

Lao People's Democratic Republic

CSW Submission to the 35th session of the Universal Periodic Review

Introduction

1. CSW is a human rights organisation specialising in the right to freedom of religion or belief (FoRB) for all.
2. This submission highlights concerns about the right to FoRB, as well as to freedom of expression in the Lao People's Democratic Republic.

Commitments relating to freedom of religion or belief

3. During the second cycle of the Universal Periodic Review (UPR), Laos accepted five recommendations directly related to FoRB, which included calls to respect and guarantee the right to FoRB (Slovenia, Uruguay), promote inter-religious dialogue (Hungary, Slovenia), and ensure protection for religious minorities and investigate violations against them (Ireland).¹
4. A recommendation from the United States called on Laos to "Amend the Prime Minister's Decree on Religious Practice (Decree 92) to ease the process for religious groups to register their places of worship and allow new religious groups to obtain official recognition."
5. Despite accepting these recommendations, Laos did not accept a similar call from the Holy See to "Reinforce respect for the rights to freedom of religion, freedom of conscience and free association."
6. Laos has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to FoRB (Article 18). Laos has made a reservation to the Covenant regarding Article 18: "The Government of the Lao People's Democratic Republic declares that Article 18 of the Covenant shall not be construed as authorizing or encouraging any activities, including economic means, by anyone which directly or indirectly, coerce or compel an individual to believe or not to believe in a religion or to convert his or her religion or belief. The Government of the Lao People's Democratic Republic considers that all acts creating division and discrimination among ethnic groups and among religions are incompatible with Article 18 of the Covenant."²
7. The reservation has been criticised by the former UN Special Rapporteur on FoRB for lowering the "threshold for limitations on the freedom to manifest one's religion or belief."³ Ambiguous language around "creating division and discrimination among ethnic groups and among religions" could be open to abuse because the terms lack clarity. There is a danger that adherents of minority religions may be accused of "creating division" if they refuse to participate in majority-religion activities or encourage conversion or proselytise to people of the majority faith.

Recommendations

8. Remove reservations to Article 18 of the ICCPR, and ensure that the protective measures enshrined in Article 18 are applied to all citizens.

¹ UPR Info's Database of Recommendations for Laos, <https://www.upr-info.org/en/review/Lao-People%27s-Democratic-Republic>

² United Nations Treaty Collection, International Covenant on Civil and Political Rights. Accessed 8 April 2019 https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=IND

³ Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, Mission to the Lao People's Democratic Republic, A/HRC/13/40/Add.4 p.13–14. http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.40.Add.4_enAEV.pdf

Legal Framework

9. The 2003 Lao constitution guarantees citizens' rights to 'believe or not to believe in religions' (Article 43). However, state protection is limited to 'lawful activities', and 'all acts of creating division among religions' and among the people are prohibited (Article 9). The terms 'creating division' and 'lawful activities' lack clarity. There have been some improvements in the protection of FoRB during the reporting period; however, ambiguous terms, obstacles to registration, and weak rule of law combine to undermine FoRB for Laos' religious communities.
10. Laos implemented the recommendation from the United States to amend the Prime Minister's Decree on Management and Protection of Religious Activities, No. 92/PM in August 2016, by replacing it with Decree 315.
11. Under decree 315 official approval is required for establishing religions (Article 7), appointing officials in religious organisations' governing committees (Article 7), and establishing a religious organisation (Article 8). Special approval is needed for religious activities which take place outside of recognised religious locations and buildings (Article 12). Decree 315 also retains from Decree 92 some provisions concerning international connections and visits abroad (Articles 21 and 19 respectively). Overall responsibility for approving or refusing permission for religious activities has moved from the Lao Front for National Construction to the Ministry of Home Affairs (MOHA; sometimes translated as the Ministry of Interior Affairs).
12. The new decree includes an explanation of the terms used. This was not provided in Decree 92. Under Article 3, 'members of religion' refers to 'people who believe in any one religion'. This does not appear to be restricted to recognised religions; if this is correct, this is an important and welcome development, since it provides some form of recognition for religious adherents outside recognised religious groups. However, this is contradicted by Article 7, which states that 'Establishment of religion is an establishment of those who...have received approval from the respective government agent.'
13. Decree 315 instructs religious adherents to promote 'the beautiful culture of the nation', and the 'harmony' and 'character' of the nation. There is a danger that converts to religions which are not considered part of the majority 'culture of the nation', particularly ethnic minorities, may be accused of undermining 'harmony'. In addition, Articles 25 and 26 prohibit slander of a religion or belief, 'seducing' citizens to believe in a religion or belief, and 'making use of religion to seek benefit for self'. There is no further clarification of these terms, or how accusations of slander or coerced conversion will be investigated, which could potentially lead to disputes over proselytisation.
14. CSW sources understand under Decree 315 all religious groups are now required to get prior permission for operation from MOHA. Some have said that the new decree is better than the previous version, but note that certain local authorities still do not observe and implement the decree. Others describe the text itself as 'cumbersome.' Sources familiar with the decree have commented that it is bureaucratic: in particular, the construction of new buildings by religious groups was already difficult and this has not been helped by the new decree. Overall, they believe that the impact of the decree will depend on the attitude and implementation of local leaders.

Recommendations

15. Ensure that the right to FoRB is fully protected in all relevant laws and regulations in accordance with international standards, and where necessary revise or revoke legislation in consultation with religion or belief community leaders and representatives, legal experts and civil society, and with guidance from the UN Special Rapporteur on freedom of religion or belief.

16. Provide avenues for feedback about all relevant laws and regulations, and actively and impartially consider comments and criticism put forward by civil society and the international community.

Violations of freedom of religion or belief

17. There have been some improvements in the protection of FoRB during the reporting period. Over the past decade there has been a reduction in the number of long-term Christian prisoners of conscience. Furthermore, some sources believe that central or provincial authorities have intervened in cases where church leaders had been arrested and detained without sufficient evidence by local (village) level officials.
18. However, improvements to FoRB are mostly restricted to urban areas; in rural areas efforts by the government to promote and protect this right are often undermined by social hostilities and weak rule of law at the local level. These issues result in restrictions to the manifestation and practice of minority religions, and on the ability of citizens to choose and change their religion.

Recommendations

19. Improve the rule of law at the local level by training relevant authorities on FoRB issues and by ensuring that both state and non-state perpetrators of violations are brought to justice.
20. Develop relationships between religious leaders and officials at the local and national levels to enhance understanding and cooperation.

Violations against Protestant Christians

21. The conditions for Christians in Laos vary significantly. In the capital, there have been improvements in the protection of FoRB for some groups which maintain working relationships with the authorities. However, during the reporting period Christians in rural areas reported incidents of arbitrary detention, forced eviction, confiscation of land and livestock, destruction of property, harassment and discrimination.
22. In April 2019, three US citizens volunteering for the US-based Christian organisation Vision Beyond Borders were questioned by authorities and had their passports confiscated in Luang Namtha. The three individuals were reportedly carrying Christian materials to share with villagers. They were accused of disseminating Bibles and Christian materials without government approval. All three were released and deported to Thailand later the same month.⁴
23. On 29 December 2018 the non-profit advocacy organisation Human Rights Watcher for Laos Religious Freedom (HWRLRF) reported the arrest of seven Lao Christians at a Christmas church service. Nine police officers from Phin District, Savannakhet Province arrested three church leaders at around 6pm, before returning two hours later to arrest four other Christians. All seven were detained at the Phin district police headquarters and charged with 'illegal gathering for Christmas church service without permission'. At around 10pm the police authorities again returned to the church, where they demolished the stage, cut off the power line, destroyed the sound system and confiscated three mobile phones. All seven prisoners were released on 2 January 2019. It is unclear whether there were conditions to their release.⁵

⁴ Radio Free Asia, 'Laos Releases, Deports US Citizens Accused of Unauthorized Missionary Work,' 18 April 2019 <https://www.rfa.org/english/news/laos/us-christians-04182019103827.html>

⁵ Human Rights Watcher for Lao Religious Freedom, 'Seven Lao Christians Arrested in Christmas Church Service in Nakanong Village in Savannakhet Province, Laos', 29 December 2018 <http://hrwlr.org/seven-lao-christians-arrested-in-christmas-church-service-in-nakanong-village-in-savannakhet-province-laos/>

24. In November 2018 HRWLRF reported that police authorities in Vilabouly District, Savannakhet Province, raided a church service and arrested four Lao Christians, including a 78 year-old woman with a heart condition, Ms Bounlam. All four were held at Vilabouly district prison and accused of 'believing in Jesus Christ.' The police authorities evicted them from their homes. According to the report the police also threatened the detainees with a more severe punishment if they did not renounce their faith. Ms Bounlam was temporarily released from prison for medical treatment; all prisoners were released on 4 December 2018. It is not clear whether there were any conditions on their release.⁶
25. In December 2017 authorities in Savannakhet Province detained five Christians after a group in one village invited a pastor from a nearby village to help organise Christmas celebrations. The invitation was considered 'a breach of regulations designed to restrict Christian practice in the province's Phin district', where 'as a rule, villagers can hold Christmas celebrations only in their own village', without guests from other villages.⁷
26. In September 2016 three Hmong church leaders were detained in Luang Namtha Province for praying at a church meeting 'without permission.' The church had 40-50 regular attendees. Authorities stopped all meetings at the church, and local police gave Christian villagers 15 days to recant or leave the village. The three men were released from prison one month later after they paid a substantial fine.
27. On 2 September 2015 Mr Bountheung Phetsomphone, a church leader, and Mr Neuy, another Christian, were invited to the home of a Christian family in Nonghang village (in Khammouane Province) to eat and pray together. They were arrested by five police officers, charged with 'spreading the Christian religion,' and detained in Khounkham District prison for just under one month.
28. On 13 August 2015 authorities from the villages of Nhang and Don Keo in Nakai District, Khammouane Province, seized Bibles from the Christian community, forbidding them from holding religious ceremonies and reading from the Bible. The community had reportedly been facing harassment for over a month prior to this. Four Christians were detained and taken to the Nakai district police station where they were threatened with imprisonment unless they signed a document renouncing their faith.⁸
29. Although it is not possible for CSW to independently verify these reports, they are consistent with patterns of incidents directly reported to CSW from trusted sources.
30. These violations have taken place despite Laos' accepting recommendations to ensure protections for religious minorities and the right to FoRB. Laos also accepted a recommendation from the Holy See during the previous UPR to eliminate arbitrary detention; the cases above demonstrate that this recommendation has not been fully implemented.

Recommendations

31. Immediately and unconditionally release all prisoners of conscience detained in connection with the peaceful practice and observance of their religion or belief.

⁶ Human Rights Watcher for Lao Religious Freedom, '78-Year-Old Grandma and Three Lao Men Arrested While Worshipping God in Savannakhet, Laos', 28 November 2018 <http://hrwlr.org/78-year-old-grandma-and-three-lao-men-arrested-whileworshipping-god-in-savannakhet-laos/>

⁷ Radio Free Asia, 'Lao Christians Detained For 'Breaking Rules' on Christmas Celebration,' 22 December 2017 <https://www.rfa.org/english/news/laos/celebration-12222017134957.html>

⁸ Radio Free Asia, 'Lao Authorities Threaten to Jail Christians For Practicing Their Religion,' 10 September 2015 <https://www.rfa.org/english/news/laos/authorities-threaten-to-jail-christians-for-practicing-their-religion-09102015133030.html>

32. Immediately investigate cases of wrongful imprisonment, torture and ill-treatment in police custody, and ensure that persons found to be responsible for these crimes are held to account.

Other violations

33. According to Radio Free Asia (RFA), in July 2017 15 residents of Yeub village in Sekong's Thateng district were detained for obstructing workers and cutting down trees on their former land.⁹ Reports indicate that several of the detainees were beaten or given electric shocks in the days following their arrest in violation of an accepted recommendation to "ensure that detained persons are treated humanely ... and all allegations of torture in detention are properly investigated" (Ghana).
34. In January 2019 RFA reported that ten of the individuals remained in detention. Four had been released and one had died in detention. It was also reported that two of the remaining detainees were in poor health due to the conditions in the prison. The continued detention of these individuals also indicates Laos' failure to implement an accepted recommendation to "Continue carrying out the principles contained in CAT, with a specific focus on the elimination of arbitrary detention" (Holy See).
35. On 15 December 2012, community development worker Sombath Somphone disappeared after being stopped at a police post in Vientiane. The Lao PDR government denies any involvement, but to date has failed to conduct a full investigation, despite having accepted four recommendations to do so during the last UPR cycle (Australia, Portugal, Switzerland, UK). It is also concerning that Laos did not accept several other recommendations to investigate Somphone's case, as well as other cases of enforced disappearances (Canada, Finland, Ireland, Luxembourg, New Zealand, Norway, Sweden)
36. More than six years since his disappearance, Somphone's whereabouts remain unknown. During the reporting period the government has failed to shed any light on his disappearance despite increasing pressure from international organisations and the EU. Sombath's disappearance had a chilling effect on civil society. In his end of mission statement on 28 March 2019, UN Special Rapporteur on extreme poverty and human rights Professor Philip Alston urged the government to "facilitate an independent investigation into the disappearance of Sombath Somphone, in consultation with his family members and ensuring the allocation of adequate resources for the investigation."¹⁰

Recommendations

37. Conduct detailed investigations into the disappearances of any individual in connection with their exercise of the right to freedom of expression, bringing perpetrators to justice.
38. Ensure that no individual is detained in connection with the peaceful exercise of their rights.
39. Ensure that all detainees are treated humanely and are not subjected to torture, and that detainees provided with adequate facilities and medical care where necessary.

Conclusion

40. Laos made several positive steps towards the implementation of some recommendations received during the previous UPR, however there is a need to ensure that FoRB and other human rights are fully protected in accordance with the UDHR.

⁹ Radio Free Asia, 'Two Lao Protest Villagers Seriously Ill in Jail,' 1 February 2019 <https://www.rfa.org/english/news/laos/villagers-02012019162329.html>

¹⁰ Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Lao PDR, 18-28 March 2019 <https://srpovertyorg.files.wordpress.com/2019/03/lao-pdr-end-of-mission-statement.pdf>

41. There is an urgent need for Laos to honour the recommendation it accepted during the previous UPR by ending the arbitrary detention of individuals in connection with the exercise of their fundamental human rights.
42. Finally, during the previous UPR cycle Laos noted 84 of 203 recommendations received. Laos must ensure that it engages more positively with the UPR process during this cycle, and civil society in the country must be strongly encouraged to participate in preparations for the UPR and other human rights-related reporting.