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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Visita a la República Democrática Popular Lao

Informe del Relator Especial sobre la extrema pobreza y los derechos humanos* **

Resumen

Desde su independencia, la República Democrática Popular Lao ha logrado un crecimiento económico impresionante, a pesar del legado del imperialismo y de la presencia de mucha munición sin estallar en su territorio. Los niveles de pobreza han disminuido considerablemente, pero los altos niveles de crecimiento impulsados por la explotación de los recursos naturales y la inversión extranjera no se han traducido en reducciones proporcionales de la pobreza. El 80 % de la población sigue viviendo con menos de 2,50 dólares diarios. La desigualdad va en aumento; a medida que las élites urbanas prosperan, muchas personas de bajos ingresos se han visto privadas de sus tierras y del acceso a recursos naturales vitales. El Partido Popular Revolucionario Lao tiene el monopolio del sistema político y apenas existen libertades políticas. El presente informe debe leerse conjuntamente con la declaración de fin de misión del Relator Especial, que contiene una evaluación detallada de esas cuestiones y de los problemas particulares que se plantean para las personas que viven en zonas rurales, las mujeres y los grupos étnicos minoritarios.

El presente informe se centra en las iniciativas y reformas que la República Democrática Popular Lao puede emprender para apoyar a las personas que viven en la pobreza y promover el respeto de sus derechos humanos. En particular, reevaluar las estrategias de crecimiento económico para garantizar que los beneficios del crecimiento se compartan de manera más equitativa, invertir en un sistema sólido de protección social que en la actualidad es prácticamente inexistente, adoptar políticas que favorezcan la transparencia, la participación significativa y el empoderamiento de las personas que viven en la pobreza, e iniciar un diálogo público genuino.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo del resumen, se distribuye únicamente en el idioma en que se presentó.

** Este informe se presentó a los Servicios de Conferencias con retraso para poder incluir en él la información más reciente.



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I. Introduction

1. The Special Rapporteur on extreme poverty and human rights visited the Lao People's Democratic Republic from 18 to 28 March 2019. The purpose of the visit was to report to the Human Rights Council on the extent to which the Government's policies and programmes relating to extreme poverty were consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders. The Special Rapporteur is grateful to the Government for inviting him and facilitating his visit and for its continuing engagement. The report is submitted in accordance with Human Rights Council resolution 35/19.¹

2. The Special Rapporteur held consultations with people living in poverty, representatives of civil society and United Nations and humanitarian agencies and diplomats. In addition to Vientiane Prefecture, he travelled to Champasack to visit a village whose residents had been resettled to make way for dam reservoirs, to Attapeu to visit three temporary camps for survivors of the Xe-Pian Xe-Namnoy dam collapse (Hadyao, Tamayord and Dong Ban) and a village devastated by the collapse (Mai Village) and to Houaphanh, where he visited Huameuang district and Phanang, Pahkantai and Mon villages. He visited schools, health centres, a hospital and an unexploded ordnance clearance site and met with village leaders, educators, health workers and representatives of the Lao Women's Union, as well as government officials at the district, provincial and national levels.

3. At the conclusion of his visit, the Special Rapporteur presented his preliminary findings to representatives of various ministries, who stressed their interest in productive dialogue and in constructive recommendations. The present report contains recommendations intended to support efforts to realize the human rights of people in poverty and to promote sustainable development. It should be read in conjunction with the Special Rapporteur's end of mission statement,² given that many of the recommendations herein rely upon the detailed findings and supporting evidence contained in that statement, which are not reproduced here owing to word limits.

4. In poverty reduction terms, there is much to commend. The country has done an impressive job of reducing the number of people living below the international poverty line. The percentage of those living on less than \$1.90 per day fell from 52.4 per cent in 1997 to 22.7 per cent in 2012, which reflects the most recent data available.³ Net secondary school enrolment has increased from 27 per cent in 2002 to 50 per cent in 2012.⁴ The rate of women dying of pregnancy-related causes fell by half between 2005 and 2015,⁵ and, although a troubling 33 per cent of children under 5 years of age are stunted, that percentage is down from 44 per cent in 2012.⁶ The Government has established the Poverty Reduction Fund, focused on developing the poorest villages.⁷ Such development has been

¹ The Special Rapporteur is grateful for the excellent research and analysis undertaken by Bassam Khawaja, Rebecca Riddell and staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

² See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24417&LangID=E.

³ World Bank, "Poverty and equity data portal: Lao People's Democratic Republic". Available from <http://povertydata.worldbank.org/poverty/country/LAO>.

⁴ World Bank, "Lao PDR Poverty Policy Notes: Drivers of Poverty Reduction in Lao PDR", October 2015, p. 9. Available from <http://documents.worldbank.org/curated/en/590861467722637341/pdf/101567-REPLACEMENT-PUBLIC-Lao-PDR-Poverty-Policy-Notes-Drivers-of-Poverty-Reduction-in-Lao-PDR.pdf>.

⁵ Jonna P. Estudillo (East-West Center), "Government Programs Have Begun to Reduce Maternal Deaths in Lao PDR: Now What Comes Next?", 30 March 2018. Available from www.eastwestcenter.org/publications/government-programs-have-begun-reduce-maternal-deaths-in-lao-pdr-now-what-comes-next.

⁶ Lao People's Democratic Republic, Statistics Bureau, "Lao Social Indicator Survey II: Survey Findings Report", 2018, pp. 17 and 36. Available from www.unicef.org/eap/sites/unicef.org/eap/files/2018-06/Summary%20Survey%20Findings%20Report%20an%20statistical%20snapshots%20of%20Lao%20Social%20Indicator%20Survey%20II.pdf.

⁷ Meeting with Poverty Reduction Fund, 25 March 2019.

achieved, despite the lasting contamination of the countryside with unexploded ordnance dropped by the United States of America between 1964 and 1973, a shameful legacy that continues to contribute to poverty, and the preceding and far-reaching harms inflicted by colonial aggressors.

5. Lifting people above a minimal income level must be the beginning, not the end, of the Government's efforts, and the rapid economic growth of the country has not led to commensurate poverty reduction. Unfortunately, many who escape the official poverty designation remain close to the poverty line or subsequently fall below it. In 2012, 80 per cent of the population still lived on less than \$2.50 per day.⁸ Eighty-eight per cent of children experienced some form of deprivation, with dire consequences for lifelong productivity and social participation.⁹ There is a lower ratio of poverty reduction to economic growth in the country than in other countries in the region, and inequality is on the rise.¹⁰

6. The problem lies in part with the Government's strategies for achieving aggregate economic growth, which are often implemented on the advice of international actors. An excessive focus on large infrastructure projects such as hydropower and railways, land concessions, resource extraction and foreign investment incentives has disproportionately benefited wealthy elites and saddled the country with large debt repayment obligations, without raising significant tax revenue or generating significant employment for Lao people. Without adequate investment in education, health and a strong social protection system to support the many people left behind by the transitioning economy, a large proportion of the population has benefitted very little from the economic boom.

7. Persistent structural barriers prevent the full realization of human rights by people in poverty, in particular those in rural areas, women and those belonging to ethnic minority groups. Although the Government has adopted many impressive pieces of legislation and elaborate policy statements, meaningful implementation is too often lacking. The international community, which has had a major role in advising and financing the Government, has not done enough to ensure that economic growth is geared towards improving the lives of the majority of Lao people, rather than just ticking boxes and meeting targets.

8. It doesn't have to be this way. The Lao People's Democratic Republic is a country rich in natural resources, with a diverse, young population. The Special Rapporteur met with Lao people who were deeply committed to improving the well-being of all, but were struggling to operate in limited civic space, while providing health care, education and other services in remote areas with limited resources and uncertain pay. He spoke with people working tirelessly to support their families and communities and met with many government officials who were clearly dedicated and eager to find effective approaches. If the Government can be encouraged to adopt policies of transparency and meaningful participation and engage in genuine public dialogue, a huge amount could be accomplished in terms of promoting sustainable development and alleviating poverty.

9. It is a significant development that the Government has begun engaging with international human rights mechanisms and issuing invitations to special rapporteurs, after a long hiatus. The Special Rapporteur was encouraged to hear that the Government plans to invite one of the special procedures mandate holders to visit each year and to learn from the Prime Minister's Office that the country is looking to accede to the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Government should follow through with those steps,

⁸ World Bank, "Lao PDR Poverty Policy Notes", p. 9.

⁹ United Nations Children's Fund (UNICEF) and Lao People's Democratic Republic, Ministry of Planning and Investment, *SDGs and Children: Measuring Progress on Child Wellbeing in Lao PDR* (preliminary report, 2018), p. 12.

¹⁰ World Bank, "Poverty Profile in Lao PDR: Poverty Report for the Lao Consumption and Expenditure Survey 2012–2013", p. 8. Available from <http://documents.worldbank.org/curated/en/868521467998508506/pdf/100120-WP-P146141-PUBLIC-Box393225B-Poverty-Profile-in-Lao-PDR-publication-version-12-19-14.pdf>.

which would be important demonstrations of its commitments to human rights, and for which it should get real credit from the international community. It should also establish a national human rights institution that is fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

II. Access to information

10. A lack of access to information, in conjunction with restrictions on freedom of expression, poses a tremendous barrier to sustainable development, the Lao people's ownership of the country's natural resources and the realization of human rights. The Government and international partners cannot address poverty without an accurate understanding of the challenges facing the Lao people, but limited data collection and a lack of transparency make it difficult to accurately assess even the current state of poverty, which leads to programmes being designed around limited, outdated and sometimes misleading information. Independent organizations have questioned the reliability of official data, indicating that it does not correspond with their own findings, but the Government has not shown an interest in addressing such discrepancies. Those problems are compounded by government-encouraged self-censorship, which keeps important conversations and findings in the dark.

11. The Government should issue instructions at the highest level that the collection and dissemination of up-to-date and reliable information should be prioritized, including by requiring that data be collected on a more consistent and rigorous basis and be made publicly and promptly available. Access to information and transparency enables evidence-based decision-making by public officials, reduces corruption, enhances public confidence and empowers individuals. Recent initiatives to provide online access to information are promising and should be expanded. The Government should ensure that its citizens receive information and can freely generate and share it and enjoy the right to freedom of speech, as enshrined in both the Lao Constitution and international human rights law. This could include providing support for activities such as citizen journalism, opinion polling and public debate, community learning centres, translation and conference participation, training for bloggers, school competitions and youth exchanges. Informed citizens engaged in deliberative activities make far greater contributions towards sustainable development.

12. The international community should support the Government with the expertise and resources necessary to systematically increase data collection and transparency, including through support for independent online databases and portals. International actors should also consistently make public their own data and studies. High-quality but unpublished studies and reports confidentially shared with or described to the Special Rapporteur contain valuable information that may never see the light of day and cannot be cited herein. Some prominent organizations refused to make crucial information public, despite repeated requests. The international community should seriously reconsider the implications of depriving the Lao people of access to valuable independent and objective information, especially in a country that in 2018 ranked 170th of 180 on the World Press Freedom Index.

III. Translating economic growth into poverty reduction

13. Impressive aggregate GDP growth has not translated into commensurate improvements in the lives of most people. Factors contributing to the persistence of poverty and limiting the enjoyment of human rights by people in poverty include an opaque budget, inadequate public expenditure on important social services, such as education and health care, State revenue lost to overly generous corporate tax exemptions and corruption, a regressive tax system that disproportionately burdens the poor and growing but often undisclosed debt. Large infrastructure projects have too often had negative and even impoverishing effects on the people directly affected. The National Institute for Economic Research found that, despite higher GDP growth than its peers, the Lao People's Democratic Republic has lower rates of poverty reduction, in part due to reliance on foreign

direct investment and the natural resource sector.¹¹ The Government has focused its efforts on graduating from least developed country status, which in itself will not solve any of the structural challenges. In fact, graduation will mark an end to access to certain aid and trade privileges, which may worsen the situation of the poor.¹² The debate should focus on ensuring tangible achievements in poverty reduction, rather than on the meeting of abstract indicators.

14. In the forthcoming Ninth National Socioeconomic Development Plan for the period 2021–2025, the Government should embrace growth strategies, budget allocations and tax policies that prioritize poverty alleviation in practice, rather than just rhetorically, which would not only protect the human rights of a large number of Lao people but would also generate more sustainable and effective development.

15. Existing growth strategies rely too heavily on hydropower, large infrastructure projects and land concessions that involve significant risks and uncertain rewards. They should be balanced by policies promoting other sectors, such as sustainable agriculture, urban development and tourism, which will require a well-educated, healthy and skilled workforce that can only emerge as a result of high-quality education, well-funded health insurance programmes that support the poorest people, the empowerment of women and truly accessible social protection. In order for infrastructure to contribute to poverty reduction, it must be approached in a participatory manner, guided by the interests of, and inputs from, poor and rural communities. International financiers should back projects in line with those goals.

16. In rural areas, the Special Rapporteur spoke with contract farmers who spoke of being stuck in a cycle of poverty, reporting that they struggled with centralized decisions about crop types. They deserve the autonomy to organize and make important decisions about what they grow and how they sell it, but also the type of support that the State can best provide, such as microinsurance programmes, which are of particular importance given that climate change increasingly affects fragile ecosystems, as well as information, advice, including on negotiating fair contract terms, and regional economic networks that allow for the greatest benefits from their labour.

17. The Government should take a more active role in poverty reduction and rely less on international donors and on the assumption that the benefits of foreign investment will eventually reach people in poverty. It should channel its efforts towards supporting communities and individuals and empowering them to be agents of their own development.

A. Economic policy

18. There is a strong and direct relationship between how a government raises revenue and spends its budget and how it meets its human rights obligations.¹³

Transparent budget linked to reducing poverty

19. Despite significant steps in recent years, including the 2015 Budget Law, key details about the Lao People's Democratic Republic budget are not made publicly available, and the information that is available is often outdated and insufficient for those within the Government, donors and the public.¹⁴ Repeated requests by the Special Rapporteur for

¹¹ *The Phnom Penh Post*, “Poverty persisting in Laos despite economic growth”, 2 April 2019. Available from www.phnompenhpost.com/business/poverty-persisting-laos-despite-economic-growth.

¹² United Nations, Committee for Development Policy, “‘Impact Assessments’: What happens when a country graduates from the LDC category?”. Available from www.un.org/ldcportal/impact-assessments-what-happens-when-a-country-graduates-from-the-ldc-category.

¹³ OHCHR, “Realizing Human Rights through Government Budgets”, 2017, p. 12. Available from www.ohchr.org/Documents/Publications/RealizingHRThroughGovernmentBudgets.pdf.

¹⁴ World Bank, “Lao PDR Public Finance Management Reform Grant”, project information document, 4 September 2018, p. 6. Available from <http://documents.worldbank.org/curated/en/611241536118876855/pdf/Project-Information-Documents-PID-Lao-PDR-Public-Finance-Management-Reform-Grant-P167661.pdf>.

public expenditure figures either went unanswered or elicited responses with outdated information sent in a piecemeal fashion.

20. The Government should publish key budget information annually in a format that ensures meaningful access and that includes all domestic revenue, international grants and loans, as well as an analysis of allocations and actual expenditure. Monitoring and evaluating actual expenditure and its effectiveness is also crucial. The Government should establish a mechanism through which civil society and the public can participate in establishing budget priorities and in monitoring and evaluation.

21. International partners should facilitate and encourage the timely publication and dissemination of relevant information, ensure accessibility of their own information and support the involvement of civil society and the public in the budget process.

Public expenditure in key policy areas

22. Public social expenditure is integral to reducing poverty, facilitating social mobility and realizing human rights. Although the Government has made important commitments, actual social spending has too often fallen short, remained low by regional standards and not increased in line with GDP growth. Available data show flagging spending on health care, education and social security, evidence that the country is not bringing its maximum available resources to bear in the provision of essential services. According to a development partner, in 2017, spending on health was 1.7 per cent of GDP, the same as it was in the period 2010/11, and 6.5 per cent of the government budget, against a target of 9 per cent.¹⁵ Spending on education was 3.11 per cent of GDP and 13.4 per cent of the budget, against a target of 17 per cent. The percentage of the budget spent on education in 2017 was lower than in the preceding six years.

23. A government's budget reflects its real priorities. Sustained investment in the Lao people requires greatly increased expenditure on health, education and social protection.

Progressive tax policy and revenue generation

24. Although the Government is under pressure to reduce its fiscal deficit, reductions should not come at the price of inadequate social protection spending. Overly generous and insufficiently targeted fiscal incentives and exemptions to encourage investment have greatly limited revenue collection, leading even the World Bank and the International Monetary Fund to call for the review and reform of such exemptions.¹⁶ Partly because of those tax breaks, tax revenue as a percentage of GDP in the Lao People's Democratic Republic is actually on the decline, falling from 13.8 per cent of GDP in 2014 to 12.2 per cent in 2017, lower than that of its neighbours Cambodia, Thailand and Viet Nam.¹⁷ Although tax policy can be used to address inequality, the Lao People's Democratic Republic currently collects most of its revenue from the value added tax (VAT),¹⁸ which

¹⁵ Reports on public expenditure vary. A 2018 report of the Economic and Social Commission for Asia and the Pacific found that the Lao People's Democratic Republic spent 0 per cent of GDP on social protection, 1 per cent on health and 3 percent on education, which are among the lowest expenditure levels in the region. Economic and Social Commission for Asia and the Pacific, "Social Outlook for Asia and the Pacific Poorly Protected", 2018, p. 46. Available from www.unescap.org/sites/default/files/publications/Social_Outlook.pdf.

¹⁶ International Monetary Fund, "Lao People's Democratic Republic: 2017 Article IV Consultation", 23 March 2018. Available from www.imf.org/en/Publications/CR/Issues/2018/03/23/Lao-Peoples-Democratic-Republic-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-45750; and World Bank, "Lao PDR Economic Monitor", June 2018, pp. 12 and 37. Available from <http://documents.worldbank.org/curated/en/418261529002464394/Lao-PDR-economic-monitor-safeguarding-stability-an-ongoing-agenda-thematic-section-how-can-farmers-get-more-for-their-rice-and-consumers-pay-less>.

¹⁷ World Bank Data, International Monetary Fund, Government Finance Statistics Yearbook and data files and World Bank and Organization for Economic Cooperation and Development GDP estimates, "Tax revenue (% of GDP): Cambodia, the Lao People's Democratic Republic, Thailand and Viet Nam". Available from https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=LA-VN-TH-KH&year_low_desc=false.

¹⁸ Bank of the Lao People's Democratic Republic, Annual Economic Report 2017, p. 23.

imposes a greater burden on poor people. Income taxes, which are levied progressively, account for less than 10 per cent of the Government's tax revenue,¹⁹ and representatives of the Ministry of Finance said that the Ministry paid no attention to inequality in taxation and budgeting.²⁰

25. Tax revenue as a percentage of GDP should be increased and social sector expenditures and investment significantly enhanced. Existing tax and tariff exemptions should be publicly disclosed and evaluated for their fiscal prudence and contribution to the overall economy, given the extensive revenues foregone. Tax policies should address rising inequality, which inhibits growth, and the Government should analyse the distributional impact of tax policies on different groups and ensure that the tax system is progressive. Continued reliance on VAT policies should be offset by measures to increase the real income of the disproportionately affected poor households.

Public debt and the Belt and Road Initiative

26. Although increasing indebtedness may be economically justified, the nature of the debt matters. Both the amount of debt and the terms, including interest rates, service costs and default provisions, can diminish the funds available for future generations. The country has taken on significant public debt to finance major projects, increasingly on opaque and non-concessional terms, with unknown implications for the future.²¹ The Government should be transparent about the full amount and nature of debt, and associated liabilities, that it has taken on.

27. The role of the Belt and Road Initiative (BRI), the ambitious global infrastructure programme of China, exemplifies the issue. Owing to the Lao People's Democratic Republic having borrowed heavily from China to finance BRI projects, in 2018 it was named as one of eight countries at particular risk of debt distress.²² Between 2010 and 2015, China's share of Lao public debt rose from 20 per cent to 45 per cent,²³ and the value of China-backed infrastructure projects in the Lao People's Democratic Republic exceeded nominal GDP in 2017.²⁴

28. Given the increasing importance of BRI to the Lao People's Democratic Republic, the implications of BRI-related debt will play an increasing role in shaping the country's economic policies and determining its ability to ensure social well-being and poverty reduction. Unfortunately, the terms of many Chinese infrastructure projects are far from transparent, and rumours abound about what valuable collateral the country has pledged in case of default. Due to that opacity, it is difficult to evaluate whether the terms, service costs and consequences in case of default will pose a threat in the long term. The country is certainly not alone in that regard. Although parts of the United Nations system are framing BRI as a way to achieve the Sustainable Development Goals,²⁵ some countries are very

¹⁹ Ibid.

²⁰ Meeting with Ministry of Finance, 25 March 2019.

²¹ International Monetary Fund, "Lao People's Democratic Republic : 2017 Article IV Consultation", pp. 5 and 9.

²² John Hurley et al (Center for Global Development), "Examining the Debt Implications of the Belt and Road Initiative from a Policy Perspective", March 2018. Available from www.cgdev.org/publication/examining-debt-implications-belt-and-road-initiative-a-policy-perspective. According to one research institute, the Lao People's Democratic Republic received the fourth highest amount of aid, among recipients of Chinese non-concessional official flows in the world from 2000 to 2014. College of William and Mary, "China's global development footprint", AIDDATA. Available from www.aiddata.org/china-official-finance.

²³ World Bank, "Lao Economic Monitor," April 2017, p. 11. Available from <http://pubdocs.worldbank.org/en/933741497262078111/LEM-PPT-English.pdf>.

²⁴ United Nations, Department of Economic and Social Affairs, "Current activities of BRI in Lao PDR", 6 November 2018. Available from www.brisdgs.org/sites/default/files/inline-files/Current%20Activities%20of%20BRI%20in%20Lao%20PDR_2.pdf.

²⁵ See United Nations, Department of Economic and Social Affairs, "Jointly building the 'Belt and Road' towards the Sustainable Development Goals", 16 August 2016. Available from www.un.org/development/desa/en/news/policy/building-belt-road-towards-sdgs.html; United Nations Development Programme and China Center for International Economic Exchanges, "The Belt and

significantly reducing previously unfavourable terms.²⁶ As BRI projects extend across the globe, China, borrowing countries and the international community should develop a more informed and nuanced understanding of the potential attendant risks and benefits, as well as the importance of transparency.

B. Links between land and poverty

29. Land is crucial to many poor people's livelihoods, yet their land security is often tenuous. The Government has pursued large-scale initiatives, including infrastructure projects and industrial plantations, that have separated people from their land, often resulting in hardship and debt. The Special Rapporteur received multiple reports of land loss and resettlement, leading to loss of livelihoods, food insecurity, lack of access to water, inadequate or no compensation for lost resources, impoverishment and indebtedness owing to the forced transition to a cash-based economy. A policy of "Turning Land into Capital" has blanketed the country with more than 1,750 concessions,²⁷ giving companies the right to use vast tracts of land, sometimes for as long as a century and often without adequate regard for existing land use.

30. The Government deserves credit for taking steps to rethink its approach, including a 2012 moratorium on mining and rubber and eucalyptus plantation projects. In 2017, the Lao People's Revolutionary Party observed that land expropriation represented a "heavy burden".²⁸ Officials from the Ministry of Natural Resources and the Environment explained that, at the direction of the Ministry of Planning and Investment, they had ceased issuing concessions while a review was undertaken.

31. That re-evaluation should be about more than simply cancelling some underperforming contracts. It offers an opportunity for the Government to recognize the importance of land to people and to protect their land tenure rights as a way of reducing poverty. Land management should not be carried out on an ad hoc basis, but should be truly participatory, reflect and offer protections for existing land use and be executed in a regular, transparent fashion, with access to remedies.

32. The outcome of the ongoing review should be made public and any future concessions approved only after complete fulfilment of all legally required assessments and processes, including meaningful consultation with the local population and fair compensation. The Government should seek to bring into compliance existing concessions that are not in accord with their contract terms or that have had demonstrably adverse impacts on communities, cancel or otherwise address them and provide a remedy for people who have been harmed.

33. While in-country, the Special Rapporteur received multiple first-hand accounts of the extremely challenging circumstances faced by people in Thateng District, Sekong Province, who were affected by loss of land to a rubber tree plantation. He is alarmed that 10 people reportedly remain in custody without charge.²⁹ The Government should remedy the injustices committed, provide land and humanitarian relief to community members, as appropriate, and release detainees to demonstrate goodwill and eliminate a festering sore.

34. Land management must also take into account existing land use and the complex impacts of loss of land and subsequent resettlement. Any approach to land, whether initiated by the Ministry of Natural Resources and the Environment or as a result of

Road Initiative: A new means to transformative global governance towards sustainable development", 2017. Available from www.cn.undp.org/content/dam/china/docs/Publications/UNDP-CH-GGR%202017.pdf.

²⁶ The Economist, "Country report: Malaysia", Intelligence Unit, 2 April 2019, p. 25.

²⁷ According to figures provided by the Ministry of Natural Resources and the Environment.

²⁸ Central Committee of the Lao People's Revolutionary Party resolution No. 026/CC of 2017 on the enhancement of land management and development in new period.

²⁹ International Federation for Human Rights and Lao Movement for Human Rights, "Key Human Rights Issues of Concern", 7 March 2019. Available from www.ohchr.org/Documents/Issues/EPoverty/Lao/FIDH.pdf.

investment or forestry policies, that blindly assumes that people can lose land that they rely upon or be resettled without risking serious adverse consequences is bound to produce further impoverishment and discontent.

35. The Government should conduct a thorough assessment of the implementation and impact of resettlement, expropriation and compensation. The review should evaluate the 2018 Law on Resettlement and Vocation in terms of human rights and other relevant standards. It should lead to a more transparent, systematic and equitable compensation framework that accurately compensates people for the productive value of their property.

36. The legal framework should protect the land tenure and livelihood rights of all people, including the hundreds of thousands who currently live in areas that have only in recent decades been designated as “forests”, those who rely on communal land and those who practice shifting cultivation. It should be an essential goal of current land titling reform efforts. Land titling should be undertaken in a way that does not undermine access to the land that people depend upon, avoiding the imposition of unduly burdensome evidentiary requirements to prove historic land use and requirements for unrealistic or unsustainable periods of continuous use. Customary land tenure should be protected.

37. The Government should establish an independent body for oversight and evaluation of the environmental, social and human rights impacts of natural resource-related and other large infrastructure projects and industrial plantations, including on those who are subject to involuntary resettlement and loss of land. The body should have a confidential complaint mechanism, through which it directly receives complaints from individuals and communities, without the requirement to exhaust alternative remedies. The mechanism should be empowered to investigate allegations and prescribe appropriate remedies.

38. The international community must take stock of its own failures with regard to land management. It has a history of supporting resettlement programmes that reportedly had many of the same problematic effects as those witnessed by the Special Rapporteur. The World Bank’s previous engagement on land titling is reported to have secured the tenure of the wealthy, while leaving the poor vulnerable. With renewed World Bank involvement in land management, concerns raised repeatedly by civil society and development partners must be reflected in the land and forestry law reforms and an account taken of the Government’s past failures to implement many of the so-called “sustainable” policies advised for the hydropower sector.

C. Rethinking hydropower

39. As the Prime Minister rightly recognized following the Xe-Pian Xe-Namnoy dam collapse disaster in 2018, the time has come for a national review of the hydropower sector. The Government should be commended for opening a dialogue on the future of hydropower and the role of the Lao People’s Democratic Republic as an exporter of power, however, the details of the suspension imposed after the collapse are unclear and appear not to apply to the many planned dams already under consideration. The scope of the current review is unduly narrow. The World Bank is leading a process that considers only dam safety, rather than the full impact of existing and planned hydropower dams. One-off reviews of individual dams are inadequate.

40. For economic, social and environmental reasons, the Government should heed recommendations by experts such as the Mekong River Commission and conduct a comprehensive review of the role and future of the hydropower sector, looking at the current and future impacts of existing and planned dams, how many and which projects should go forward and how construction and operation arrangements should be adjusted in the light of the social and environmental risks. The results of the review should be made public and should include the following:

(a) A comprehensive cumulative assessment of environmental, ecological and human rights impacts of existing and planned hydropower projects, including on livelihoods and food security for affected communities upstream and downstream from hydropower projects, taking into account the impact of climate change;

- (b) An assessment of the regional power market with up-to-date supply and demand projections;
- (c) An analysis of the extent, nature and implications of public debt taken on to finance hydropower projects, revenue generated as a result of each project and future projections, as well as the use of revenue to date;
- (d) Transboundary impacts;
- (e) An assessment of investor, developer and operator compliance with domestic law and international standards.

41. In addition to establishing the oversight body proposed in paragraph 37 above, all hydropower project-related documents, such as impact assessments and environmental and social monitoring and management plans, and information that describes how projects contribute to poverty reduction and sustainable development should be made available to the public.

42. The Government should review the situation of those affected by the Xe-Pian Xe-Namnoy dam collapse, including displaced people who remain in temporary accommodations and who have reported delays in receiving promised financial support. Although the Government maintains that the allegations of delay are untrue, the Special Rapporteur received consistent, independent reports of delays in monetary compensation from residents of different camps. People should promptly receive compensation for loss of their productive land and property. Although the Government has indicated that it intended to provide people with information about the response timeline and to meaningfully consult with them about potential plans, many interlocutors reported that they had had little or no information and had not been consulted. The Government should also provide psychosocial support, especially to women.

43. The international actors that remain optimistic about the hydropower sector should justify the sustainability of specific projects, in the absence of a thorough cumulative, rather than one-off, assessment of the environmental and social impacts of all existing and planned projects. The World Bank should consider how the hydropower sector will in fact contribute to poverty reduction, in the light of low revenue generation, lack of transparency, limited regulatory monitoring and enforcement capacity, minimal job creation and flagging investment in social services.

IV. Key social protection programmes

44. The Lao People's Democratic Republic does not have a functioning comprehensive social protection system, and people must often rely on networks based on kinship, village, ethnicity or patronage. Where support programmes are in place, such as for people in the formal economic sector, they are not always functional. In addition, the Special Rapporteur has received consistent reports of schools and hospitals charging informal fees, which deter people in poverty from acquiring access or make doing so impossible. The Government should monitor those issues, take action to end such bribery, including by holding people accountable and realigning funding arrangements to eliminate any need for supplementary income sources. It should halt the practice of paying government employees late or asking teachers to work without pay.³⁰

A. Health

45. Access to affordable health care and health insurance is crucial to ensuring that health costs do not push people into poverty. Recent improvements in access to low-cost health care represent real progress. However, the Special Rapporteur has received consistent reports of low-quality health care, inadequate health coverage in rural areas and the inability of many people to afford even basic urgent care.

³⁰ Bertelsmann Stiftung, "BTI 2018: Laos country report", Transformation Index BTI. Available from www.bti-project.org/en/reports/country-reports/detail/itc/LAO.

46. The Government is not adequately funding health care or providing sufficient funds to ensure that people in poverty can acquire access to treatment. Health expenditure as a percentage of GDP is among the lowest in the region.³¹ The World Bank found that, among those in or near poverty, 13 per cent were in that situation because of a health shock.³² During the Special Rapporteur's visit, officials of the Ministry of Health said that 94 per cent of people were covered by the Health Insurance Fund, which provides free childbirth coverage and treatment for children under 5 years of age,³³ however, they could not say how many of them had actually acquired access to health care.³⁴

47. The accessibility of health care remains very uneven. People from the poorest wealth quintile and those in rural areas have limited access.³⁵ Even in villages with health centres, people consistently reported that they were obliged to travel to district or provincial hospitals for non-minor medical issues and, for many of them, the costs of health care and transportation prevented them from seeking treatment. In one district, government officials acknowledged that 22 of 78 villages could not acquire access to health care during the rainy season.

48. The Government should increase health spending in line with regional trends and develop a detailed profile of populations that do not have adequate access to health care. It should adopt a plan to systematically improve access for those groups, enable remote health centres to cope better with the challenges of the rainy season and develop a plan to make transportation from village centres to nearby hospitals affordable.

B. Education

49. Meaningful access to high-quality education is essential to creating a route out of poverty for Lao children and to developing a skilled workforce. Although the Ministry of Education and Sports is committed to improving access and has reported progress in enrolment and student retention rates, the inadequate resources allocated for education undermine the prospects for sustained improvement.³⁶

50. Those with the least education have the lowest chance of transitioning out of poverty and the highest likelihood of falling below the poverty line.³⁷ Access to education can increase a family's agricultural productivity or allow them to transition out of agricultural work, however, those in poverty have far less access to education. Only 58 per cent of children in the poorest quintile complete primary education, compared with 98 per cent of children in the richest quintile.³⁸ Children living in poverty can be kept out of school owing to the cost and the need to work to support their families.

51. Rural areas have much more limited access to education. Although most villages have a primary school, 57 per cent of primary schools do not offer all five grades, and many villages have no secondary school. Children very often must travel far from home to attend secondary school or even to finish primary school.³⁹ The Government should explore

³¹ World Health Organization, "Health Financing". Available from http://www.wpro.who.int/laos/topics/health_financing/en/.

³² World Bank, "Lao Poverty Policy Brief: Taxonomy of the Poor and its Usefulness in Policy Design," December 2017, p. 8. Available from <http://documents.worldbank.org/curated/en/114211505815281554/pdf/119794-WP-taxonomy-PovertyReport-PUBLIC-ENGLISH-and-LAO-ENGLAOfinal.pdf>.

³³ Association for Development of Women and Legal Education, "Capacity Assessment Report: CEDAW Implementation in Lao PDR", June 2016, p. 10. Available from http://adwlelaos.org/wp-content/uploads/2017/09/SRP001_Cedaw-Assessment_EF-14-07-2016-ENG.pdf.

³⁴ Meeting with the Ministry of Health, 26 March 2019.

³⁵ Lao People's Democratic Republic, Statistics Bureau, "Lao Social Indicator Survey II", p. 24.

³⁶ World Bank, "Lao PDR Economic Monitor," January 2019, p. 47. Available from <http://documents.worldbank.org/curated/en/818841549314902040/pdf/134324-LEM-Jan-2019-final-for-online.pdf>.

³⁷ *Ibid.*, pp. 34–35.

³⁸ Lao People's Democratic Republic, Statistics Bureau, "Lao Social Indicator Survey II", p. 45.

³⁹ World Bank, "Lao PDR Economic Monitor", January 2019, p. 53.

creative transportation options and the provision of safe and adequate accommodation for students, in order to broaden genuine access to education in rural areas.

52. The quality of education is also problematically low. The World Bank estimates that 10.8 years of Lao education equals just 6.4 quality-adjusted years. In one study, almost a third of second-grade students scored zero in reading fluency and 57 per cent scored zero in reading comprehension.⁴⁰

53. Education spending should be increased in line with regional standards, and the Government should assess why its current approach yields such poor outcomes. Money for salaries is important, but it is also needed for operational expenses, teaching materials, teacher training and school infrastructure. According to the World Bank, around half of schools have a roof that leaks and less than half have toilets.⁴¹

54. The country has, in principle, adopted inclusive education, and 5,075 children with disabilities are enrolled in mainstream schools.⁴² That number is very low, however, compared with the number of those who should be benefiting from such programmes. The Government and its international partners should draw up a realistic assessment of the number and needs of students with disabilities countrywide and develop appropriate programmes to significantly expand enrolment.

V. Challenges and opportunities

A. Unexploded ordnance

55. The widespread presence of unexploded ordnance is an ongoing driver of poverty, as rightly recognized by the adoption by the Lao People's Democratic Republic of its own national sustainable development goal on reducing the impact of unexploded ordnance. According to the organization Legacies of War, between 1964 and 1973, the United States dropped more than 2 million tons of ordnance over the country in 580,000 bombing missions. Some 80 million cluster bomblets failed to explode, leading to an estimated 50,000 civilians killed or maimed since 1964. Surveys and strike data indicate that a third of the country is still contaminated with unexploded ordnance,⁴³ therefore farmers cannot use agricultural land to feed their families without risking death or injury. Explosions can cause disabilities that prevent people from working and, because of limited social support, may require intensive care from family members, keeping additional family members out of work.

56. Development partners, in particular the United States, should be doing much more to rapidly clear unexploded ordnance and provide support for those affected. According to one estimate, just 1 per cent of unexploded bomblets have been cleared to date.⁴⁴ By the same token, the problem should not be used to distract attention from the many shortcomings of government anti-poverty policies.

B. Rural poverty

57. People in rural areas are much more likely to be affected by poverty. According to the latest statistics available, 71 per cent of the population live in rural areas, and the rural poverty rate is four times the rate in urban areas.⁴⁵ In addition, 88 per cent of those living in

⁴⁰ Ibid., p. 45.

⁴¹ Ibid., p. 47.

⁴² Lao People's Democratic Republic, Ministry of Education and Sports, *Education and Sports Sector Performance Annual Report 2017–2018 and Development Plan for 2018–2019* (August 2018), p. 51.

⁴³ Legacies of War, "Cluster bomb facts", fact sheet, 26 July 2013. Available from <http://legaciesofwar.org/resources/cluster-bomb-fact-sheet/>.

⁴⁴ Ibid.

⁴⁵ World Bank, "Lao PDR Economic Monitor", January 2019, p. 33.

poverty were rural residents.⁴⁶ Fourteen per cent of rural villages do not have road access, and even those with roads may be inaccessible during the rainy season, severely limiting access for residents to basic services and markets.⁴⁷ Rural residents have disproportionately poor access to health services and education and bear the brunt of policies such as land concessions and resettlement, in terms of their access to land, livelihoods and food security.⁴⁸

58. Although the remote and dispersed nature of the rural population presents considerable challenges, the Government should not give up on working to provide rural communities with equal access to services and infrastructure in order to avoid leaving them with second-class status or pushing problematic consolidation or relocation programmes.

C. Ethnic minority groups

59. Minority groups make up approximately 45 per cent of the population.⁴⁹ They face higher rates of poverty,⁵⁰ often live in rural areas with limited social services and infrastructure and may not speak Lao.⁵¹ The World Bank has found that ethnic minority groups lag behind the majority Lao-Tai group at all economic levels.⁵²

60. Crucially, the gap between ethnic minority groups and the Lao-Tai majority cannot be fully explained by differences in characteristics such as larger household size or more limited access to education and infrastructure.⁵³ The Government, however, does not even acknowledge the existence of ethnic minority groups and asked the Special Rapporteur to instead use the term “ethnic groups”, but terminological sidestepping will not solve the very real disparities faced by minority groups. The Government should recognize that its current policies are badly neglecting ethnic minority groups and undermining prospects for economic development.

61. The Government should adjust its self-defeating position on the use of minority languages. Insisting on Lao as the only language of instruction puts children belonging to minority groups at a disadvantage in school.⁵⁴ Many countries face the challenges of having multiple languages spoken in their territories, and the answer is not to insist dogmatically that education can only be conducted in Lao. If the Government wants to maximize the

⁴⁶ World Bank, “Poverty Profile in Lao PDR,” p. 9.

⁴⁷ Lao People’s Democratic Republic, Statistics Bureau, “Lao Social Indicator Survey II”, p. 3.

⁴⁸ See, for example, Miles Kenney-Lazar (Land Issues Working Group, Global Association for People and the Environment and Village Focus International), “Linking food and land tenure security in the Lao PDR”, 2016, p. vii-viii. Available from https://data.opendevelopmentmekong.net/dataset/2016-6/resource/fbacdd35-9ca3-45de-b4bb-fa47d53852cd?type=library_record.

⁴⁹ Ian Baird, “Translocal assemblages and the circulation of the concept of ‘indigenous peoples’ in Laos”, *Political Geography*, vol. 46 (May 2015), pp. 54–64; *World Population Prospects 2017*, “2019 World Population by Country: Laos” World Population Review database. Available from <http://worldpopulationreview.com>; Minority Rights Group International, “Laos”, World Directory of Minorities and Indigenous Peoples, July 2018. Available from <https://minorityrights.org/country/laos/>. However, according to the Government, the majority Lao-Tai ethnic group makes up 62.5 per cent of the population, in which case minority groups would make up 37.5 per cent.

⁵⁰ World Bank “Lao Poverty Policy Brief: Why Are Ethnic Minorities Poor?”, 2017, p. 4. Available from <http://documents.worldbank.org/curated/en/501721505813643980/pdf/119793-WP-PovertyReport-PUBLIC-ENGLISH-and-LAO-ENGLAOFinal.pdf>.

⁵¹ Elizabeth M. King and Dominique van de Walle, “Indigenous Peoples, Poverty and Development, Chapter 7: Laos, Ethno-linguistic Diversity and Disadvantage”, paper prepared for the World Bank, March 2010, p. 2. Available from http://siteresources.worldbank.org/EXTINDPEOPLE/Resources/407801-1271860301656/Chapter_7_Laos.pdf.

⁵² World Bank “Lao Poverty Policy Brief: Why Are Ethnic Minorities Poor?”, p. 4.

⁵³ World Bank, “Poverty Profile in Lao PDR,” p. 14; and “Lao PDR Poverty Policy Notes”, p. 23.

⁵⁴ Understanding Children’s Work Programme, “Understanding children’s work and youth employment outcomes in Laos: summary report”, Rome, January 2014, p. 7. Available from <http://documents.worldbank.org/curated/en/587261545112094976/pdf/133003-WP-v1-PUBLIC-ADD-SERIES-see-103603-Laos-Summary-child-labour-youth-employment20140109-131624.pdf>.

potential of members of minority communities, it must develop a nuanced approach that combines its desire to promote Lao as the official language with the strategic use of local languages. Teachers and health providers in those communities should be officially allowed to provide services in non-Lao languages when appropriate.

62. Indigenous status has been conferred on certain ethnic groups by a range of interlocutors. Although the present report is not the appropriate context in which to resolve that claim, the Special Rapporteur notes that such status would confer additional rights under international law, including to free, prior and informed consent to the use of land and resources. Instead of shutting down the discussion, the Government should engage in good faith on the status of indigenous groups.

D. Gender

63. Despite the central role of women in traditional ethnic Lao communities, in the Lao People's Democratic Republic today, they often face marginalization and discrimination, with substantial negative implications for poverty alleviation and the rights of poor women. Most official bodies are required to include a representative of the Lao Women's Union, and various other government policies promote gender equality. However, far too many of those measures remain aspirational and tokenistic, doing little to ensure that women are meaningfully included in decision-making. The widespread subordination of women has major economic consequences, quite apart from the denial of their human rights.

64. Women generally occupy the lower rungs of the labour market and are less present in the formal sector, deprived of the rights and social protection that it offers. Women make up 64 per cent of workers in elementary occupations, whereas men account for the majority of civil servants, professionals and technicians.⁵⁵ According to the Lao Women's Union, 7 of the 69 members of the Politburo Central Committee are women, just over 10 per cent,⁵⁶ and, as confirmed by the Government, currently none of the powerful 17 provincial governors is a woman. Fewer than 3 per cent of village chiefs are women,⁵⁷ and, in 2012, women accounted for just 5 per cent of members of decision-making institutions. The exception is the National Assembly, which has a higher proportion of women, at 27.5 per cent,⁵⁸ and the President and Vice-President of which are women. The vast majority of the Special Rapporteur's government meetings were dominated by men, including several who expressed deeply patriarchal attitudes and blamed women for gaps in achievement. Women living in villages and camps were resoundingly more likely to report they had not been informed of, or consulted about, critical livelihood decisions, including resettlement and compensation, contract farming arrangements or disaster relief.

65. The Government should move beyond formal equality commitments by setting meaningful targets for closing disparities in education and the job market and empowering women. An excellent starting point would be to ensure that one third of all provincial governors and village chiefs are women by the year 2025. The virtual invisibility of women at those levels sends an unmistakable message that must be transcended. The Government should also ensure that the new land law protects women's land rights.

E. Children

66. The Lao People's Democratic Republic must do much more to ensure that children escape the cycle of poverty. Without adequate access to education, health services and social support, too many children are dropping out of school, marrying very young or

⁵⁵ United Nations Development Programme (UNDP), "Lao PDR: Goal 5: Gender Equality". Available from www.la.undp.org/content/laopdr/en/home/sustainable-development-goals/goal-5-gender-equality.html.

⁵⁶ Meeting with Lao Women's Union, 25 March 2019.

⁵⁷ United States, Department of State, "2017 Country Reports on Human Rights Practices: Laos". Available from www.state.gov/reports/2017-country-reports-on-human-rights-practices/laos/.

⁵⁸ UNDP, "Lao PDR: Goal 5: Gender Equality".

working to support their families, all of which are major barriers to overcoming intergenerational poverty.

67. According to UNICEF, a shocking 88 per cent of children in the country experience some form of deprivation.⁵⁹ Child marriage is highly prevalent: within the poorest quintile, 47 per cent of women 20 to 49 years of age were married by 18.⁶⁰ Although child labour under the age of 14 is prohibited, according to the 2010 Labour Force and Child Labour Survey, 261,000 children 6 to 17 years of age were working,⁶¹ many in hazardous conditions.⁶²

68. Investing in a robust social protection system, accessible education and health care for children are essential steps towards breaking the cycle of poverty and training a skilled workforce.

F. Rule of law

69. Meaningful implementation of many of the impressive pieces of legislation and policies is all too often lacking. Quotas are set but not enforced, conditions are attached but not monitored, new approaches are launched but business continues as usual.

Corruption

70. The Lao People's Democratic Republic ranks 132nd of 180 on Transparency International's corruption perceptions index for 2018.⁶³ The Prime Minister's leadership on the issue has made a significant impact, as illustrated by media reports on crackdowns on "ghost projects" and the dismissal or removal of officials. Since many interlocutors claimed that corruption remains rampant at all levels of government, it is essential that it be tackled systematically, that prosecutions occur where appropriate and that senior officials, including ministers and governors, are held accountable when implicated. However, the absence of media freedom and of an independent civil society ensure that corruption will rarely be exposed.

Access to justice

71. The barriers to access to justice are immense, especially for poor people and those in rural areas. They include a paucity of lawyers, the cost and difficulty of travel to court, fear of negative repercussions, in particular if the Government or a Government-backed actor is involved, and the limitations of petitions, village mediation committees and other mechanisms that are theoretically available for recourse. The Special Rapporteur received reports that grievances were rarely escalated beyond the village level without connections to powerful patrons or the endorsement of the village authorities. Although the establishment by the National Assembly of a hotline is an important initiative, it does not yet offer a robust independent remedy. It operates only eight weeks per year, when the Assembly is in session, and acts more as a complaint clearinghouse than as an institution empowered to investigate and resolve grievances. It should operate year-round, publicly report the type and resolution of grievances and provide for independent rather than government ministry follow-up.

⁵⁹ UNICEF and Lao People's Democratic Republic, Ministry of Planning and Investment, "SDGs and Children", p. 12.

⁶⁰ Lao People's Democratic Republic, Statistics Bureau, "Lao Social Indicator Survey II", p. 57.

⁶¹ Understanding Children's Work Programme, "Understanding children's work", p. 2.

⁶² UNICEF and Lao People's Democratic Republic, Ministry of Planning and Investment, "SDGs and Children", p. 70.

⁶³ Transparency International, "Laos: Corruption Perceptions Index 2018". Available from www.transparency.org/country/LAO.

VI. Civil society as a partner in development

72. In his end of mission statement, the Special Rapporteur describes in detail the repressive policies designed to suppress and deter all civil society activity that seeks to do anything beyond working for or supporting the Government. In addition to violating the Government's human rights obligations, the policies are costly and self-defeating. In the absence of a functioning civil society, informed social policies cannot be designed, the information needed to inform responsive economic policies cannot be obtained, anti-corruption campaigns cannot flourish and Governments cannot reap the benefits of diverse inputs into policymaking. Suppression drives activity underground, leads to stored up resentment, requires a huge unproductive apparatus, leaves those aggrieved without remedies and prevents the new generation of Lao people from offering solutions to the country's many challenges. If poverty is to be tackled, genuine civil society space is essential, for the robust discussion of ideas, raising important concerns, sharing knowledge and experience, promoting transparency and addressing corruption.

73. The Government should consult on ways in which the 2017 Decree on Associations No. 238 could be amended to enable civil society organizations to function meaningfully and freely. Stringent restrictions on travel within the country by non-profit associations, including requirements that they must always be accompanied by government monitors, should be eliminated. It is telling that the Government has expanded the time frame within which it registers a non-profit association to 165 days, while reducing the time frame for setting up a company, from six months to less than one month.⁶⁴

74. The Government has already undertaken to giving careful consideration to the concluding observations adopted by the Committee on the Rights of the Child (CRC/C/LAO/CO/3-6) and the Committee on the Elimination of Discrimination against Women (CEDAW/C/LAO/CO/8-9). It should also implement the relevant recommendations relating to civil society made in the context of the second cycle of the universal periodic review process, in 2015, and the concluding observations adopted by the Human Rights Committee (CCPR/C/LAO/CO/1). It will be in a much better position to report positively in the context of the third cycle of the universal periodic review, in 2020, if it acts now in that respect.

75. The National Assembly should explore ways to bring civil society perspectives into its increasingly vibrant debates.

76. The Government should finally allow a meaningful investigation of the disappearance of Sombath Somphone, a widely admired civil society leader last seen getting into a vehicle after being stopped at a police checkpoint in 2012.

77. The international community must assist and advise the Government in those areas. Choreographed dialogue achieves little, and the quiet pursuit of development goals while sidelining a discussion of human rights and civil society space will not lead to sustainable growth, a robust domestic economy or a stable society. Donors should transparently support steps to open up civil society space and public debate. They should speak up publicly to break the suffocating silence surrounding the issue, because others cannot; it is not enough to deliver the message only behind closed doors. Diplomacy is a balancing act, but donors should ask whether the initiatives that they tout as accomplishments are leading to progress in the long term or helping to mask persistent problems. They can also play a role in following up on the recommendations made in the context of the universal periodic review and by the human rights treaty bodies.

VII. International community and corporate actors

78. The international community is deeply involved in efforts to address poverty in the Lao People's Democratic Republic, chiefly through funding a plethora of Government and civil society-implemented projects and by advising the Government on sustainable

⁶⁴ The Economist, "Country report: Malaysia", p. 13.

development. Much of the foregoing analysis therefore has relevance to its work, and donors have themselves promoted ill-conceived development agendas and programmes that have resulted in considerable harms. It has both the responsibility and the opportunity to promote international standards and norms and to uphold the rights of the poor and marginalized and those negatively affected by development projects.

79. International actors should resist the temptation of short-term gains, quota filling and formal project completion if it involves accepting problematic conditions which undermine long-term impact and sustainability. They ought to be wary of approaches that prioritize smooth relations over the provision of meaningful analysis. Failure to provide robust feedback and engage in a genuine dialogue does a disservice to the Lao people and the Government. It can lead to a failure of vision, a focus on the wrong criteria, misplaced satisfaction with incremental improvements and the effective exclusion of the Lao people from key aspects of the development dialogue.

A. United Nations

80. The Special Rapporteur was consistently told that the United Nations itself, as opposed to its various agencies, was widely perceived as acting as an arm of the Government, had failed to be a voice for the vulnerable, let alone for human rights, and had promoted an overly optimistic picture of the country's successes, while sidestepping most of the issues that it deemed "sensitive". The vaunted United Nations policy of "human rights up front" looks more like a "human rights out of sight" policy in the Lao People's Democratic Republic.

81. With the appointment of a new resident coordinator and a new UNDP resident representative, the United Nations should consider how it can change that perception and play a more constructive role in promoting the values endorsed by the Organization and its Member States. Its funds and agencies should ensure that their actions comport with international standards and guidelines, such as the Guiding Principles on Internal Displacement and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Food and Agriculture Organization of the United Nations.

B. International financial institutions

82. International financial institutions have played a significant role in shaping the country's development. In 2017, the International Development Association of the World Bank was the largest known provider of official development assistance (\$76.74 million), followed closely by the Asian Development Bank (\$56.34 million).⁶⁵ World Bank projects cover many key policy areas, such as public finance management, land, agriculture and hydropower, and its financial commitments have risen in recent years, to \$130 million in 2018 and to \$83.73 million in the first four months of 2019 alone.⁶⁶

83. The World Bank has been an enthusiastic promoter of hydropower as a central route to economic development, since the 1990s, and continues to be optimistic about the future of the sector. Its approach should be tempered, however, by the failures of its "model" dam Nam Theun 2, which has been strongly criticized by Thayer Scudder, a member of the Nam Theun 2 panel of experts,⁶⁷ the inadequate implementation of the 2015 World Bank Group-supported Policy on Sustainable Hydropower Development and the Xe-Pian Xe-Namnoy

⁶⁵ Organization for Economic Cooperation and Development, "ODA recipient countries: Lao People's Democratic Republic", Tableau interactive charts. Available from https://public.tableau.com/views/OECDACAidataglancebyrecipient_new/Recipients?:embed=y&:display_count=yes&:showTabs=y&:toolbar=no?&:showVizHome=no.

⁶⁶ World Bank, projects in the Lao People's Democratic Republic. Available from http://projects.worldbank.org/search?lang=en&searchTerm=&countrycode_exact=LA.

⁶⁷ International Rivers, "Nam Theun 2 Dam". Available from www.internationalrivers.org/campaigns/nam-theun-2-dam.

dam collapse. In general, the Bank has been reluctant to reckon with past shortcomings and has accepted large disconnects between policy and practice.

84. More consideration must be given to the harms experienced by communities affected by land grabs and hydropower and other large infrastructure projects, as well as by industrial plantations. Poverty alleviation programmes should ensure respect for the rights of persons living in poverty and ensure that foreign investment takes place on terms that benefit the Lao people and not just the investors.

85. While the World Bank is an enthusiastic advocate for opening up space for the private sector, it offers few words on civil society space or public participation.⁶⁸

C. Corporate sector

86. Companies choose to invest or operate in the Lao People's Democratic Republic knowing full well the serious human rights concerns, the high levels of corruption and the lack of resources for regulatory monitoring and enforcement. One might hope to see proactive steps being taken, especially by multinational corporations with significant resources, to avoid causing or being complicit in adverse human rights impacts, in line with their responsibility to respect human rights (see A/HRC/17/31, annex). Companies, including foreign companies investing in Lao special economic zones or the hydropower and mining sectors, should have an ongoing human rights due diligence process to identify, prevent and mitigate their impact on human rights, as well as a process for providing remedies where appropriate. Unfortunately, many corporate actors operating in the country have an abysmal track record on everything from environmental and social impacts to compliance with domestic and international law.⁶⁹ Companies should cooperate fully with judicial and non-judicial grievance mechanisms in the Lao People's Democratic Republic and those based in their home State to address human rights abuses and other harms linked to their work.

87. Companies should make project documents available online in English and Lao, including environmental, social and human rights impact assessments, as well information about the process for seeking remedies and the status of compensation for land loss. Companies should publish a human rights-compatible corporate accountability policy.

88. Companies whose investments and activities will directly affect communities should proceed with great care in consulting and seeking informed consent for their activities. They should make use of existing tools, guidelines and best practices, proactively and continuously provide information in communities' preferred language and format, make their representatives available to individuals and connect communities with independent advocates. Consultations with or consent from village leaders is no substitute for engagement with the community, including with individuals who are often marginalized or shut out of such processes, such as women and people with disabilities.

89. States have a crucial role to play in monitoring investors and their conduct in the Lao People's Democratic Republic. States should strengthen the capacity of their institutions and legal frameworks to address the extraterritorial impacts of investments or activities carried out by companies within their jurisdiction, including by incorporating at the domestic level the due diligence and remedy requirements of the Guiding Principles on Business and Human Rights and by ensuring that victims of such extraterritorial harm can seek remedies in their judicial systems and have access to non-judicial mechanisms such as national human rights institutions.

⁶⁸ World Bank, "World Bank East Asia and Pacific VP Highlights Human Capital, Green Growth in Visit to Lao PDR," press release, 1 April 2019. Available from www.worldbank.org/en/news/press-release/2019/04/01/world-bank-east-asia-and-pacific-vp-highlights-human-capital-green-growth-in-visit-to-lao-pdr.

⁶⁹ See, for example, Southeast Asian Press Alliance, "Poisoned fish worries village as Sangthong district promotes good agricultural practices", 2019. Available from www.seapa.org/laos-poisoned-fish-worries-village-as-sangthong-district-promotes-good-agricultural-practices/.

VIII. Priority recommendations

90. Of the many recommendations contained in the present report, the Special Rapporteur urges the Government and other stakeholders to prioritize addressing the following issues:

(a) Spending on health, education and early child development should be increased significantly and immediately. A first step is to ensure that the target levels stipulated in the annual budget are actually met. Such enhanced spending should also be linked to a major long-term programme to build the human capital that is indispensable if the Lao People's Democratic Republic is to diversify economically and ensure sustainable and equitable growth;

(b) If the benefits of economic growth are to reach the poor, the Government should systematically re-evaluate its strategy for attracting foreign investment. Existing approaches have enriched the elites, done very little for the poor, created minimal employment and brought remarkably few funds into the national budget. Key elements of the strategy should include:

(i) A re-evaluation of the hydropower strategy, including a comprehensive and public impact assessment and improved planning for climate change and future disasters;

(ii) A thorough review of land concessions granted, the creation of a transparent inventory of all such agreements and the prompt bringing into compliance or termination of improperly executed or corrupt agreements;

(iii) Diversification of investment opportunities to emphasize and reward employment creation for Lao people;

(iv) An evaluation of the economic, social and environmental impacts of special economic zones;

(v) Full disclosure of existing tax and tariff exemptions;

(vi) Full disclosure of the extent of public debt, disaggregated by lender, and associated liabilities, including collateral guarantees;

(c) Transparency of information is an essential element of good governance and informed policymaking, yet secrecy and opacity are the current default settings. They benefit the elites, facilitate corruption and mismanagement and rob the Lao people of the benefits of their land and natural resources. The Government should adopt and truly implement a comprehensive policy of transparency that includes up-to-date social and economic statistics, budgetary information, government debt, hydropower contracts, land concessions and special economic zone arrangements;

(d) There are severe deficiencies in the rule of law. There are not enough lawyers, the courts are largely an extension of the Party and the average person faces many barriers to access. One option would be to explore a major reform of village mediation committees to ensure gender equality, procedural fairness and the feasibility of appeals. The crackdown on corruption must cover more than the small fish and include prosecutions of the high-level officials responsible. Merely moving offenders to other jobs sends a message of impunity;

(e) An independent monitoring body should be created for the environmental, social and human rights impacts of natural resource-related and other large infrastructure projects, as well as industrial plantations, including for people subject to involuntary resettlement and loss of land;

(f) The conditions of those affected by the Xe-Pian Xe-Namnoy dam collapse are highly unsatisfactory. Monthly allowances must be increased and paid on time, the victims must be genuinely consulted, fertile land must be provided and counselling made available;

(g) **Civil society should be unchained. The Government should roll back restrictions on civil society activities, end retaliation for peaceful speech and enable the registration of associations to take place in less than one month, as it has done for businesses. It should provide a public database indicating applications made and actions taken. Government surveillance of civil society should cease, and requirements that government monitors must accompany travel within the country should be eliminated.**

91. **Allowing civil rights sores to fester is not in anyone's interests. The Government should demonstrate good faith by inviting the Working Group on Enforced or Involuntary Disappearances to investigate cases, including that of Sombath Somphone, and it should remedy the injustices suffered by the Sekong Province detainees.**

92. **Policies towards minority groups should be re-evaluated in order to enable them to escape widespread and often deep poverty and gain access to basic services. Refusal to recognize their existence only compounds their exclusion and hinders their inability to contribute to the economic development of the country.**

93. **Formal commitments to gender equality are undermined by deep disparities in education, employment and political participation. In order to send a meaningful signal and bring about real change, the Government should commit to closing education and employment gaps and ensuring that one third of all provincial governors and village chiefs are women by the year 2025.**

94. **The proposed land law should protect customary land tenure, including for people who rely on communal land and those who live in areas recently designated as "forests", and the Government should adopt a more transparent and equitable approach to compensation.**

95. **The international community must do more to rapidly clear unexploded ordnance and support those affected. Development partners should reckon with their own responsibilities for the lack of progress in relation to poverty elimination and human rights. The United Nations should consider how it can change the perception that it has failed to be a voice for the vulnerable, let alone for human rights. Multilateral and bilateral lenders should give more consideration to the harms caused by foreign investment and ensure that projects bring greater benefit to the Lao people.**
