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促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对老挝人民民主共和国的访问

买卖儿童和儿童性剥削(包括儿童卖淫、儿童色情制品和其他儿童性虐待材料)问题特别报告员的报告***

概要

买卖儿童和儿童性剥削(包括儿童卖淫、儿童色情制品和其他儿童性虐待材料)问题特别报告员对老挝人民民主共和国进行了访问。她在这份访问报告中参照国际人权规范 and 标准探讨了该国有关买卖儿童和儿童性剥削的问题。根据她在访问前后和访问过程中收集到的情况，特别报告员着重介绍了该国为打击和预防上述现象而采取的立法举措、制订的体制框架和实施的儿童保护政策以及该国对儿童受害者的关怀、康复和重新融入的支持措施。她在报告中提出了建议，以便加强力度，解决这一问题，改进儿童保护工作，尽可能减少儿童被买卖和遭受性剥削的风险。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。

** 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。



Annex

Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, on her visit to the Lao People's Democratic Republic

I. Introduction

A. Programme of the visit

1. At the invitation of the Government of the Lao People's Democratic Republic, the Special Rapporteur on sale of children visited the country from 8 to 16 November 2017. The objective of the visit was to assess the scope of the sale and sexual exploitation of children in the country and the measures adopted by the authorities to prevent and combat the problem, ensure the accountability of perpetrators, and support the care, recovery and reintegration of child victims.

2. Over the course of the visit, the Special Rapporteur visited the capital, Vientiane, and the provinces of Champasak, Oudomxay and Salavan. In the capital, she met with the Deputy Prime Minister and President of the National Commission on the Advancement of Women, Mothers and Children, the Vice Minister of Foreign Affairs, the Vice Minister of Labour and Social Welfare, the Vice Minister of Information, Culture and Tourism, the Vice Minister of Post and Telecommunication, representatives of the Ministry of Public Security and the Ministry of Justice, and the head of the secretariat to the National Steering Committee on Human Rights. She also met with judges of the People's Supreme Court, representatives of the Office of the Supreme People's Prosecutor, and members of the National Assembly, the Lao Women's Union and the Lao People's Revolutionary Youth Union. At the provincial level, she met with the vice governors of Champasak and Oudomxay, members of the Provincial Commission for Mothers and Children and the Committee for Protection and Assistance to Children in Oudomxay, and the provincial prosecutor and judges of the provincial juvenile court of Champasak.

3. The Special Rapporteur met with children belonging to minorities, child victims of exploitation and children in vulnerable situations. She visited a shelter for victims of violence and trafficking in Pakse, an ethnic minority boarding school in Oudomxay and a vocational training centre for victims of trafficking in Salavan. In Vientiane, she visited a care centre for children in street situations, a counselling and protection centre for women and children, and the Somsanga Drug Treatment and Rehabilitation Centre.

4. In addition, the Special Rapporteur met with representatives of the diplomatic community, the United Nations country team, non-profit associations, international non-governmental organizations (NGOs) and the business sector. She observed that several NGOs did not respond to or declined her requests for meetings due to the insufficient civic space in the country to hold open and frank discussions on child rights and protection issues.

5. The Special Rapporteur thanks the Government of the Lao People's Democratic Republic for facilitating the meetings with State agencies. She also thanks the United Nations country team, the United Nations Children's Fund (UNICEF), civil society organizations and the Office of the United Nations High Commissioner for Human Rights for their assistance before, during and after her visit.

B. Context

6. The Lao People's Democratic Republic is a landlocked country in South-East Asia with an ethnically diverse population (49 ethnic groups). As at 2014, Ethnic Lao comprised

52.5 per cent of the total population and predominantly inhabited the lowland areas along the Mekong River. Although there had been increasing rural to urban migration, 68 per cent of the population was still living in rural areas. The country had a young population, with 60 per cent of its over 6 million inhabitants estimated to be under 25 years of age. 70 per cent of the young population resided in rural areas.¹

7. In 2011, the Lao People's Democratic Republic moved from a low income to a lower-middle income economy. It aims to surpass its least developed country status by 2020. As a member of the Association of Southeast Asian Nations (ASEAN), the country is increasing its integration into the regional and global economy.²

8. Between 1990 and 2015, the Lao People's Democratic Republic more than halved the number of persons living in poverty and those suffering from undernourishment and brought net enrolment in primary schools from 59 to 99 per cent. In the same period, the under-5 mortality rate dropped from 170 to 86 and the proportion of the population using an improved drinking water source increased from 28 to 76 per cent.³ However, significant challenges remain such as birth registration, child nutrition and primary school completion. Significant disparities remain between urban and rural and upland and lowland areas, wealth quintiles, mothers' education levels and different ethnicities.

II. Scope of the sale and sexual exploitation of children

9. Even though there are no comprehensive, updated and reliable disaggregated data on each specific form of sale, trafficking and exploitation of children in the Lao People's Democratic Republic, the Special Rapporteur concluded that the problem was vast and real based on the evidence available and interviews with child victims and those involved in child protection. Three issues of utmost concern are the sale and trafficking of children for sexual and labour exploitation, child marriage and the sexual exploitation of children.

A. Sale and trafficking of children for labour and sexual exploitation

10. The scope of the sale and trafficking of children for the purposes of sexual and labour exploitation is of grave concern. Trafficking in human beings, including children, across the Thai border is a widely known problem. Most of the victims of sale and trafficking across the Thai border are children, and many of the trafficked girls become victims of sexual exploitation or domestic labour. While the trafficking of girls to Thailand for sexual exploitation seems to have reduced in recent years, the age of the girls who are trafficked has lowered.

11. At the same time, internal trafficking, though often overlooked, seems to be on the rise. Girls are trafficked within the Lao People's Democratic Republic for sexual exploitation, including for the sale of their virginity, a problem that used to be more common in cases of trafficking to Thailand. Internal trafficking in boys for labour exploitation, for example, in mining areas and special economic zones, was also brought to the attention of the Special Rapporteur.

12. The Lao People's Democratic Republic is predominantly a source country for trafficking. It is estimated that approximately 90 per cent of persons trafficked from the country arrive in Thailand. In a report in 2016, the United Nations Office on Drugs and

¹ Lao People's Revolutionary Youth Union and United Nations Population Fund, *Adolescent and Youth Situation Analysis Lao People's Democratic Republic: "Investing in young people is investing in the future"* (Vientiane, 2014), p. vii.

² Ibid.

³ United Nations country team, *From Millennium Development Goals to Sustainable Development Goals: Laying the base for 2030* (Vientiane, November 2017), p. iii.

Crime confirmed that 345 Lao citizens had been registered as assisted victims of trafficking in Thailand between 2012 and 2015.⁴

B. Child marriage

13. As at 2016, the Lao People's Democratic Republic had the highest percentage of married children in East Asia and the Pacific. Even though national legislation prohibits child marriage, according to available data, more than a third of women were married before the age of 18. The Special Rapporteur was not provided with information on the application of the amended Penal Code promulgated in 2017, in which child marriage is criminalized under article 269. The lack of identity documents and birth registration, with a quarter of all children under the age of 5 unregistered in 2011–2012,⁵ and the relative ease with which the date of birth on an identity document can be modified (for example, in exchange for payment), facilitate child marriage.

14. There is a strong correlation between the proportion of young people who are married and their level of education and wealth quintile. A smaller proportion of young people in urban areas are married compared to young people in rural areas, and child marriage is more common among some ethnic groups. The country has one of the highest adolescent birth rates in the region, with 65 births per 1,000 girls aged 15–19 in 2014.⁶ Figures from 2015 showed a gender disparity in child marriage, with over 62,000 girls and young women aged 15–19 married compared to 23,500 boys and young men of the same age range.⁷

15. During her visit, the Special Rapporteur gathered anecdotal information and heard of numerous cases of girls being married to adults, in particular Chinese nationals who had travelled to the Lao People's Democratic Republic. She heard of cases of girls in the north of the country who had been lured or convinced by Chinese men to marry them and move to China. There were also instances in which families had forced their daughters aged 14 or 15 to marry Chinese men in exchange for money or a dowry. These practices amount to sale of children and are prohibited by international law. The Special Rapporteur also heard of instances in which the local authorities were involved in and made profit from the trafficking of girls for forced marriage to Chinese men.

16. After the girl victims of forced or child marriage leave their homes, their families hardly ever receive news about them or know about their whereabouts. In some cases, the girls manage to escape and return to their communities, where there is no system in place to assess their needs and refer them for support and assistance. The lack of awareness about the harm suffered by those girls, and the lack of necessary care and support services, leads to their revictimization. This is a problem that is occurring in the northern provinces of the country, in particular in remote villages in the provinces of Oudomxay and Phongsali, where access is difficult. Even though there are no exact figures on the scope of the problem, it is seriously affecting the communities of origin of the girl victims. Therefore, comprehensive research and investigation is urgent in order to inform immediate prevention and protection policies.

C. Sexual exploitation of children

17. Another issue of concern is the sexual exploitation of girls in the Lao People's Democratic Republic by both locals and foreigners. Even though the issue is hardly

⁴ United Nations Office on Drugs and Crime, "Country profile: East Asia and the Pacific" (2016). Available at www.unodc.org/documents/data-and-analysis/glotip/Glotip16_Country_profile_East_AsiaPacific.pdf.

⁵ Lao People's Democratic Republic, Ministry of Health and Lao Statistics Bureau, *Lao Social Indicator Survey 2011–2012* (Vientiane, December 2012), p. 238.

⁶ See <https://data.worldbank.org/indicator/SP.ADO.TFRT?end=2016&locations=LA&start=200>.

⁷ End Child Prostitution and Trafficking International, *Global Monitoring status of action against sexual exploitation of children: Lao People's Democratic Republic* (Bangkok, 2017), p. 23. Available at www.ecpat.org/wp-content/uploads/2017/05/A4A-Laos_2017_Final.pdf.

reported on or addressed publicly, it is found in many parts of the country, including Luang Prabang, Savannakhet and Vientiane. The Special Rapporteur heard of cases of girls involved in prostitution in karaoke bars that also function as brothels in well-known locations in Vientiane, where they pretend to be adult servers (“kumun girls”) and are sexually exploited by locals and foreigners, with the complicity of the authorities. When the police intervene, the bar owners pay a fine and continue with the illegal business. Cases involving the sexual exploitation of girls in special economic zones in the north of the country, for example, by Chinese travellers in casinos, were also brought to the attention of the Special Rapporteur.

18. The sexual exploitation of girls in the country takes a variety of forms. There are allegations of university students or girls and young women aged 15–19 who use transactional sex to supplement their income, and buy consumer goods such as phones or clothes, or drugs. Other young women and girls may become a mistress (*mia noy*) of someone older who supports them financially in exchange for a sexual relationship.⁸ The practice of *sao meu teu* or “mobile phone girls” has also been reported as a growing concern in relation to child sexual exploitation.⁹

D. Emerging forms of sale and sexual exploitation of children

19. Apart from the main forms of sale and sexual exploitation of children, in order to effectively prevent and combat the phenomena the authorities must also address new and emerging forms, such as the online sexual abuse and exploitation of children, sexual exploitation of children in travel and tourism, and commercial surrogacy arrangements that may amount to sale of children. Even though the scope of these issues is unknown, they constitute risk factors that the authorities should tackle with effective legislation and prevention strategies.

20. Access to information and communications technology (ICT), in particular through mobile phones, has increased enormously in the Lao People’s Democratic Republic in recent years. Access to the Internet continues to grow rapidly, including among ethnic minorities, with YouTube and Facebook as the most popular applications. While ICT offers great opportunities to ensure children’s rights to information, education and participation, it can also facilitate the abuse and exploitation of children through grooming or sexual solicitation. According to the Ministry of Post and Telecommunication, the country has not encountered major problems regarding online child sexual abuse and exploitation, most likely due to the fact that it is socially unacceptable. The Ministry did not share data on online child sexual abuse material during the visit, but noted that most of the pornographic material shared through social media originated from other countries. However, according to information gathered by the Special Rapporteur, peer-to-peer networks in the Lao People’s Democratic Republic were sharing child abuse material on the open Internet. It was also a destination country for travelling sex offenders who operate on the dark web. Consequently, she encourages the authorities to put in place effective prevention and reporting mechanisms to avoid the country becoming a safe haven for web predators.

21. The tourism industry is also a rapidly growing sector in the country. Noting that poorly managed growth of the industry may lead to exploitation of children, and based on lessons learned from neighbouring countries, the Special Rapporteur strongly encourages the Government, through its Ministry of Information, Culture and Tourism, to include the protection of children and the prevention of sexual abuse and exploitation as part of its strategy on sustainable tourism. As the country is opening up further to tourism, strong partnerships between the public and the private sectors are extremely important for prevention, and the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism is an important tool for this purpose. Bearing in mind that no hotel in the country had signed the Code, the Special Rapporteur encourages the

⁸ Lao People’s Revolutionary Youth Union and United Nations Population Fund, *Adolescent and Youth Situation Analysis*, p. 50.

⁹ End Child Prostitution and Trafficking International, *Global Monitoring status of action against sexual exploitation of children*, p. 18.

Government to promote it and to encourage the private sector to adhere to it as an effective means of raising awareness and preventing the sexual exploitation of children in travel and tourism. These efforts should also apply to special economic zones, including in the north, where casinos attract many foreigners.

22. In recent years, there have been reports of surrogacy agencies and clinics targeting the Lao People's Democratic Republic to operate their businesses, particularly after the bans on commercial surrogacy in countries such as India and Thailand. Following reports of past abuses, the Government of the Lao People's Democratic Republic prohibited surrogacy arrangements in the country. However, in order to avoid these practices being conducted in violation of the rights of the child and of the surrogate mothers, the Special Rapporteur encourages the Government to adopt specific regulations on the matter and to conduct effective inspections to prevent the sale of children and protect women from all forms of exploitation.

E. Root causes and push and pull factors

23. The lack of employment opportunities and the current socioeconomic situation are pushing boys and girls into migration within and outside of the country, and therefore increasing the likelihood of human trafficking, particularly among young people. Driven by the lack of employment and the lure of distant opportunities, children and young people may be led into sale, trafficking, exploitation and abuse. International migration from the Lao People's Democratic Republic is most frequently to Thailand. Girls and young women are lured by job advertisements for housekeepers (*maeban*) but often end up being trafficked as sex workers. The young people who are lured to work in Thailand may not be aware that they are working illegally. Consequently, some are sent back to the Lao People's Democratic Republic by the Thai authorities. Overall, young migrants are ill equipped for moving to cities and they are in need of training in basic life skills. Young migrant women and girls tend to be involved in high-risk employment, such as the entertainment and sex industries, where levels of exploitation and abuse are high. As a reason for migration, young people describe the lack of education, employment and sustainable opportunities to allow them to generate income. Migrating to urban settings to look for work and send money back to their families is commonplace.¹⁰

24. The root causes and risk factors of child sexual abuse, trafficking and domestic violence in the Lao People's Democratic Republic include limited education and poverty, especially along the borders, and increased access to the Internet, which creates expectations for young people as to what awaits them in neighbouring countries. In particular, limited education and poverty reduce their employment opportunities in their home country and leave them extremely vulnerable to sexual and labour exploitation.

III. Measures to prevent and combat the sale and sexual exploitation of children

25. The Lao People's Democratic Republic has adopted numerous legislative and policy measures to protect children from sale, trafficking and other forms of exploitation. However, the implementation of these measures is hindered by factors such as a lack of capacity, limited funding and insufficient data. More importantly, the measures adopted so far are having a very limited impact on the prevention of sale and sexual exploitation of children and the protection of child victims, mainly due to the lack of a robust child protection system and lack of accountability for the perpetrators of these crimes. In order for the Government to effectively combat and prevent the sale, trafficking and sexual exploitation of children, it must develop a robust child protection system and ensure accountability for the perpetrators by facilitating access to justice and redress for victims.

¹⁰ Lao People's Revolutionary Youth Union and United Nations Population Fund, *Adolescent and Youth Situation Analysis*, p. 43.

A. Legal framework

26. In recent years, the Lao People's Democratic Republic has made considerable progress in incorporating into its national laws, regulations and policies ratified international human rights instruments, especially the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. Indeed, the ratification of the Convention on the Rights of the Child was followed by legislative amendments (for example, to the Penal Code) and the adoption of new laws, such as the Law on Juvenile Criminal Procedure in 2014 and the Law on Preventing and Combating Violence against Women and Children in 2015. The country has also ratified the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization.

27. Article 89 of the Law on the Protection of the Rights and Interests of Children (2007) prohibits sexual relations with children aged between 12 and 18 in exchange for money or other benefits, although the penalties are low (three months to five years of imprisonment). Under the same article, having any sexual relations, whether in exchange for benefits or not, with children under 12 years of age is considered rape and carries a heavier sanction (7 to 15 years of imprisonment).

28. Article 128 of the Penal Code (2005) criminalizes rape, and rape of children carries a higher penalty (5 to 15 years of imprisonment), while article 129 criminalizes sexual intercourse with a child under the age of 15. Article 131 of the Penal Code criminalizes engaging in or facilitating prostitution, and article 132 criminalizes the procurement of female minors into prostitution. Article 133 punishes the forced prostitution of children, with a high penalty (10 to 20 years of imprisonment). Article 252 of the Penal Code promulgated in 2017 criminalizes marital rape with possible imprisonment from three months to one year with fines, and from one to five years with fines if the rape results in injuries. Furthermore, articles 250 and 251 of the Penal Code (2017) provide for penalties for sexual intercourse with persons aged below 18.

29. Article 86 of the Law on the Protection of the Rights and Interests of Children criminalizes the production, distribution, dissemination, importation, exportation, displaying and sale of child pornography. Article 138 of the Penal Code (2005) criminalizes the production, distribution and dissemination of pornography, therefore the prohibition is not specific to child pornography. The law on preventing and combating cybercrime also prohibits the dissemination of pornography (art. 14). None of these laws criminalize the mere possession or receipt of child abuse material without the intent to distribute, or the solicitation of children for sexual purposes (grooming). Nevertheless, the Law on Telecommunications (2011) prohibits service providers from displaying pornographic material, and the Government Decree on Internet Information Management of 2014 (art. 12.4) authorizes Internet service providers to suspend the connection of users who have violated the decree and other relevant laws. There is no specific legislation in the Lao People's Democratic Republic on the use of the Internet to commit crimes against children. The law on cybercrime and the Decree on Internet Information Management prohibit the creation of anonymous or false social media accounts, which may make it more difficult for perpetrators of online child sexual abuse to operate, but raises major concerns in relation to freedom of speech.

30. A major development was the adoption of the Anti-Trafficking Law in 2016, in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Under article 89 of the Law, trafficking in children is an offence that carries 15 to 20 years of imprisonment, a penalty that is commensurate with the gravity of the crime. Sale of children is understood to be criminalized under article 2 of the Anti-Trafficking Law. However, the Special Rapporteur recalls that the two crimes, although similar, are separate offences and should be criminalized as such.

31. Article 9 of the Family Law (2008) stipulates that men and women must be over 18 before entering into marital relations, and under article 17 of the Law on the Development

and Protection of Women (2004), women have the freedom to choose their spouse from the age of 18 onwards. Article 269 of the Penal Code (2017) also penalizes child marriage, providing for penalties both for offenders over the age of 18 who marry a child and those who allow child marriage to take place.

32. In 2012, the Lao People's Democratic Republic adopted a moratorium on intercountry adoptions to prevent abuses and violations of the rights of the child, including the sale of children. In addition, it has introduced amendments to the Family Law and it adopted a decree on domestic adoptions in 2014, which incorporates some of the provisions of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, such as the principle of the best interests of the child. Article 9 of the decree establishes the options that the State must consider before opting for adoption, including the extended biological family of the child and foster care. The decree also establishes a follow-up mechanism to prevent trafficking and exploitation. According to the Ministry of Justice, between 2008 and 2017 there were 378 registered domestic adoptions and 103 intercountry adoptions, mostly to European countries. Article 57 of the decree prohibits the adoption of a child before it is born and until 6 weeks after it is born, which is interpreted as a de facto prohibition of surrogacy arrangements.

33. The Labour Law of 2014 sets the minimum age for employment at 14. However, education is only compulsory until 11 years of age, and under article 101, employers may accept employees as young as 12 for "light work" duties. Indeed, there is a detailed list of light duties that children aged 12–14 may perform. The worst forms of child labour, such as hazardous work, are strictly prohibited.

B. Institutional framework

34. The Ministry of Labour and Social Welfare is the regulatory body responsible for protecting and assisting children through the Committee for Protection and Assistance to Children (established under article 35 of the Law on the Protection of the Rights and Interests of Children). The Ministry is devoted to social welfare, humanitarian assistance (for example, in natural disasters and epidemics) and the removal of unexploded ordnance. Due to its budget constraints, it relies heavily on the support of international donors, United Nations bodies, the private sector, non-profit associations and international NGOs.

35. The national committee against human trafficking, chaired by the Prime Minister, is responsible for legal proposals and amendments, supervision of progress and regional coordination. Related subcommittees have been established at the provincial, district and village levels.

36. The Ministry of Post and Telecommunication was established in 2017 to govern the development and usage of ICT. It has a technical system in place to ensure the implementation of relevant laws, including the law on cybercrime. The Ministry oversees the national Internet centre and a web surfing centre to monitor and inspect online content. The national Internet centre is in charge of monitoring, inspecting, blocking and censoring content, including pornographic material. Together with service providers, it blocks and shuts down relevant websites. The web surfing centre produces monthly reports on Internet usage by young people and makes proposals to shut down improper content. The Ministry also receives relevant information from the police. Together with the Ministry of Public Security, the Ministry of Information, Culture and Tourism, the Ministry of National Defence and the Ministry of Foreign Affairs, the Ministry of Post and Telecommunication reports to the Deputy Prime Minister.

C. National policies, strategies and programmes

1. Child protection policies

37. A robust child protection system is essential in the prevention of crimes against children and assistance to child victims. All the interlocutors that the Special Rapporteur met with, including representatives of ministries, mass organizations and the law

enforcement authorities, explained that they were working on prevention by conducting awareness-raising activities. However, their impact is relatively low because they are not part of a comprehensive child protection strategy. Furthermore, despite the broadly defined child protection provisions under various laws, child protection, including protection of children at risk and child victims of abuse and exploitation, remains a challenge due to the lack of enforcement of the existing legal frameworks.¹¹ Institutional and human resources for childcare are limited, as are family support and community-based child protection services.

38. Despite the limitations and challenges, the Ministry of Labour and Social Welfare has set up a network to protect children and to prevent abuses against them, especially for homeless children and children at risk. In 2015, 496 villages were part of the network, with a task force based in Vientiane. This safety network aims to create awareness and understanding of the situation of vulnerable children. When a child victim of domestic violence is identified at the local level, the local child protection network reports the case and provides immediate assistance, for example, by removing the child from the family home and into a shelter. After discussions, the local authorities try to return the child to the family. If criminal charges are pressed, the case is referred to the formal child protection system. The Special Rapporteur noted with concern that the work of the local networks for the protection of children remained very informal and lacked the necessary professionalism to provide comprehensive, rights-based and child-sensitive assistance to child victims of sexual abuse, violence and exploitation. The Ministry stated that the budget allocated for immediate assistance to children at the local level was very limited, and acknowledged the need for international support to improve the local child protection system. The Ministry also stated that it was continuing to make major investments in the removal of unexploded ordnance, which continued to maim and kill children every year.

39. The Ministry indicated that it was prioritizing capacity-building to strengthen social work to support children and families at the central, provincial and district levels. Relevant activities are conducted as part of the Social Welfare Strategic Development Plan (2011–2020) and the plan for social, labour and development cooperation. In this context, in 2011, the national university began offering a four-year Bachelor of Arts degree programme in social work. More than 400 social workers have graduated since then, and many of them are working in social welfare, including at the Ministry of Labour and Social Welfare. The Ministry, together with UNICEF and the Lao Women's Union, has also started to develop a paraprofessional social work training course. There are many challenges facing the profession, including the insufficient number of competent social workers, and limited budget and facilities. Indeed, the programme to produce qualified and trained professional social workers through tertiary education institutes will need to be backed up by laws and regulations to provide social workers with the necessary budget, competencies and legal authority to intervene at the community and household levels.

40. Due to its limited budget and insufficient professional human resources, the Ministry of Labour and Social Welfare outsources a series of child protection initiatives through non-profit associations and international NGOs. A promising initiative is the ChildSafe movement launched by Friends-International to improve child protection by building networks and supportive structures within the programmes run by the Government, organizations, businesses, communities and individuals, thereby seeking an integrated approach in child protection.

41. Building a robust and effective child protection system demands investment and resources. While the Special Rapporteur learned that the national authorities faced limitations in their efforts to ensure that child protection was a priority, she also learned that civil society, non-profit associations and international NGOs were ready to assist and support the Government in the task. Civil society groups were operating in an environment involving lengthy, uncertain and restrictive bureaucratic procedures, which rendered partnerships difficult and often resulted in missed funding opportunities for child protection

¹¹ Lao People's Revolutionary Youth Union and United Nations Population Fund, *Adolescent and Youth Situation Analysis*, p. 48.

programmes. Consequently, the Special Rapporteur encourages the Government to ensure an enabling environment and widen the civic space for non-profit organizations and international NGOs to operate in the promotion of the rights and protection of children.

2. Investigation, prosecution and sanction

42. The Lao People's Democratic Republic has made considerable efforts to raise knowledge and awareness among different stakeholders, including the police, prosecutors and judges, especially at the central level, of international norms and standards contained in core instruments ratified by the country. The Special Rapporteur observed that those stakeholders expressed openness and willingness to learn how to improve their compliance with international obligations through implementation of the relevant measures.

43. The Ministry of Justice disseminates information and conducts training activities to raise awareness of international human rights instruments ratified by the country. The division for the advancement of women and children at the Ministry promotes justice at the grass-roots level through mediation units. These units are part of the traditional semi-formal justice system to solve disputes at the local level, and are seen as a means of saving time and money for the local population. Members of village mediation units are elected by the population of the village, and the units are composed of elders and representatives of mass organizations. According to article 36 of the Law on Juvenile Criminal Procedure, mediation units deal with minor cases at the village level, which are punishable by a penalty of up to three years of imprisonment. The more serious cases – punishable by a penalty of more than three years of imprisonment – are referred to the formal justice system. Members of village mediation units go through a basic three-month training programme on law. They do not take final decisions, but suggest courses of action. The Ministry of Justice has produced manuals to regulate the processes of mediation units and is planning to adopt a ministerial agreement on child mediation. Despite these measures, the Special Rapporteur expressed concern that cases of child sexual abuse and exploitation might not make it to the formal justice system, where they belong, due to the role played by the mediation units and a lack of awareness regarding the gravity of these crimes.

44. Despite the adoption of the Anti-Trafficking Law and the signing of the memorandum of understanding with Thailand on cooperation to combat trafficking in persons, especially women and children, the implementation of policies on protection, prosecution and punishment has been poor. The main issues of concern in relation to the implementation of the laws and policies regarding cross-border trafficking with Thailand include: (a) the lack of knowledge of official migration requirements (for example, among ethnic minorities) and difficulties in obtaining travel or identity documents to cross the border, which pushes people to turn to smugglers and traffickers, and thereafter makes it difficult to report cases of abuse and exploitation; (b) loopholes in the repatriation of Lao victims of trafficking, including children, which affects access to the rights to information, assistance and compensation for victims and their families, who are often also victims of corruption at the hands of the authorities; (c) the participation of the authorities themselves in the trafficking rings and criminal networks; and (d) the utter impunity of perpetrators and all those involved in the profitable business of trafficking. Even though access to comprehensive, reliable, up-to-date, disaggregated, systematic and centralized data is difficult to obtain, it is clear that the lack of accountability for these offences reinforces the perpetrators' sense of impunity.

45. According to the Ministry of Public Security, when it receives a report of a victim of trafficking in a neighbouring country, it notifies the Ministry of Foreign Affairs and sends out its staff to interview the victim for identification purposes. Thereafter it places the victim at the counselling centre run by the Lao Women's Union, where he or she receives rehabilitation support while the police open an investigation. When victims are ready to return to their families or communities, the authorities check the situation. If a return is not possible, they refer them to either the Ministry of Labour and Social Welfare or the Ministry of Education for vocational training or education. According to the Ministry of Public Security, in 2017 it opened investigations into 23 cases of trafficking, 15 cases of rape (in 2 of which the victims were children), 18 cases of adultery and 72 cases of physical assault. Furthermore, 99 persons (53 of whom were women) received assistance to return

from neighbouring countries. Unfortunately, the data provided were not disaggregated by age and sex.

46. Despite the adoption of the law on cybercrime in 2015, the Special Rapporteur did not receive data on the number of cases of child sexual abuse and exploitation investigated by the Ministry of Public Security, with the support (for example, by referral for investigation) of the Ministry of Post and Telecommunication. The Special Rapporteur also regrets to note the lack of a specialized unit within the police to investigate online child sexual abuse and exploitation. The authorities indicated that if such cases fitted the criteria, they were investigated by the department of human trafficking. The Ministry of Public Security stated that the lack of technical expertise to conduct investigations on online child sexual crimes was a major challenge.

47. A major gap hindering progress in the fight against the sale, trafficking and exploitation of children in the country is the impunity of the perpetrators, which fuels the commission of these crimes. There are no proactive investigations to prosecute offenders, exploiters and traffickers, including online. Police and prosecutors only act on clear evidence from victims, which only adds to the burden of the latter. Access to justice and remedies for victims is also hindered by their lack of knowledge of their rights, including to compensation. The formal justice system is inaccessible for victims who have a limited education and live in poverty, which is the case for the majority of child victims of sale and exploitation. Furthermore, cases of child sexual abuse hardly ever reach the formal justice system due to the lack of child-friendly complaint mechanisms and the role of the village mediation units. While commending the efforts of the Government to regulate and limit the role of the village mediation units to their traditional mediation on family disputes, the Special Rapporteur encourages the authorities, in particular at the provincial level, to supervise and guide the work of the units to ensure that traditional systems did not hinder access to justice for victims of sexual crimes.

48. With regard to the sexual exploitation of children in travel and tourism, the Ministry of Public Security indicated that it was working on prevention measures in partnership with UNICEF. The Ministry also indicated that it was in regular contact with the International Criminal Police Organization (INTERPOL). For example, once it had received a notification that a travelling sex offender had entered the country, it monitored the situation and replied to INTERPOL. However, the Ministry indicated that on some occasions it had received the notification after the offender had left the Lao People's Democratic Republic. The Ministry has a department in charge of liaising with INTERPOL, which responds to requests from other countries regarding travelling sex offenders.

49. Despite various training and capacity-building activities, the Ministry of Public Security mentioned that the lack of awareness and understanding of the law enforcement authorities of the crimes of sale and sexual exploitation of children remained a challenge. The level of understanding and education of ethnic minorities in remote areas, and the level of poverty within them, is also a challenge when it comes to awareness-raising, despite increased efforts to conduct anti-trafficking campaigns. The location of the shelter for victims of trafficking is also a challenge; there is only one in the capital and there are none at the provincial level. The Ministry of Public Security plans to open two more centres – one in Vientiane and another in the central region. In the framework of the National Plan of Action to Prevent and Combat Trafficking in Persons (2017–2020), the Ministry plans to organize training activities on victim identification, first targeting officials and then the public at large, for example, through the dissemination of posters displaying a definition of trafficking, how to prevent it and who to contact or what to do in a trafficking situation, in villages and along the border with China.

50. The Special Rapporteur did not receive data from the Office of the Supreme People's Prosecutor on the prosecution and conviction of cases for child sexual abuse and exploitation offences. The Office mentioned cooperation with China with regard to cases of girls trafficked to China for child marriage, although no cases had been brought to justice. The Special Rapporteur noted that the approach of the justice system towards children was mainly focused on bringing juvenile offenders to justice, and disregarded the needs of child victims and witnesses. Capacity-building was focused on the juvenile justice procedure and there were no prosecutorial strategies to address criminal networks involved in child sexual

exploitation offences. There was also a lack of training and capacity-building on child interviewing techniques.

51. The Supreme Court of Justice informed the Special Rapporteur that it was promoting the implementation of the Convention on the Rights of the Child, including by preparing a manual to explain the relevant national laws on the rights of the child. With the support of UNICEF, 20,000 copies of the manual had been distributed among judges, including in the provinces, at the time of the visit. The Supreme Court of Justice had also developed manuals on the juvenile justice procedure and child victims and witnesses, which incorporated the provisions of the Convention on the Rights of the Child. Plans were also in place to include the documents in the academic curricula and to uphold the provisions of the Convention on the Rights of the Child at hearings on juvenile cases and those affecting children. The Court had also provided training to judicial personnel on how to approach and address children. However, the courtrooms were intimidating for children, and there were no financial provisions to make them child-friendly. According to the Law on Juvenile Criminal Procedure, children should not face their offenders. However, videoconferencing was not available either; instead, curtains were used to block the child's view of the offender, and the offender could also be taken out of the courtroom. The Supreme Court of Justice stated that the judiciary had dealt with few cases of sexual abuse and exploitation of children, and no serious cases of violence against children. The Special Rapporteur expressed concern that the low number of cases might be due to a lack of awareness and child-friendly reporting and complaint mechanisms. Children were only able to make complaints to the village authorities, the police or prosecutors.

3. Care, recovery and reintegration

52. Child-friendly complaint and reporting mechanisms and victim referral systems to detect cases, identify victims and provide support to them, are essential elements for a robust child protection system. However, there is a lack of these elements in the Lao People's Democratic Republic. There is no single child-friendly, free of charge hotline open 24/7 to report cases of abuse, violence and exploitation against children. Instead, there are various hotlines run by the police, the Lao Women's Union and non-profit associations for domestic violence and trafficking cases, which makes it difficult to assess the scope of the issue. Members of structures at the community level lack the skills and knowledge to detect, assess and refer child victims for support. Too often, victims are blamed for their situation, which prevents them from reporting abuse. Moreover, policies such as giving awards to "crime-free" villages have an adverse effect as they discourage people and the authorities from reporting cases, encouraging them to hide them instead. Children need to know where to turn to for support, and the authorities must provide a single point of access to the child support system.

53. Due to budgetary constraints, the Ministry of Labour and Social Welfare has only set up one centre for vulnerable women and children and victims of abuse and violence. There are plans to open a second centre in the north, pending the availability of funding. The Centre for Counselling and Protection of Women and Children of Vientiane, run by the Lao Women's Union, was established in 2011 and is the first of its kind. It provides legal counselling, health-care assistance and emotional healing, free of charge. It provides counselling face-to-face or through a hotline (1362) and it occasionally also provides counselling to men who have family issues. It treats women and children who are victims of domestic violence, trafficking and sexual abuse. The centre provides temporary shelter, health care, educational and vocational training, and helps to prepare victims to return to their families. It works in coordination with other ministries, such as the Ministry of Health, Ministry of Justice and Ministry of Foreign Affairs. It also works with international partners (United Nations bodies and international NGOs such as Village Focus International and World Vision), which help to develop the victim referral system and provide support with victim assistance, rehabilitation, skills training and funding for start-up businesses. The centre has provided assistance to more than 400 victims of child sexual abuse, trafficking and domestic violence, and counselling services to more than 5,000 persons. It provides support in legal proceedings by ensuring that victims only begin proceedings after receiving authorization from the centre.

54. Even though the counselling centre in Vientiane tries to provide holistic services, it has encountered numerous challenges. First, the concept of counselling is new in the country, and understanding of it is very limited. Second, it has a very limited budget, both at the central and subnational levels. Third, coordination with partners to assist victims of violence and trafficking is still difficult. There is no clear agreement or standard operating procedure among partners, and no regulatory framework to ensure coordination and understanding and the implementation of policies. Fourth, it has limited capacity to raise awareness of the relevant laws and to assist all target groups, including groups at risk in isolated areas. Lastly, there is currently no centre to provide long-term counselling.

55. With regard to detection and referral of cases, in order to overcome social reticence, the centre in Vientiane is trying to create a counselling network, whose members receive training on the referral system. It also coordinates with NGOs to allow them to share information and work with the referral system, and with the transit centre run by the Ministry of Labour and Social Welfare. Therefore, the partners work on the basis of an understanding with each other, but without standard operating procedures. The centre is developing manuals to improve victim protection, which provide information on the referral system. It also supports victims after they return to their communities, for example, through a mechanism to monitor their situation. Teachers can also provide assistance to child victims by reporting cases through the local authorities. On average, children stay an average of two to three months in the centre. Individual assessments are conducted to determine their needs, including their educational needs and whether they wish to return home. The centre supports their emotional healing and helps them to build skills to allow them to carry on with their lives. However, there are no lifelong services.

56. The Ministry of Labour and Social Welfare, in collaboration with non-profit associations, has opened three additional shelters for children: a boarding school run by Friends-International for up to 30–35 children in street situations, and a shelter run by Village Focus International for up to 35 child victims of trafficking and other forms of exploitation and violence, both in Vientiane; and a centre for up to 60 children in Savannakhet, run by Sak Saum. The NGOs that manage these centres operate through a memorandum of understanding with the Ministry of Labour and Social Welfare. Furthermore, the Lao authorities are cooperating with the Government of Thailand to build a centre 40 kilometres outside of the capital, in the province of Vientiane.

4. Prevention

57. Addressing child trafficking and exploitation must start with preventive measures at the community level, backed by government services. In that regard, the Lao Women's Union has produced awareness-raising material and conducted campaigns on television and in newspapers to minimize risks for vulnerable groups and to improve protection at the border, for example, by explaining where victims can seek help. The Union provides counselling through its training network at the central, provincial, district and village levels.

58. Most awareness-raising activities are carried out in the Lao language, therefore children who belong to ethnic minorities, and who often do not speak Lao, are among those most vulnerable to sale and exploitation. Similarly, many awareness-raising activities are conducted within schools and formal institutions, and children who are most at risk, such as those in street situations, are not part of such institutions. These vulnerable children should also be informed about the risks of sale and exploitation and the measures in place to protect them, and therefore awareness-raising activities should be adapted to their needs and particular circumstances. In this respect, the Special Rapporteur commends the efforts made by the provincial authorities in Oudomxay to reach out to children belonging to ethnic minorities and living in remote areas by providing information in ethnic languages through community speakers. Awareness-raising should be inclusive in order to benefit all children.

59. The Ministry of Post and Telecommunication, in cooperation with the Lao People's Revolutionary Youth Union, conducts awareness-raising activities on safe Internet usage at the central and local levels. Social media, which is very popular among Lao children and adolescents, including children of ethnic minorities, can also be used to raise awareness. Consequently, the Special Rapporteur strongly encourages the Government to develop

partnerships with the ICT sector (for example, with Internet service providers) to conduct awareness-raising campaigns on safe Internet usage and to educate children on how to better protect themselves from abuse, violence and exploitation.

5. Child participation and empowerment

60. Young people rarely have the opportunity to contribute to decisions that are taken about their lives at any level. They face a number of challenges limiting their participation, including a lack of youth representation, limited opportunities for engagement, the perception of the authorities and parents of the role of young people and limited forums for expression.¹²

61. Awareness-raising is not about lecturing children, but rather about consulting them on their needs, concerns and wishes, and actively encouraging their participation in decision-making processes that affect them. In this regard, the Special Rapporteur commends the methodology and approach adopted by the National Commission on the Advancement of Women, Mothers and Children to involve and consult children in the preparation of the combined third to sixth periodic reports under the Convention on the Rights of the Child (CRC/C/LAO/3-6), which the Government submitted to the Committee on the Rights of the Child in March 2017. This is a good practice that should be replicated in the design and implementation of policies that affect children.

6. Transnational cooperation

62. Bilateral agreements (for example, with Thailand and China) and regional cooperation with other ASEAN countries to discuss laws and practices are promising examples of the efforts made by the Lao People's Democratic Republic to better address the transnational nature of the trafficking and sale of children. Effective regional cooperation between the law enforcement authorities, prosecutors and judges is essential to address the transnational dimension of organized crime involved in the sale, trafficking and other forms of exploitation of children. While commending efforts at the provincial and district levels to participate in cross-border meetings, in particular with counterparts in Thailand, the Special Rapporteur encourages the authorities to make those meetings more effective through concrete information-sharing and cooperation in the investigation and prosecution of trafficking cases.

63. The Government of the Lao People's Democratic Republic cooperates with the Government of Thailand to monitor labour exploitation, and it is seeking cooperation in this endeavour with other countries such as China. The Ministry of Post and Telecommunication, aware of the fact that countries cannot address online child sexual abuse alone, cooperates with Thailand, Viet Nam and other countries to combat online child sexual abuse, for example, through annual meetings on cybercrime. The Office of the Supreme People's Prosecutor also relies on extradition treaties with ASEAN countries to prosecute criminal cases of child sexual exploitation and trafficking.

IV. Conclusions and recommendations

A. Conclusions

64. **In recent years, the Lao People's Democratic Republic has made significant efforts to incorporate the provisions of the Convention on the Rights of the Child into its national legislation and to raise awareness on child rights and protection issues among official stakeholders in charge of its implementation. However, if the Government wants to make real progress in preventing and combating the sale and sexual exploitation of children, including child marriage and child prostitution, it must address the utter impunity for these crimes, including by strengthening effective**

¹² Lao People's Revolutionary Youth Union and United Nations Population Fund, *Adolescent and Youth Situation Analysis*, p. x.

transnational cooperation, and developing an integrated formal national child protection system that provides care and recovery for child victims and ensures their access to justice and remedies. Addressing these two main gaps will place the country on the right path towards ensuring the implementation of its international obligations on child rights and its political commitments with respect to the Sustainable Development Goals.

B. Recommendations

65. In order for the Lao People's Democratic Republic to consolidate its achievements, overcome the remaining challenges and ensure the effective protection of all children, the Special Rapporteur recommends the actions described below, and stands ready to offer her full cooperation and assistance in their implementation.

66. The Special Rapporteur stresses that a robust national child protection system starts with a comprehensive and clear legal framework that prevents and prohibits sale and sexual exploitation and protects children from all their forms. The Special Rapporteur calls on the Lao People's Democratic Republic to adopt legislative measures to ensure that all forms of sexual abuse, violence, exploitation and sale of children are prohibited and criminalized with appropriate sanctions, according to international child rights norms and standards, and in particular:

(a) Prohibit and criminalize the sale of children as a separate crime from trafficking;

(b) Specifically criminalize all acts relating to child abuse material, including possession and receipt of such material;

(c) Bearing in mind technological advancements, criminalize accessing online child abuse material, making it available, grooming, viewing online streaming of child abuse, and facilitating online sexual abuse and exploitation of children, including creating or maintaining online content that sexually exploits children;

(d) Prohibit child marriage, including marriage between children under the age of 18, without exceptions;

(e) Prohibit child labour according to international norms and standards, including by setting the minimum age for employment at 14, without exceptions;

(f) Prohibit surrogacy arrangements that amount to sale of children;

(g) Strengthen legislation to increase the criminal prosecution of travelling sex offenders in tourist destinations and countries of origin.

67. An appropriately structured and resourced child protection system, under a comprehensive plan of action that is decentralized and developed at the local level, is essential in order to effectively prevent and combat the sale and sexual exploitation of children. The Special Rapporteur recommends that the Government:

(a) Conduct comprehensive research, including a global mapping and assessment of the different forms of sale and sexual exploitation of children in the country, including child marriage within ethnic minorities and with nationals from neighbouring countries (such as China) and sexual exploitation of children in special economic zones, to inform effective prevention and protection policies;

(b) Identify and prioritize actions to build an effective child protection system, and adopt multisectoral policies and programmes that clearly identify the primary stakeholders, their roles and responsibilities, and follow-up activities and regular assessment and monitoring activities, both at the central and local levels;

(c) Establish effective coordination and accountability mechanisms through the effective regulation and monitoring of child protection standards at all levels;

(d) Establish a centralized, standardized and reliable information system, thus enabling a better analysis of data and of emerging and long-term trends and information-sharing between relevant entities at the national level;

(e) Define the technical, financial and human resources required to implement the child protection system, and develop a strategy to mobilize resources in the partnership frameworks with civil society, the private sector, the media and international organizations.

68. The Special Rapporteur calls on the Lao People's Democratic Republic to increase efforts to detect, investigate, prosecute and sanction the crimes of sale and sexual exploitation of children, and in particular to:

(a) Support the creation and maintenance of hotlines to report child sexual abuse and exploitation;

(b) Establish a database to systematically collect data on offences related to the sale and sexual exploitation of children;

(c) Ensure easy access to child-sensitive complaints and reporting mechanisms and ensure that village mediation units appropriately refer cases of sale and sexual exploitation of children to the formal justice system;

(d) Ensure that children who are required to participate in criminal justice proceedings are given appropriate support and counselling to assist them at all stages;

(e) Ensure access to remedies for child victims, including assistance to seek prompt and appropriate reparation for any harm suffered, through State compensation where appropriate.

69. The Special Rapporteur encourages the Lao People's Democratic Republic to adopt sustainable preventive measures that take into account all the underlying factors that cause the sale and sexual exploitation of children, including demand, and in particular to:

(a) Involve and empower children and young people through the use of new technologies and social media, encouraging them to share ideas and knowledge of exploitative behaviours and ways to stop them, and to report suspicious behaviour; and take their proposals into consideration in prevention and protection strategies;

(b) Strengthen corporate social responsibility involving Internet service providers, telecommunications companies, financial companies, the travel and tourism industry and the media in order to strengthen child safety online and to prevent child sexual exploitation in travel and tourism;

(c) Ensure an enabling environment and widen the civic space for non-profit associations and international NGOs to operate in the promotion of the rights and protection of children.

70. In relation to the right of child victims to care, recovery and reintegration, the Special Rapporteur calls on the Lao People's Democratic Republic to:

(a) Adopt standard operating procedures to coordinate the intervention of the different groups involved in the child protection system;

(b) Increase the training, recruitment and specialization of social workers as an effective means of building and expanding a formal child protection system;

(c) Increase the number of care centres for children, including beyond the capital, to provide comprehensive assistance to child victims of sexual abuse and exploitation;

(d) Establish comprehensive, rights-based and child-centred care, recovery and reintegration programmes, with a gender perspective, that can enable rapid identification of victims and coordinated referral mechanisms, and child-friendly reporting and complaint mechanisms to report exploitative behaviour online and offline;

(e) Provide specialized training to personnel involved in the identification process to enhance their knowledge and understanding; identify and refer cases of sexual exploitation; and provide for awareness-raising and outreach to victims and children in vulnerable situations;

(f) Create holistic, child-friendly victim support centres that offer high-quality, accessible and integrated services adapted to the specific needs of child victims, and follow-up procedures and continued support mechanisms that lead to durable solutions through an individualized case management and assessment process;

(g) Ensure that child victims have access to safe and secure housing, medical and psychological care, legal assistance, education, vocational and life skills training, socioeconomic support, sports and leisure activities, and religious and cultural practices, by means of an individualized plan that is adapted to each child's long-term needs;

(h) Empower child victims through child-sensitive procedures and accessible avenues for participation that foster a sense of agency in their care, recovery and reintegration; and keep them informed and allow them to be consulted on decisions affecting them.

71. The Special Rapporteur calls on the Lao People's Democratic Republic to increase bilateral, regional and international cooperation to prevent and combat the sale and sexual exploitation of children, and in particular to:

(a) Adopt bilateral and transnational agreements with neighbouring countries to strengthen the formulation and implementation of recruitment and labour protection policies and practices, with a specific focus on children and young migrants, as an effective means of combating the sale, trafficking, and labour and sexual exploitation of children;

(b) Strengthen cooperation with international law enforcement agencies, share and update information relating to child victims and offenders, and obtain digital evidence to effectively investigate and prosecute perpetrators and criminal networks responsible for the sale and sexual exploitation of children;

(c) Support initiatives such as the Virtual Global Taskforce and the WeProtect Global Alliance for effective cooperation in the investigation and prosecution of criminal networks and perpetrators;

(d) Increase collaboration with neighbouring countries, including within regional frameworks such as the ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children;

(e) Adopt the measures necessary, including through international technical assistance, to ensure progress and to measure it with a view to achieving the Sustainable Development Goals, in particular targets 5.3, 8.7 and 16.2;

(f) Issue a standing invitation to all the special procedures.