



Lao People's Democratic Republic's Compliance with Committee on the Elimination of Discrimination against Women Treaty: Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996,

The World Coalition Against the Death Penalty

and

Harm Reduction International

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on postconviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Harm Reduction International (HRI) is a leading non-governmental organisation that envisions a world in which drug policies uphold dignity, health and rights. We use data and advocacy to promote harm reduction and drug policy reforms. We show how rights-based, evidence-informed responses to drugs contribute to healthier, safer societies, and why investing in harm reduction

makes sense. HRI is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

EXECUTIVE SUMMARY

1. This report supplements the report that the coauthors submitted at the List of Issues stage in September 2023.¹

The Lao People’s Democratic Republic fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women

- I. Laos fails to fulfill its constitutional, legislative, and policy framework under CEDAW (List of Issues para. 2).**
2. The Committee requested information regarding whether the Lao People’s Democratic Republic (Laos) has taken any steps to include specific provisions of the Convention within the Constitution to prohibit gender-based discrimination.²
3. Laos responds by stating that while the Constitution does not prohibit gender-based discrimination, Article 37 of the Constitution “prescribes” gender equality.³
4. Article 37’s “prescription” of gender equality—as opposed to a specific prohibition against gender-based discrimination—allows courts to neglect gender-specific mitigation. As the authors discussed in the report at the List of Issues stage, the Cornell Center on the Death Penalty Worldwide has documented several cases demonstrating that courts disregard gender-specific mitigation, and in States that impose a mandatory death penalty, “courts may not consider any mitigating circumstances at all.” A 2023 Freedom House report on Laos observes that even though the law mandates due process, the criminal legal system “routinely denie[s] [the right to due process] in practice,” “defendants are often presumed guilty, and long procedural delays in the judicial system are common,” “appeals processes are often nonexistent or delayed, sometimes indefinitely,” and “warrantless searches and arbitrary arrests occur.”⁴ The report further confirms that “gender-based discrimination and violence are widespread,” limiting women’s access to education and employment opportunities, thereby further hindering their ability to protect themselves from discrimination in the criminal legal system.⁵
5. The Committee also requested updated information regarding human, technical, and financial resources allocated to implement legislation that prohibits discrimination against

¹ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People’s Democratic Republic’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023.

² Convention on the Elimination of All Forms of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People’s Democratic Republic*, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 2.

³ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 3.

⁴ *Freedom in the World 2023*: Laos, FreedomHouse, Accessed June 14, 2024, <https://freedomhouse.org/country/laos/freedom-world/2023>.

⁵ *Freedom in the World 2023*: Laos, FreedomHouse, Accessed June 14, 2024, <https://freedomhouse.org/country/laos/freedom-world/2023>.

women—in particular, the 2019 Law on Gender Equality and the State Party’s specific efforts in implementing the third national strategy for gender equality (2016-2015).⁶

6. Laos notes that since the 2019 Law on Gender Equality (LGE) and the 9th National Socio-Economic Development Plan, the Government has been responsible for the upkeep of the “personnel, technical and budgets” of each sector of both plans, while the UN, NGOs, and CSOs provide specific projects that ensure the proper implementation of the National Action Plan for Gender Equality.⁷ In addition, the State Party states that, at the sector level, that there is a specific budget allocation to the Commission for Advancement of Women Mothers and Children (CAWMC).⁸
7. While Laos has established several action plans for the improvement of women’s rights and protections against gender-based discrimination, the Asian Development Bank confirms that “many (Gender Action Plans) GAPS focus[] on processes such as consultative action rather than on quantifiable results,” since many GAPS, despite their successful implementation, “[a]ll short of achieving transformative impacts such as changing gender stereotypes in education, jobs, and leadership.”⁹

II. Laos fails to ensure access to justice for women in conflict with the law (List of Issues para. 3-4).

8. The Government of Laos does not publish complete and transparent information, and thus the coauthors cannot verify the gender composition of the population of people under sentence of death.¹⁰ Media reports indicate that during the reporting period, authorities sentenced at least three women to death for drug offences; two are described as the “wives” of other defendants, and one was reportedly 19 at the time of the sentence.¹¹ Because the government fails to disclose information regarding the application of the death penalty, it is unclear whether these women are still on death row. A 2021 report by the Cornell Center on the Death Penalty Worldwide finds that, on a global scale, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence and manipulative or coercive relationships with male co-defendants. In the context of drug-related offenses, women are uniquely vulnerable to

⁶ Convention on the Elimination of All Forms of Discrimination Against Women, List of issues and questions in relation to the tenth periodic report of the Lao People’s Democratic Republic, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 2.

⁷ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 4.

⁸ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 5.

⁹ Asian Development Bank, *Annex 7 to Country Partnership Strategy: Lao People’s Democratic Republic, 2024–2028*, Mar 21, 2024, Accessed Jul 17, 2024, <https://www.adb.org/sites/default/files/linked-documents/cps-lao-2024-2028-gp.pdf>.

¹⁰ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People’s Democratic Republic’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 6.

¹¹ *Laos: Eight members of Mr. X drug ring sentenced to death*, Hands Off Cain, 28 Jan. 2020, <https://www.handsoffcain.info/notizia/laos-eight-members-of-mr-x-drug-ring-sentenced-to-death-60301106> (last visited 6 Sept. 2024).

being sentenced to death, and in several countries women are most likely to be sentenced to death for such crimes.¹² Laos offers no information regarding whether the National Action Plan on Gender Equality has affected how the criminal legal system engages with women who are at risk of being sentenced to death.¹³

9. The Committee requested information regarding the cases of women currently sentenced to death in Laos, including information about sex-based vulnerabilities in those cases, as well as whether women had acted in self-defense in the context of gender-based violence.¹⁴ The Committee also asked if women sentenced to death received adequate legal representation from attorneys with experience in capital cases.¹⁵ Additionally, the Committee inquired about Laos' efforts to make sure that women know about their rights under the Convention and in domestic legislation, especially women who are disadvantaged, such as women who live in rural areas, women with disabilities, and migrant women, etc.¹⁶
10. In its Replies to the List of Issues, Laos provides information about the groups that are eligible for legal aid, which includes women who are victims of violence and trafficking, and people who are accused of certain crimes.¹⁷ The Government notes that self-defense "is a reason to reduce the criminal penalty" in capital cases.¹⁸ Laos also provides information about the number of women who had been given information about the Lao Constitution, domestic law, and international conventions related to the protection of women and children (4,787 women between 2019 and 2023), as well as the number of law enforcement officials, judges, and prosecutors who received training on the Convention, gender equality, and violence against women (1,132 people over 24 "sessions").¹⁹

¹² Cornell Center on the Death Penalty Worldwide, "No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹³ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People's Democratic Republic's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 6.

¹⁴ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), U.N. Doc CEDAW/C/LAO/Q/10, ¶ 4.

¹⁵ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), U.N. Doc CEDAW/C/LAO/Q/10, ¶ 4.

¹⁶ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), U.N. Doc CEDAW/C/LAO/Q/10, ¶ 3.

¹⁷ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 7.

¹⁸ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 9.

¹⁹ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 6 and 10.

11. Notably, Laos does not give any specific information about the women currently under sentence of death or specific information about women in conflict with the law who are accessing legal aid.²⁰
12. Globally, most women under sentence of death have committed offenses in the context of gender-based violence, often killing an abusive partner.²¹ Authorities in Laos fail to provide information to human rights defenders and civil society organizations regarding the criminal legal proceedings against women who are on death row, making it difficult to determine whether trial courts took into consideration any history of prolonged gender-based violence or relationships characterized by coercive control in determining guilt or weighing mitigating evidence at the time of sentencing.
13. Additionally, although Laotian law prescribes legal aid for women who have survived violence or trafficking, there are reports that the Government does not always provide legal aid. The gap between law and practice is at least in part due to a shortage of attorneys—a shortage that apparently has not improved since the coauthors' previous report.²²

III. Laos fails to contextualize gender-based violence against women within the criminal legal system (List of Issues para. 10).

14. The Committee requested updated information on measures to protect survivors of gender-based violence from retaliation; measures to educate village leaders about gender-based violence; and specific measures targeting victims of gender-based violence who are indigenous, members of ethnic minorities, or have disabilities.²³
15. Laos notes that it organized trainings intended to sensitize village leaders to gender-based violence in Bokeo, Champasak, Attapeu, and Bolikhamxay provinces, and that 155 people attended.²⁴ The government reports that “specific measures are in place to protect women and girls with disabilities who are victims of gender-based violence,” mentioning a gender-based violence hotline, which enables women to get help who otherwise do not have access to reporting sites.²⁵ The government further reports that it has representatives who can aid

²⁰ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10.

²¹ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People's Democratic Republic's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 10.

²² The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People's Democratic Republic's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶¶ 21-23.

²³ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), U.N. Doc CEDAW/C/LAO/Q/10, ¶ 10.

²⁴ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 23.

²⁵ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 26.

women with sensory disabilities and that it can provide transportation to people who are unable to travel.²⁶

16. The government's response does not specifically address the problem of retaliation against survivors of gender-based violence or efforts directed at indigenous women and women who are members of ethnic minority groups who are survivors of domestic violence.²⁷ As the coauthors discussed in their previous report, these issues are particularly relevant in the context of capital punishment, considering that many women who have been sentenced to death have experienced long-term abuse from an intimate partner.²⁸

IV. Women migrant workers face additional vulnerabilities (List of Issues para. 17).

17. The Committee requested an update—in light of previous concluding observations—on the progress made toward: (a) adopting a comprehensive gender-sensitive migration policy to protect Lao migrant workers; (b) reviewing and renewing existing bilateral agreements and memoranda of understanding with countries where Lao women migrate in search of work to bring them into line with the Convention and to protect women migrant workers against exploitation and bring the perpetrators of exploitation to justice; (c) strengthening efforts to raise awareness among migrant women workers regarding their rights; (d) developing and implementing regulations concerning employment agencies for migrant workers with sanctions for non-compliance and ensuring that migrant women are protected from exploitation; and (e) providing gender-sensitive reintegration support to returning women migrant workers.²⁹
18. In its Reply, the government notes that it is prepared to establish a Migrant Worker Assistance Center under the Ministry of Labor and Social Welfare (MoLSW).³⁰ The Reply fails to provide any specific information regarding how or when authorities would establish this Center. The government also reports that authorities have updated the handbook for the management and protection of migrant workers for the Ministry of Health, the Ministry of Foreign Affairs, and the Ministry of Public Security, and have also created a guidebook for Lao workers before they travel abroad for work.³¹

²⁶ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 26.

²⁷ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relation to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10.

²⁸ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People's Democratic Republic's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 10, https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=444.

²⁹ Convention on the Elimination of All Forms of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 17. Also available online at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLAO%2FQ%2F10&Lang=en

³⁰ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 56.

³¹ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People's Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 56.

19. The government further reports that the MoLSW coordinates with sectors to create a mechanism to protect and manage Lao workers who work abroad in accordance with a memorandum between Laos and the receiving countries.³² The government’s response, however, does not provide any assurance that these agreements prioritize special care for women workers, considering they are at a higher risk of experiencing intersectional discrimination. As the coauthors describe in their previous report, “illiteracy and lack of formal education among women from disadvantaged socio-economic background leave them more vulnerable to discrimination, coercion, and exploitation.”³³ This intersectional discrimination calls for specific protective measures on behalf of Lao migrant women.
20. The Government of Laos alleges in its Reply that the MoLSW’s focus is on raising awareness of migrant workers’ rights and risks that may occur in working outside of Laos. But the Reply offers no concrete response to the Committee’s request for updates regarding efforts to raise migrant women’s awareness of their rights. Nor does the reply specifically address “sanctions for non-compliance and ensuring that migrant women are protected from exploitation.”³⁴

V. Women in Laos face multiple and intersecting forms of discrimination (List of Issues para. 21d).

21. The Committee requested information on the measures taken to ensure that non-Lao-speaking women from ethnic minority groups have access to justice.³⁵
22. The government notes that the Convention is equally implemented toward women and girls across ethnic groups. The Reply describes the ways in which the government has expanded access to various services to minority populations.³⁶ Nonetheless, the Reply does not adequately respond to the Committee’s request for information on access to justice. Laos lacks sufficient qualified attorneys to provide legal services to women in conflict with the law, and the criminal legal system presents many procedural hurdles hindering women’s ability to receive a fair trial, such as barriers hindering women defendants from contacting their lawyers and constraints on the amount of time women can spend with their attorneys

³² Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶57.

³³ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People’s Democratic Republic’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 14.

³⁴ Convention on the Elimination of All Forms of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People’s Democratic Republic*, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 17d; Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 59.

³⁵ Convention on the Elimination of All Forms of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People’s Democratic Republic*, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 21d.

³⁶ Convention on the Elimination of All Forms of Discrimination Against Women, *Replies of the Lao People’s Democratic Republic to the list of issues and questions in relations to its tenth periodic report*, (Apr. 8, 2024), CEDAW/C/LAO/RQ/10, ¶ 73.

to develop legal strategies and to plan to gather evidence.³⁷ These hurdles pose an even greater challenge to non-Lao-speaking women from ethnic minority groups.³⁸

VI. Suggested recommendations for the Government of the Lao People's Democratic Republic

23. The coauthors respectfully suggest the Committee make the following recommendations to the Government of the Lao People's Democratic Republic:

- Abolish the death penalty and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards.
- In the meantime:
 - Institute a *de jure* moratorium on executions.
 - Commute the sentences of every woman sentenced to death for an offense that does not entail an intentional killing committed by the woman.
 - Amend the criminal code to ensure that the death penalty is an available penalty only for offenses that meet the international human rights law standard of “most serious” crimes, explicitly prohibiting the death penalty for drug-related offenses and other non-lethal crimes.
 - Adopt comprehensive safeguards to ensure respect for the due process and fair trial rights of women in conflict with the law who are charged with capital crimes, including providing them with timely access to effective legal representation prohibiting admissibility of evidence obtained through torture or other ill-treatment.
- On at least an annual basis, publish transparent information on the number of women sentenced to death, executed, and on death row, disaggregated by age, age of any dependent children, nationality, ethnic group, native language, crime(s) of conviction, date of conviction, relationship to any victim or codefendant, and date of execution (if applicable), to facilitate analysis of the demographics of women under sentence of death.
- Codify gender-specific defenses and mitigation in capital trials, encompassing trauma, gender-based violence, economic pressures, human trafficking, and family caretaking responsibilities.
- Require that court-appointed attorneys in capital cases against women defendants have prior experience in capital cases and have training regarding gender-based violence, gender-specific defenses, and gender-specific mitigation.

³⁷ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Lao People's Democratic Republic's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Sept. 11, 2023, ¶ 23.

³⁸ Convention on the Elimination of All Forms of Discrimination Against Women, *List of issues and questions in relation to the tenth periodic report of the Lao People's Democratic Republic*, (Nov. 14, 2023), CEDAW/C/LAO/Q/10, ¶ 21d.

- Establish mandatory trainings for judges on gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses.
- Implement legislative reforms to prevent application of the death penalty when women who experience gender-based violence act against their abusers.
- Provide gender-sensitive psychological support to women under sentence of death.