government and in violation of the law and regulations as well as the Lao fine traditions shall be subjected to the laws and regulations of the Lao PDR”

10. Please specify positive measures taken to ensure that any restrictions on the free exercise of the right to freedom of association are in accordance with your obligations under international human rights law (proportionality test and due process guarantees).

- Because the NPA decree is relatively new and majority of associations are either only just registered or still in progress this remains to be experienced; however examples do exist of iNGOs being restricted even operations discontinued as a result of activities and positions deemed ‘against’ government policy.

11. Please indicate under which conditions associations can receive domestic and foreign funds or resources in your country. Are there any specific limitations (including in practice) on receiving funds or resources?

- Art. 44 of Decree 115 on Non-Profit-Association mentions: “Association’ Sources of Revenues Revenues are obtained by associations from different sources:
 - i. Membership fees
 - ii. Donations by local and foreign individuals or entities in compliance with the laws and regulations
 - iii. Income generated from their activities
 - iv. Other lawful sources of revenues
- iNGO or bilateral funding restrictions towards NPA: Many donors can only fund legal/ registered entities. Therefore non-registered organizations or NPAs in the process of registration cannot access funding directly or effectively.
- Declaration of funds: Though not specified in the Decree 115, the government stated that foreign funds provided to NPAs have to be announced to the Ministry of Foreign Affairs and the same goes for expats working with NPAs.

12. Please a) describe positive specific legislative/institutional measures taken to promote and ensure the participation of associations in the decision-making process in your country; and b) provide one or more recent examples where such measures have been implemented.

- Decision is made by the government in line with the Lao People Revolutionary Party with approval of the National Assembly. There is no measure to ensure participation of citizens in such decision. It is assumed that citizens are already represented by the national assembly members. However, the national assembly is not function effectively to representing citizen voices.
- The national assembly conference is the only formal mechanism for citizen to participate in decision making
- 2011 Ministry of Education has opened to civil society participation in strategic planning
- CSO Statement (drafted by registered and non-registered NPAs, during consultations in Lao PDR in the run up to the High Level Forum on Aid Effectiveness in Busan) calls for local civil society participation in planning, monitoring and evaluation.

13. In this context, please a) describe positive specific legislative/institutional taken to build and

strengthen the human rights capacity of administrative officials in charge of implementing the law in your country; and b) provide one or more recent examples where such measures have been implemented.

- See point 5 on the freedom of assembly

14. Please describe one or more recent examples where the right to freedom of association may have not been respected and the reasons for citing this example(s). In particular, please describe challenges faced in the implementation of laws, policies or programmes for the promotion and protection of the right to freedom of association in your country. Please provide lessons learnt in that regard. Briefly evaluate, in both law and practice, the enjoyment of the right to freedom of association in your country, including by women, individuals facing discrimination or violence because of their sexual orientation and gender identity, as well as persons with disabilities, espousing minority or dissenting views or beliefs, and belonging to other groups at risk.

- See above points

Cooperation with UN and regional human rights mechanisms:

15. Please indicate any cooperation your country has with the United Nations and regional human rights mechanisms aimed at maximizing the promotion and protection of the rights to freedom of peaceful assembly and of association.

- UPR
- Access to Justice and Governance program
- SELNA UN Project
- Lao NCAW/ CEDAW
- ILP project
- UN Strengthening Civil Society Program
- APF; ASEAN (ACWC; AICHR; ACMW); AEPF (being hosted in Laos this yr 2012); Paris Declaration Reporting under the Aid effectiveness Agenda;
- Informal regional civil society networks (CCC in Cambodia; LRC in Myanmar; TERRA; Save the Mekong Thailand; Vietnam etc.)
