

Joint press release

Laos: New Decree on Associations is the last nail in the coffin for civil society

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FIDH - International Federation for Human Rights

and its member organization for Laos

Lao Movement for Human Rights (LMHR)

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Laos: New Decree on Associations is the last nail in the coffin for civil society

Paris, 21 November 2017: International donors must urge the Lao government to scrap new legislation that imposes severe restrictions on civil society, FIDH and its member organization Lao Movement for Human Rights (LMHR) said today. The new Decree on Associations, signed by Prime Minister Thongloun Sisoulith on 11 August 2017, came into effect on 15 November 2017. The decree replaces a previous Decree on Associations enacted in 2009 and applies to all domestic associations, commonly known as Non-Profit Associations (NPAs).

FIDH and LMHR made their call ahead of the Round Table Implementation Meeting (RTIM), an annual conference attended by Lao government officials and representatives from development partners. The RTIM is scheduled to be held in Pakse, Laos, on 22-23 November 2017.

“By imposing pervasive controls and restrictions on local associations in an already repressive environment, the new decree is the last nail in the coffin for Lao civil society. Aid agencies and international donors must demand Vientiane repeal the decree and replace it with legislation that respects the rights to freedom of expression and association in accordance with international standards,” said FIDH President Dimitris Christopoulos.

FIDH and LMHR also urge Laos’ development partners to express their concern over the government’s protracted failure to thoroughly investigate the enforced disappearance of prominent civil society leader Sombath Somphone and to determine his fate or whereabouts.

Sombath Somphone was last seen at a police checkpoint on a busy street of the Lao capital, Vientiane, on the evening of 15 December 2012. Sombath’s disappearance was captured on a CCTV camera placed near the police checkpoint. CCTV footage showed that police stopped Sombath’s car and, within minutes, unknown individuals forced him into another vehicle and drove away. The CCTV footage clearly shows that Sombath was taken away in the presence of police officers.

“Sombath’s disappearance has generated a climate of fear that is still gripping Lao civil society today. It’s crucial that donors continue to press the government to find Sombath and create a space in which civil society can freely and safely operate,” said LMHR President Vanida Thephsouvanh.

FIDH and LMHR express their grave concern over numerous provisions of the law that are inconsistent with international standards of freedom of expression and association. Below is an analysis of the most troubling aspects of the new Decree on Associations.

1) Registration is mandatory (Articles 20, 22, 48, 81)

Only associations that obtain registration are legally allowed to exist. In addition, registration is valid for only one year and associations have to seek renewal annually thereafter. Associations established under the previous Decree on Associations cease to exist if they fail to re-register with the Ministry of Home Affairs (MOHA) within 15 days from the entry into force of the new decree. Re-registration follows the draconian conditions set by the new decree. MOHA is the sole authority responsible for the approval of registration applications by all associations. The decree does not set out an appeal process in cases where an application for registration is denied.

2) Human rights associations outlawed (Article 8)

The decree lists only three types of associations (1. economic; 2. professional, technical and creative; and 3. social welfare and development) that can be established. As a result, the decree effectively outlaws associations that have a mandate to work in other fields, such as human rights and advocacy.

3) Restrictive criteria for establishment (Article 7)

Authorities can use vague and broadly worded principles as grounds for preventing associations from being established.

Article 7 of the decree stipulates that in order to be established, associations must “define areas of activities that are not in conflict with the Lao constitution, laws, and fine national, local and ethnic traditions, not to represent a threat to national security, social order and individual’s freedom.”

Another potential obstacle to the establishment of associations is the requirement of minimum membership thresholds of 25, 15, or 10 individuals for associations operating at the national, provincial, or district/village level, respectively.

4) Intrusive registration process (Articles 16-20, 23)

The successful registration of an association is the culmination of a lengthy and tightly controlled four-step process that involves scrutiny of all individuals involved in the establishment of the association by multiple government agencies and authorities.

Particularly intrusive are the requirements for those seeking to establish an association to provide their CV, copies of family books, and disclose any criminal records. Founders and/or members’ actions and character could be scrutinized to ascertain if they are considered critical of the government or not aligned with the Lao People’s Revolutionary Party’s ideology. This may constitute grounds for the authorities to deny the establishment and registration of the association.

5) Sweeping ban on activities (Articles 29, 31, 48)

The decree prohibits associations from conducting a number of activities that are described in such broad and vague terms that they could cover many actions that amount to the mere exercise of the right to freedom of opinion and expression. Prohibited activities include: 1) “abusing the right to freedom to establish an association;” 2) “activities that threaten national security, social order, individual freedom and fine national, local, and ethnic traditions;” 3) “activities that will divide

national, local solidarity, religions, and ethnic groups;" and 4) "destroying national, collective, and individual interests."

Conducting any of the above-referenced activities can lead to an association's dissolution by MOHA. The decree does not set out a procedure to appeal the government's decision to dissolve an association.

In addition, associations have the duty "to properly operate in accordance with the Party's policy." An association that is found to operate "in serious violation" of "the Party's guidance and policy" is also subject to dissolution.

6) Tight government control over operations (Articles 55, 59-75)

The decree also ensures that a multitude of agencies exercise control of virtually all aspects related to the life of associations, including the approval of their logos and seals. Various ministries (including MOHA and the Ministry of Public Security) and authorities at the provincial, district, and village level are responsible for "supervising, monitoring, and inspecting" associations. This includes their activities, members, funds, annual reports, and compliance with a myriad of requirements under various laws. In addition, representatives of the government-backed mass organization Lao Front for National Construction have the authority to interfere with activities of associations by acting as their representatives in interactions with government authorities.

7) Strict operational requirements (Articles 30, 55)

The decree imposes strict operational requirements on associations with regard to several key areas. Associations have an obligation to submit annual reports to relevant government authorities on "the status of the implementation of activities, revenues-expenditures."

Associations also have an obligation "to operate in areas, sectors that are under the supervision of the government's agencies responsible for those areas and sectors." This requirement could be used by the authorities to limit the scope of an association's activities.

Finally, in an attempt to closely monitor the sources of funding for associations, the decree stipulates that associations who receive funds from Lao individuals, legal entities, or organizations have to notify relevant authorities in writing within seven days of the receipt of such funds.

8) Conditional access to foreign funds (Articles 55 and 64)

Associations who want to receive "funds and assets from foreign individuals, legal entities, or organizations" have to seek approval from the Ministry of Foreign Affairs (MOFA). MOFA has the exclusive authority to "inspect, certify, and consider" matters in relation to the acceptance of foreign funds and assets. The decree does not set out a procedure to challenge MOFA's decisions to deny an association's access to foreign funds.

9) Foreigners barred from membership, employment (Articles 31, 38)

Membership in the associations is reserved for Lao citizens. In addition, associations are barred from accepting "foreign experts and volunteers" as staff.

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