



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the report submitted by Laos under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography\***

1. The Committee considered the initial report of Laos (CRC/C/OPSC/LAO/1) at its 2004th meeting (see CRC/C/SR.2004), held on 27 May 2015, and adopted at its 2024th meeting (see CRC/C/SR.2024), held on 5 June 2015, the following concluding observations.

#### **I. Introduction**

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/LAO/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the high level and multisectoral State party delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's second periodic report under the Convention on the Rights of the Child (CRC/C/Lao/CO/2, 2011), adopted on 4 February 2011, and those on its initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/Lao/CO/1, 2015), adopted on 5 June 2015.

#### **II. General observations**

##### **Positive aspects**

4. The Committee notes with appreciation the State party's ratification of:

(a) The Convention No.138 concerning Minimum Age for Admission to Employment in June 2005; and

(b) The Convention No.182 on the Worst Forms of Child Labour in June 2005.

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\* Adopted by the Committee at its sixty-ninth session (18 May – 5 June 2015).

5. The Committee further welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of Law on Preventing and Combatting Violence against Women and Children in December 2014.

6. The Committee further welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The adoption of a new National Plan of Action to Prevent and Eliminate Violence against Women and Violence against Children 2014-2020; and

(b) The adoption in 2012 of the first National Plan of Action against Trafficking in Persons and a new Agreement between Lao PDR and China on Cooperation in Preventing and Combating Trafficking in Persons in 2013.

### III. Data

7. The Committee is concerned about the lack of disaggregated data on children who are vulnerable to sale, child prostitution and child pornography, such as children from ethnic minorities, particularly Mon-Khmer and Tibeto-Burman, migrant and refugee children, children living in institutions, transgender boys, children working in exploitative conditions and children from rural areas and those living in poverty. The Committee is further concerned about the lack of a comprehensive data collection system covering all offences under the Optional Protocol which would enable the State party to identify the extent and forms of the sale of children, child prostitution and pornography.

8. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol. The data should be disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic status, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol. Data should also be collected on the profile of perpetrators, number of prosecutions and convictions, disaggregated by the nature of the offence.**

### IV. General measures of implementation

#### Comprehensive policy and strategy

9. The Committee notes that while several plans and programmes have been adopted and implemented to combat trafficking, notably cross-border trafficking, an overall strategy for the implementation of the Optional Protocol and the elimination of sale of children, child prostitution and child pornography is lacking.

10. **The Committee recommends that the State party develop a new National Plan of Action aimed at addressing comprehensively all the issues covered by the Optional Protocol, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the First, Second and Third World Congresses against Commercial Sexual Exploitation of Children.**

#### Coordination and evaluation

11. The Committee notes that there are several governmental departments or agencies with responsibilities for the implementation of the Optional Protocol, such as the National

Commission for Mothers and Children, the provincial Steering Committee on Human Trafficking and Anti-Trafficking Divisions, but is concerned at the insufficient level of coordination among these bodies as well as the inadequate coordination among government agencies and non-governmental organizations working in the areas covered by the Optional Protocol.

**12. The Committee recommends that the State party strengthen coordination among the different agencies and governmental departments working in the areas covered by the Optional Protocol, both at central, provincial and district level. The State party is also encouraged to strengthen the coordination with non-governmental organizations in the implementation and evaluation of the Optional Protocol.**

#### **Dissemination and awareness-raising**

13. While noting the State party's initiatives to raise awareness about human trafficking, the Committee is concerned that the Optional Protocol has not been sufficiently promoted and disseminated, in particular among implementing agencies, border police, social workers, legislators, parents, teachers, law enforcement personnel, children and the public at large. The Committee also notes with concern that issues related to the Optional Protocol are not yet included in the school curricula for children.

**14. The Committee urges the State party to take all necessary measures to make the provisions of the Optional Protocol widely known. To this end, the State party should in particular:**

(a) **Develop and conduct, in consultation with communities, civil society organizations and children, long-term educational and awareness-raising programmes on the preventive measures and harmful effects of all the offences covered by the Optional Protocol, including on assistance and reporting mechanisms established to prevent children from falling victim to the offences in the Optional Protocol;**

(b) **Disseminate systematically the Optional Protocol among government officials at the national, provincial and district levels, as well as to all relevant professional groups, especially border police, judges and prosecutors; and**

(c) **Incorporate issues related to the Optional Protocol into the curricula of primary and secondary schools.**

#### **Training**

15. While noting that training activities have been conducted on human trafficking in collaboration with intergovernmental and non-governmental organizations, the Committee is concerned that not all offences under the Optional Protocol are adequately covered by training activities, that they have not reached all professionals working with and for children, especially in remote and rural areas, and that relevant professionals, in particular border police and those working with the administration of justice, have not received sufficient training on the provisions of the Optional Protocol.

**16. The Committee recommends that the State party:**

(a) **Allocate adequate resources to ensure systematic and targeted training specifically on the provisions of the Optional Protocol and their implementation to all relevant professional groups working with and for children, as well as border police, judges, prosecutors, police officers and civil servants, including at the provincial and district levels;**

(b) Ensure that such training includes multidisciplinary training programmes developed in consultation with communities, civil society organizations and child victims;

(c) Conduct regular assessments of its training activities to ensure that the knowledge and skills acquired are translated into practice in order to effectively identify victims and protect children from the offences covered under the Optional Protocol; and

(d) Seek technical assistance from international organizations as well as NGO partners for the implementation of these recommendations.

#### **Allocation of resources**

17. The Committee is concerned that the State party has not allocated sufficient resources for the implementation of policies and plans related to the Optional Protocol. The Committee is also seriously concerned that a high prevalence of corruption in the State party has greatly diverted resources from essential plans and policies related to the implementation of the Optional Protocol and compromised the government's ability to prevent and fight the sale of children, child prostitution and child pornography.

18. **The Committee strongly recommends that the State party increase budget allocations for the implementation of the Optional Protocol, including by earmarking human, technical and financial resources from the regular budget to set up programmes relating to its provisions, in particular criminal investigations, legal assistance and physical and psychological recovery of victims. The Committee urges the State party to take immediate measures to efficiently prevent and combat corruption and prosecute acts of corruption.**

#### **Civil society**

19. The Committee is deeply concerned about the obstacles faced by NGOs and the limited scope for human rights defenders and journalists to monitor and report on children's rights which are covered under the Optional Protocol due to frequent intimidation, harassment, arbitrary arrests, ill-treatment and prison sentences against human rights defenders. The Committee further notes with a serious concern the lack of progress in the investigation of the disappearance of Sombath Somphone, a leading social activist, who among other issues worked to tackle the root causes of child trafficking and exploitation by improving children's access to education.

20. **The Committee strongly recommends that the State party:**

(a) **Take immediate action to allow journalists, human rights defenders and all NGOs, including children's groups, to monitor, investigate and report children's rights violations as well as exercise their right to freedom of expression and opinion without any kind of threats, harassment or repercussions;**

(b) **Urgently end all forms of intimidation and retaliation against human rights defenders, including children, and enact specific laws and policies to recognize and protect the work of human rights defenders;**

(c) **Combat impunity by undertaking a thorough, impartial, and effective investigation of all allegations of enforced disappearances, including of Sombath Somphone, and all violations against human rights defenders and ensure the prosecution of perpetrators and access to effective remedies for victims.**

## V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

### Measures adopted to prevent offences prohibited under the Protocol

21. The Committee notes that the State party has made some efforts to prevent sexual exploitation and trafficking of children, including through awareness raising campaigns in communities about the risk of child trafficking and sexual exploitation. However, the Committee is seriously concerned that the State party is primarily a country of origin for human trafficking, with primary destination to Thailand, and that an overwhelming majority of victims of sexual exploitation are girls between 10-18 years, and most of them are forced into child prostitution. The Committee is particularly concerned that:

(a) The current policies and programmes are inadequate to address the underlying root causes of the sale of children, child prostitution and child pornography, such as discrimination against ethnic minority children, poverty, high school-drop out rate, lack of access to free education, children living in street situations, and unsafe labour migration, particularly to Thailand;

(b) The construction of hydropower dams and the operations of large scale extractive industries are leading to displacement of communities, particularly children from ethnic minorities, and consequently exposing them to the vulnerabilities of abuse, sexual exploitation and trafficking;

(c) Despite the increasing birth registration, around 67 per cent of registered children do not possess birth certificates and that birth registration among Hmong-Mien households is particularly low, leaving them vulnerable to the offences under the Optional Protocol;

(d) Lack of public awareness of crimes of sexual exploitation of children, including among parents and children themselves, and social and cultural tolerance of sexual exploitation of children in communities are preventing reporting and prosecution of such crimes; and

(e) There is a lack of child participation mechanisms in the development of legislation, policies and programmes to address sexual exploitation and trafficking of children.

22. The Committee urges the State party to adopt a comprehensive approach to address the root causes of offences under the Optional Protocol and target families and children in the most vulnerable situations, such as Mon-Khmer and Tibeto-Burman ethnic groups. In particular, the Committee recommends that the State party strengthen its poverty reduction strategies and supportive social protection measures for families in disadvantaged and marginalized situations, including child-centred early intervention programmes to support parents in better performing their care and protection responsibilities towards children. It further urges the State party to:

(a) Prevent and/or end displacement of indigenous children occurring due to construction of hydropower dams and operations of large scale extractive industries and mitigate the risk of children being exposed to the offences under the Optional Protocol as well as enable access to effective judicial and non-judicial mechanisms to provide remedy for them and their families whose rights have been violated;

(b) Expand Lao's existing legal requirement to conduct child-rights impact assessments that explicitly address children's rights and include the differential impact on certain categories of children, such as indigenous children, using the

framework of the Optional Protocol as well as relevant concluding observations and general comments issued by the Committee;

(c) Continue and strengthen its measures to ensure that all children are registered at birth, including children from Hmong-Mien households;

(d) Carry out intensive awareness-raising activities through mass media and community participation, including mobilization of community leaders, local teachers, youth and children's groups to change attitudes about sexual exploitation of children, including child pornography and encourage reporting of such crimes; and

(e) Incorporate child participation mechanisms in the development of legislation, policies and programmes to effectively prevent sexual exploitation and trafficking of children. To this end, the Committee further recommends that the State party create enabling environment, free of intimidation and reprisals, to encourage and support children to participate and freely express their views.

### Adoption

23. The Committee notes that the State party has adopted a new decree to regulate both domestic and inter-country adoption. However, the Committee regrets that the State party lacks a mechanism to monitor national and international adoptions and that it has not ratified the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

24. The Committee reiterates its previous recommendations (CRC/C/LAO/CO/2 para. 45, 2011) and calls on the State party to put in place a mechanism to monitor all adoptions, national and international, in order to ensure that all adoptions fully comply with the principles and provisions of all relevant international standards. The Committee also encourages the State party to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

### Child Pornography

25. The Committee is extremely concerned that:

(a) Child pornography is easily available for download to mobile phones and memory sticks from CD shops in many locations in the State party and that the Security Emergency Response Team at the National Internet Center lacks capacity for identifying or blocking child pornography websites or images; and

(b) An increasing number of teenagers are recording images of themselves engaging in sexual acts on their mobile phones and that there is no policy or specific plan in position to address issues of child pornography.

26. The Committee recommends that the State party:

(a) Effectively prevent publication and dissemination of pornographic materials concerning children through surveillance of CD shops and establish mechanisms to automatically block offending Internet Service Providers (ISPs), and other media;

(b) Strengthen the capacity of Security Emergency Response Team to identify or block child pornography websites or images; and

(c) Carry out large scale campaigns to raise awareness among teenagers of the harmful effects of pornography.

**Child sex tourism**

27. The Committee is seriously concerned that a large number of children are being sexually exploited by foreign paedophiles in the State party. The Committee is particularly concerned about:

(a) The lack of specific national legislation which explicitly prohibits child sex tourism and the lack of capacity in the government to effectively addressing this issue;

(b) The weak legal framework and insufficient coordination between the State party and international agencies working to identify and prosecute child pornographers and paedophiles and the fact that the State party remains among the main destination countries for child sex tourism; and

(c) The insufficient awareness raising on child sexual exploitation in travel and tourism as well as inadequate regulation of and engagement with the private sector, especially travel, hotel and tourism industry to prevent and combat child sex tourism.

28. The Committee recommends that the State party undertake all measures to identify children who are especially vulnerable of becoming victims of the crimes covered by the Optional Protocol, such as children from ethnic communities, children living in rural areas and affected by poverty, and link these measures to existing child protection programmes and poverty reduction strategies. It urges the State party to:

(a) Explicitly prohibit organized child sex tourism in national legislation and strengthen knowledge and capacity of law enforcement officials about child sex tourism, including through training and collaboration with UN agencies, particularly UNICEF and UNODC;

(b) Take all necessary measures to strengthen the surveillance of unregistered tourist accommodations and clandestine activities related to child sexual exploitation;

(c) Regulate and engage with the private sector, particularly the tourism industry in preventing, monitoring and reporting cases of child trafficking and sexual exploitation of children to relevant authorities. The State party should also ensure that the Department of Tourism effectively monitor the compliance by hotels, as well as travel and tour agencies and operators of the contractual agreements it has signed with them regarding the prohibition of child sex tourism and child protection in general; and

(d) Widely disseminate the Charter of Honour for Tourism and the WTO Global Code of Ethics for Tourism among travel agents and tourism agencies and encourage them to sign up for the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

## **VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)**

**Existing criminal or penal laws and regulations**

29. The Committee notes with serious concern that the domestic legislation does not fully specify and incorporate all offences under the Optional Protocol. The Committee is particularly concerned that:

(a) Not all forms of the sale of children, including for the purpose of transfer of organs of child, covered by article 2 (a) and article 3, paragraph 1 (a) (i) of the Optional Protocol have been classified as distinct offences from human trafficking;

(b) Some provisions of the Penal Law punishing crimes under the Optional Protocol, in particular child prostitution, only protect children up to the age of 15 and penalties under the Penal Law and the Child Protection Law for such crimes do not adequately reflect the severity of the offences;

(c) The State party does not have legislation specifically criminalizing possession of child pornography and the solicitation of children for sexual purposes (grooming), including by means of information and communication technology; and

(d) The Penal Law criminalizes the rape of girls only, and not that of boys, resulting in impunity for crimes of sexual exploitation of boys.

30. The Committee recommends that the State party continue to revise and bring its Criminal Code and other relevant legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should:

(a) Define, regulate and criminalize all forms of sale of children, including for the sale of organs, a concept which is similar to, but not identical with, trafficking in persons;

(b) Ensure that all children under the age of 18 are fully protected by the Penal Law and the Child Protection Law and that penalties for crimes under the Optional Protocol adequately reflect the severity of the offences in order to deter such crimes and ensure justice for victims;

(c) Criminalize all offences under the Optional Protocol, including the solicitation of children for sexual purposes (grooming) and the possession of child pornography; and

(d) Explicitly define and criminalize rape of all children under 18 years of age, including that of boys.

#### **Impunity**

31. The Committee is alarmed about the large number of cases of trafficking and sexual exploitation of children not leading to a conviction due to traditional out-of-court settlements at the village level and the failure of the judicial authorities to enforce the law. The Committee is specifically concerned that prosecution of foreign traffickers is rare and impunity remains pervasive in the context of child prostitution and trafficking related investigations and prosecutions, primarily because of corruption and, sometimes, due to the alleged complicity of law enforcement, judiciary and immigration officials in human trafficking.

32. The Committee urges the State party to effectively combat corruption and impunity and fully apply the laws in force, which impose severe penalties for perpetrators of offences under the Optional Protocol. The Committee specifically recommends that the State party immediately address the issue of corruption and impunity as a matter of priority, including through rigorous investigation and prosecution of government officials for their complicity in such crimes.

#### **Extradition**

33. The Committee is seriously concerned that the State party lacks a specific law on extradition and that the State party still maintains a reservation on article 5 (2) of the Optional Protocol.



34. The Committee recommends that the State party adopt a comprehensive legislation in order to consider, in all cases, the crimes under the Optional Protocol as crimes that are subject to extradition and re-consider withdrawing the reservation on article 5 (2) of the Optional Protocol.

## **VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)**

### **Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol**

35. The Committee is seriously concerned that child victims of trafficking and prostitution are often treated as offenders instead of victims, and that their privacy and safety are not guaranteed during the criminal justice process. The Committee further expresses its concern about reports that child victims of trafficking within the State party and those used in prostitution are criminalised or convicted of involvement in prostitution.

36. The Committee urges the State party to ensure a comprehensive, integrated approach, including legislation and a national strategy to protect the rights and interests of child victims of offences in the State party. It particularly urges the State party to:

(a) Ensure that all persons below the age of 18 victims of any of the offences under the Optional Protocol are as such neither criminalized nor penalized at central, provincial and districts level. To this end the Committee recommends that the State party ensure that the protection for child victims is set at 18 years, and not below; and

(b) Ensure that child victims of the offences under the Protocol are considered as victims and not offenders, and that personnel responsible for identification of child victims, including border police, judges, prosecutors, law enforcement agencies, social workers, medical staff, migration officials and other professionals working with child victims, is trained in children's rights, child protection and in interviewing skills.

### **Recovery and reintegration of victims**

37. The Committee is concerned about the State party's overreliance on NGOs and international organizations to provide funding and other support for recovery and reintegration of child victims. Furthermore, the recovery and reintegration measures are limited to victims of trafficking and do not adequately take into account the needs of child victims of offences covered under the Optional Protocol, especially at the districts level, due to a lack of resources and insufficient number of adequately trained staff and officials. The Committee also regrets the absence of State-run rehabilitation and reintegration programmes and that social reintegration and assistance are tasks carried out mainly by non-governmental organizations and United Nations agencies.

38. The Committee recommends that the State party:

(a) Ensure that adequate services, such as medical care, including access to sexual and reproductive health services, counselling, financial support, and adequate housing services are available for all child victims of the offences covered by the Optional Protocol, including for their full social reintegration and their full physical and psychological recovery, in accordance with article 9, paragraph 3, of the Optional Protocol;

(b) Take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the Protocol, in accordance with article 8 of the Optional Protocol; and

(c) Ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol.

## **VIII. International assistance and cooperation (art. 10)**

### **Multilateral, bilateral and regional agreements**

39. The Committee welcomes the various Memoranda of Understanding (MoUs) signed by the State party with its neighbouring countries in an effort to prevent and combat human trafficking, including trafficking of children. In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

## **IX. Ratification of the Optional Protocol on a Communications Procedure**

40. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC).

## **X. Follow-up and dissemination**

### **Follow-up**

41. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the relevant Government ministries, the Parliament, and to national and local authorities, for appropriate consideration and further action.

### **Dissemination of concluding observations**

42. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

## **X. Next report**

43. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

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