



LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

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Geneva, 6 December 2013

Dear Special Rapporteurs,

At the outset, I would like to acknowledge receipt of your letter dated 11 October 2013 seeking clarifications on the draft Guidelines for the implementation of the Prime Minister's Decree on International Non-Governmental Organizations, which alleged that the draft Guidelines will "seriously compromise the enjoyment of the right to freedom of association in the Lao People's Democratic Republic". In this connection, I would like to make the following clarifications on such allegation.

Firstly, I would like to assure you that human rights and freedom of association is fully protected and adequately embedded in the Constitution and the national laws of the Lao People's Democratic Republic (Lao PDR). Article 44 of the Constitution of the Lao PDR clearly states that "the Lao citizens have the right and freedom of speech, press and assembly; and have the right to set up associations and to stage demonstrations, which are not contrary to the laws." Moreover, the Penal Law of the Lao PDR stipulates in Article 102 that "Any person breaching another person's individual freedom to engage in lawful speech, writing, gathering, meetings and other freedoms shall be punished from three months to one year of imprisonment or by re-education without deprivation of liberty and shall be fined from 100,000 Kip to 300,000 Kip". To date, more than 100 Lao non-profit and professional registered associations are operating in the Lao PDR under the Prime Minister's Decree on Association. This is clear evidence that the Lao people are now increasingly enjoying their rights and freedoms under the Constitution with safeguards sanctioned by the country's Criminal Law, and in line with the country's obligations and commitments on fundamental freedom under International Covenant on Civil and Political Rights to which the Lao PDR is party since 2009.

Mr. Maina Kiai,
Special Rapporteur on the rights to freedom
of peaceful assembly and of association,

Ms. Margaret Sekaggya,
Special Rapporteur on the situation of human rights defenders,

Office of the United Nations High Commissioner for Human Rights
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Secondly, the Government of the Lao PDR is firmly committed to a state governed by the rule of law. This commitment is clearly outlined in the Master Plan on the development of the rule of law in the Lao PDR toward the year 2020, which was adopted in 2009 and is currently being implemented, thus ensuring the rights of the Lao people as enshrined in the Constitution, including the rights to freedom of association.

Thirdly, as a least developed country, the Lao PDR needs support and cooperation from the international community, including INGOs in its effort to address the development challenges and poverty. In this context, the Lao Government appreciates the continued assistance provided by development partners over the years, which have contributed so much to socio-economic development in the country. Therefore, the Lao Government is doing its utmost to ensure a favorable environment, in which all development partners, including INGO work in the Lao PDR. The adoption of Prime Minister's Decree and its guideline on INGOs aims to ensure the rule of law, facilitate the smooth operation of INGOs, as well as ensure effectiveness of development aid provided by INGOs.

Operation Permit (OP), which is valid for one year has no any intention to hinder operation of INGOs or to be used as a tool to limit the freedom of association. They can continue to carry out their activities without any interruption as OP is easily renewable and the process is very seamless. It is indeed a practical way to ensure the effectiveness of the work of INGOs in the Lao PDR but not interference by the Government. It is the interest and the benefit of the Lao Government and people to ensure development activities supported by INGOs. To date, no single incident has been reported on difficulty associated with OP renewal. Therefore, the issue of specific timeframe for Operation Permit should not be seen as an obstacle for freedom of association or limitation on the operation of INGOs.

The definition of INGOs in Prime Minister's Decree 13 should not be understood as limitation. Development assistance and humanitarian aid is a broad term. In addition, as a sovereign and independent state, the Lao PDR has the right to chose what is best for its people and what meet the national development priority and needs. It is totally wrong to say that such definition prevents organizations focusing on human rights, equality and others. Almost 50% of all INGOs operating in the Lao PDR focusing directly or indirectly on the promotion of human rights such as the right of women, the right of children, gender equality and others.

Getting approval from authority through submission of a project proposal and draft memorandum of understanding does not interfere with the independence of INGOs at all. On contrary, it helps INGOs to focus their activities on the priority areas that the Lao Government has identified and requested for. It is a normal procedure that is applied everywhere. It is important to note that all development activities undertaken should be in line with the Government development priority areas in order to ensure full and effective outcome. Any development assistance that does not meet the needs of the Lao people would not contribute to the overall socio-economic development and improvement of the livelihood of the Lao people across the country. In addition, we should respect the right of the Lao people as recipients to choose the areas they need the most. The socio-economic development plan of the Lao PDR covers all areas ranging from addressing extreme poverty to protecting the rights of people with disability and gender equality. The National Socio-economic Development Plan is

the product of consultation among the concerned authorities within the country from central level down to local ones, including comments and inputs from development partners within the Round Table Process, which is a consultation and evaluation process between the Lao Government and development partners on socio-economic development activities in the Lao PDR. It is also agreed within the Round Table Process that in order to fulfill the aid-effectiveness principle, development partners will align their assistance with the National Socio-economic Development Plan. In this way, aid will be channeled to the right targets. Therefore, I do believe that any INGO, which has genuine intention to help the Lao PDR addressing its development challenges, would find plenty opportunities to contribute. Such ungrounded report would only aim at undermining the credibility of the Lao PDR, which has been enjoying good cooperation with INGOs.

The provision in the Prime Minister's Decree 13 on 70 versus 30 for project activities and administration respectively speaks for itself clearly that any aid should benefit the people in need the most. The international community has adopted Paris Declaration on Aid-effectiveness and the Lao Government, as a recipient of ODA is strongly committed to effective implementation of Paris Declaration on Aid-effectiveness. It has also adopted Vientiane Declaration on Aid-effectiveness, which is a localized Paris Declaration. The objective of the aid-effectiveness is to make the assistance effective and efficient so that the largest portion of assistance could reach the targeted community instead of being spent on administrative cost. Therefore, the rule of thumb for the budget allocation of 70 percent for project activities and 30 percent for project administration is being applied.

The provision, which states that "any project less than 30,000 USD should be given to the community in need to implement directly", intends to promote the ownership and the capacity of local community. The alleged report is not valid and far from reality. The intention of this provision is to ensure the maximum benefit from a limited funding. We try to encourage INGOs, which focus on similar areas to pull their limited funding together or allow the local authority to carry out the project in order to maximize its impact. In doing so, more funding would go to the community in need and less would be spent on international experts or consultants, which often consume more than 50% of the total project funding.

The requirement for INGOs to open its Representative Office aims to ensure a long-term partnership and commitment. However, the Decree has also clearly provided that any organization, which has a project approved and undertaken in the Lao PDR can open a Project Office. This does not, in any sense, limit the ability of INGOs to operate in the Lao PDR, they can operate freely as much as they can within the framework of agreement or MOU signed between such organizations and the Lao Government. In fact, some organizations choose not to open the Representative Office but prefer Project Office as they can save administrative cost. Among over 200 INGOs currently operating in Lao PDR, there are only over 70 INGOs having Representative Offices. Therefore, the concern expressed in the alleged report was invalid and fabricated. The procedure of approval by the authority of the international staff including Country Representatives is unquestionably an international standard, which is applied not only to INGO representatives, but it is applied to all including foreign diplomats, representatives of the United Nations system and other international organizations.

On the issue of equipments and vehicles to be re-exported or handed over to the Government, it is the fact that all equipments and vehicles used in the INGOs' project are exempted from tax as it is part of development assistance. Therefore, once the project is completed, it is up to the INGO whether to sell them to general public with subject to tax payment, re-export to another country for further use or just hand them over to local counterpart in the community for further project activities. This practice has been implemented for years and all INGOs operating in the Lao PDR are well aware of this practice and they are free to choose among the said options. Therefore, the allegation is totally fabricated and expressed in the absence of any understanding of Prime Minister's Decree 13.

Lastly, I would like to reiterate that the draft Guidelines for the implementation of the Decree on INGOs does not compromise the freedom of association and commit any violation of human rights. On the other hand, its intention is to enhance the comprehension and facilitate the implementation of Prime Minister's Decree 13. In addition, the draft guideline remains a work in process, which is undertaken in consultation with all development partners and stakeholders including INGOs working in the Lao PDR. The Lao Government has taken into account all comments and inputs from our development partners as well as INGOs. Therefore, such allegation and baseless concern expressed through you disrespects not only for the Lao Government but its development partners including INGOs working in the Lao PDR.

It is important to note that while committing to the promotion and protection of the principle of human rights and freedom of expression, the Lao PDR has the sovereign right under international law to adopt its legal framework that suits the reality and national development needs reflecting the desire and aspiration of its people. In this regard, it has adopted Prime Minister's Decree 13 on INGOs.

I hope that my clarification will fully address your concerns raised and help you better understand the issue and real situation in the Lao PDR.

Please accept, Special Rapporteurs, the assurances of my highest consideration.



Thongphane Savanphet
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the Lao PDR to UNOG