



## Disinformation and freedom of opinion and expression in Laos

### What legislative, administrative, policy, regulatory or other measures has the government taken to counter disinformation online and offline?

Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 44 of the Lao People's Democratic Republic (Lao PDR) Constitution also guarantees the citizens the right and freedom of speech and press. However, in policy and practice an array of restrictive laws continue to exist to muzzle freedom of expression and the media is severely curtailed. Often, these laws were brought in under the guise of countering disinformation.

Civil society groups as well as the UN Human Right Committee have raised concerns around a number of legal provisions in Laos that curb freedom of expression and that contains vague and broadly formulated offences. These include provisions on 'propaganda against the state' (article 65 of the Penal Code) and criminal defamation, libel and insult (articles 94 and 95 of the Penal Code). Article 94 stipulates that any person that defames and libels in causing severe damage to the dignity of other persons through oral, written or other means shall be punished and fined according to the law while Article 95 stipulates that any person that slanders other persons through oral or other means resulting in severe damage to the other persons' dignity shall be punished by three months to one year of imprisonment or by re-education without deprivation of liberty and shall be fined according to the law.

Article 65 criminalises "any individual who uses propaganda to slander the Lao PDR, or who use false news to spread disorder through oral communications, writings, publications, newspapers, films, videos, photographs, documents or other means against the State will be punished by one to five years of imprisonment and shall be fined from 500,000 kip [USD 57] to 10,000,000 kip [USD 1,135]".

The ruling Lao People's Revolutionary Party (LPRP) exercises absolute control over the media including TV, radio and printed publications through the Ministry of Information, Culture and Tourism of the Government of Lao PDR. Legal restrictions on the media aimed at ensuring strict adherence to and promotion of government policies were introduced by the 2016 amendments to the Media Act of 2008 and by the Decree No. 377 of 24 November 2015 on Press Activities of Foreign Media Agencies, Diplomatic Missions, and International Organizations of November 2015 which requires the submission of materials for governmental approval before publication.

Adding to this, foreign journalists wanting to cover events in Lao PDR are required under Decree No. 377 of 24 November 2015, to submit their content to the Ministry of Foreign Affairs for approvals and seek permission from the Ministry, 15 days before coming into Laos. This includes reporters accompanying a foreign delegation on a visit the country.<sup>1</sup> Lao PDR is ranked 171 out of 180 countries in the 2019 World Press Freedom Index.<sup>2</sup>

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<sup>1</sup> 'Laos: Critical cyberspace shrinks, mainstream press further muted', SEAPA, 3 May 2017 <https://www.seapa.org/wpfd2017-critical-cyberspace-shrinks-mainstream-press-further-muted/>

<sup>2</sup> 'Reporters Without Borders, Laos country page', <https://rsf.org/en/laos>

Due to the strict media controls, many Laotians often seek access to information online. Online criticism of the government and the LPRP or circulating 'false information online' is criminalised, in Decree No. 327 on Internet-Based Information Control/Management of 16 September 2014. The Law on Prevention and Combating of Cyber Crime, 2015 also criminalises vaguely defined web content, and provides powers to the government to silence critics arbitrarily.<sup>3</sup> Further, the Ministry of Post, Telecommunication and Communication is responsible for online surveillance to sanitise political criticism or malicious comments against the Party and government leadership.<sup>4</sup> On 19 July 2019, the Lao Ministry of Information, Culture and Tourism ordered the administrators of news outlets carried on Facebook and other social media platforms to register their accounts or face jail time and fines. Government order number 256 issued on 12 July 2019 cited the need to regulate the spread of "fake news and disinformation in social media," which causes "misinformation and even public panic".

On 8 October 2020, Laos' Ministry of Information, Culture and Tourism (MICT) re-issued notices to online media sources, warning that "any individual, legal entity, state or private sector that continues to publish and provide information to the public via social media without permission will face measures in line with the laws of the Lao PDR". Lao authorities stated that the notice is intended to mitigate the spread of 'fake news'. According to Radio Free Asia (RFA), the notice states that "unregistered online social media [news outlets] are allowed to register at any time." Further, an anonymous RFA source said that 20 Facebook pages -- including Tholakhong, Inside Laos, and Lao Youth -- have been registered, while several other news sites like the Lao-Thai Facebook page have not registered. As previously documented, in July 2019 the same government agency ordered that news outlets that use Facebook and other social media platforms register or face jail time and fines.

### **What has been the impact of such measures on i) disinformation; ii) freedom of opinion and expression; and iii) other human rights?**

The authorities' efforts to stifle dissent has meant that citizens and local civil society are too afraid to criticise massive development projects that have a negative impact on the environment and livelihood of communities such as logging, agribusiness, mining and dams.<sup>5</sup>

In March 2017, three activists, Lodkham Thammavong, Soukane Chaithad and Somphone Phimmason were detained for publishing a post on Facebook, drawing attention to the lack of democracy in Laos. They were arrested<sup>6</sup> in March 2016 and detained incommunicado for over two months and tried in secret.<sup>7</sup> They were then forced to admit to their crimes on national television.

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<sup>3</sup> 'Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019' p. 4, op cit.

<sup>4</sup> To improve its efficiency in combating cyber activities, the Laotian government has received technical support from its Vietnamese counterparts to help set up a modern telecommunication system to efficiently file, distribute, control, and screen information through joint cooperation between the Vietnam News Agency and the Lao National News Agency, Khaosan Pathet Lao (KPL). The agreement was signed during the official visit to Laos of Vietnamese President Nguyen Phu Trong in February 2019. See 'Laos: Screws on Online Discourse Get Even Tighter', SEAPA, 3 May 2019, <https://www.seapa.org/laos-screws-on-online-discourse-get-even-tighter/>

<sup>5</sup> 'Repressive climate for civil society silences criticism of dam projects' op cit.

<sup>6</sup> The three activists had been working in Thailand before returning to Laos in February 2016 to renew their documentation when they were arrested. Prior to their return, they had participated in a peaceful demonstration of around 30 people outside the Lao PDR embassy in Bangkok on 2 December 2015, Lao national day, and had posted a number of messages on Facebook criticising the government for corruption, deforestation and human rights violations.

<sup>7</sup> Urgent Action: Three activists sentenced to prison in secret trial, Amnesty International, 17 May 2017, <https://www.amnesty.org/download/Documents/ASA2662702017ENGLISH.pdf>

In May 2017, they were convicted for ‘acts of betrayal towards the nation’ (article 56 of the Penal Code), ‘propaganda against the state’ (article 65 of the Penal Code) and ‘gatherings aimed at causing social disorder’ (article 72 of the Penal Code) and given lengthy prison sentences of 12 years, 18 years, and 20 years in prison, respectively.<sup>8</sup> In September 2017, the UN Working Group on Arbitrary Detention declared their detention to be arbitrary.<sup>9</sup>

Pro-democracy activist Bounthanh Thammavong, a Laos-born Polish citizen, served four years in prison for a Facebook post in which he criticised the government’s policies and actions. The Laos-born Polish citizen was arrested in June 2015 for “disseminating propaganda against the state” on Facebook after he criticised the government’s policies and actions. He was convicted in October 2015 for “propaganda against the state” (article 65 of the Penal Code).<sup>10</sup> The Vientiane Supreme Court originally sentenced Bounthanh to four years and nine months in jail, but later reduced the sentence to four years. On 21 June 2019, he was released from prison and returned to Poland.

Bounthanh had been forced into exile from Laos and subsequently became a citizen of Poland, where he founded the Organization of Lao Students for Independence and Democracy in the 1990s. He returned to Laos in 2010 to run a business after receiving assurances from Lao officials that he would not face arrest on his return. Bounthanh was one of the first to be arrested following a 2014 government decree barring criticism of the government and the communist party on online platforms.

During the collapse of a dam under the Xe-Pian Xe-Namnoy Hydroelectric Power Project province in July 2018, social media quickly reported the number of deaths while official media was restricted from covering it.<sup>11</sup> The Prime Minister’s office issued a notification letter that temporarily blocked access to individuals and entities to the dam area unless authorised. He also warned the population to only follow state-owned media and disregard misinformation on social and foreign media.<sup>12</sup>

Besides the prosecution of activists, government critics have also been swiftly silenced for speaking up online. In May 2015, local police took a 26-year-old woman, Phout Mitane of Nabouam village in Xayaburi province’s Phiang district into custody without a warrant after she posted photos on Facebook allegedly showing police officers extorting money from her brother over a traffic violation.<sup>13</sup> Another woman, Chanthaphone, a provincial government staffer was also detained in June 2015 for posting a “confidential document” on her Facebook account about a controversial land concession granted by the local government in Luang Prabang province to Chinese investors,

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<sup>8</sup> ‘Decree on Associations imposes severe restrictions on civil society’, CIVICUS Monitor, 14 March 2018, <https://monitor.civicus.org/newsfeed/2018/03/14/decreed-associations-imposes-severe-restrictions-civil-society/>

<sup>9</sup> ‘Human Rights Council Working Group on Arbitrary Detention: Opinion No. 61/2017 concerning Lodkham Thammavong, Somphone Phimmason and Soukan Chaithad (Lao People’s Democratic Republic)’ 15 September 2017, [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A\\_HRC\\_WGAD\\_2017\\_61.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_61.pdf)

<sup>10</sup> ‘Lao Prisoner Pardons Leave Political Detainees Behind Bars’ RFA, 7 December 2018, <https://www.rfa.org/english/news/laos/pardons-12072018153003.html> and ‘Lao Court Jails Polish Activist Following Online Criticism of Government’ RFA, 1 October 2015, <https://www.rfa.org/english/news/laos/activist-10012015134330.html>

<sup>11</sup> ‘Lao Citizens Turn More to Internet, Social Media For Their News’ RFA, 24 April 2019, <https://www.rfa.org/english/news/laos/news-04242019173907.html>

<sup>12</sup> ‘Laos: Undertake a transparent and independent investigation to ensure effective remedies for the victims of the dam collapse’, Manushya Foundation, 20 August 2018, <https://www.manushyafoundation.org/laos-dam-statement>. See also ‘Manushya Foundation submission to the UN Special Rapporteur on Extreme Poverty and Human Rights on the situation in Lao PDR, for his official country visit from 18 to 28 March 2019’ p. 7, op cit.

<sup>13</sup> ‘Lao Woman Detained After Posting Police Extortion Photos to Facebook’ RFA, 28 May 2015, <https://www.rfa.org/english/news/laos/detention-05282015140757.html>

which prompted a storm of criticisms online. She was interrogated and subsequently released in August 2015.<sup>14</sup>

Legal restrictions on the media and the strict government controls have led to high levels of self-censorship by journalists in the country. There is also extensive surveillance of society in Lao PDR all the way to the village level, creating a chilling effect. The UN Special Rapporteur on extreme poverty and human rights said in March 2019 after his visit to Lao PDR that he “received countless reports from people inside the country and who have recently fled Lao PDR about the extent to which people feel they are not able to speak freely and fear reprisal for expressing criticism of government policies”.<sup>15</sup>

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<sup>14</sup> ‘Laos Frees Woman Detained For Publishing Concession Document Online’ RFA, 6 August 2018, <https://www.rfa.org/english/news/laos/release-08062015165031.html>

<sup>15</sup> ‘Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Lao PDR, 18-28 March 2019’, [28 March 2019, https://srpoverty.org.files.wordpress.com/2019/03/lao-pdr-end-of-mission-statement.pdf](https://srpoverty.org.files.wordpress.com/2019/03/lao-pdr-end-of-mission-statement.pdf)