

Access to Justice for Sexual and Gender-Based Violence in the Lao People's Democratic Republic

Baseline Study

March 2026



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Abbreviations

CAT	United Nations Committee Against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	United Nations Committee on the Elimination of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	United Nations Committee on the Rights of Persons with Disabilities
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
SGBV	Sexual and Gender-based Violence
SOGIE	Sexual Orientation, Gender Identity and Expression
TFGBV	Technology-Facilitated Gender-Based Violence
UNCAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UPR	Universal Periodic Review

Glossary

Given the evolving nature of international law pertaining to sexual and gender-based violence (SGBV), there are few commonly accepted definitions for the terms used in this report. Accordingly, this report relies upon a variety of sources, including international human rights bodies, investigative authorities and courts, to provide examples of definitions that represent the most developed, progressive and authoritative in the field. The terms used throughout the report are assigned the meanings below for purposes of this report alone, and do not necessarily reflect the International Commission of Jurists' position.

- **Gender:** There is no single, prevailing definition of gender. However, significant progress has been made in understanding gender under international human rights law and international criminal law. Gender has been increasingly recognized as an evolving social and ideological construct associated with being male and female, and serving as means to categorize, order, and symbolize power relations.¹ As such, gender varies within societies and from society to society.² This understanding of gender differentiates gender from sex, ensuring critical engagement with rigid categorizations of sex that are often taken for granted.³
- **Sex:** Sex is the classification of a person as having female, male and/or intersex biological characteristics, often ascribed on the basis of individuals' reproductive function.⁴ While infants are usually assigned the sex of male or female at birth based on the appearance of their external anatomy alone, a person's sex is a combination of a range of bodily sex characteristics.
- **Sexual and gender-based violence (SGBV) and gender-based violence (GBV):** The International Criminal Court (ICC)'s Office of the Prosecutor (OTP) defines gender-based violence as "an umbrella term for any harmful act that is perpetrated based on socially ascribed differences based on gender, usually because of a person's actual or perceived gender, sex, or sexual orientation."⁵ They note that it:

includes acts that inflict physical, sexual or mental harm or suffering, threats of such actions, coercion, and other deprivations of liberty. This conduct can occur in public or in private. It violates a person's human rights. Rooted in structural gender inequalities and power imbalances, gender-based violence is both a symptom of gender inequity and a tool to reinforce it. [It] includes sexual violence and reproductive violence.⁶

The Impartial and Independent Mechanism to Assist the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic (IIIM) defines gender-based violence as "structural violence directed towards or disproportionately affecting someone because of their gender or sex, including perceived transgression of the gender norms in their community or society."⁷

- **Gender identity:** According to the UN Office of the United Nations High Commissioner for Human Rights (OHCHR)'s 2019 report on sexual orientation, gender identity and sex characteristics, gender

¹ UN Special Procedures, 'Joint Statement "Re: Comments to the Draft Crimes Against Humanity Convention,"' 30 November 2018, at 2, available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Executions/LetterGender.pdf>. Agnès Callamard, 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary killings,' UN Doc. A/HRC/35/23 (6 June 2017), para.17; See also International Criminal Court, 'Office of the Prosecutor Policy Paper on Gender-Based Crimes (December 2023),' paras. 16-17.

² International Criminal Court (ICC), 'Office of the Prosecutor Policy Paper on the Crime of Gender Persecution (December 2022),' at 3. See also: International Criminal Court, 'Office of the Prosecutor Policy Paper on Gender-Based Crimes (December 2023),' para. 17.

³ UN Special Procedures, 'Joint Statement "Re: Comments to the Draft Crimes Against Humanity Convention,"' 30 November 2018, at 2, available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Executions/LetterGender.pdf>.

⁴ International, 'Impartial and Independent Mechanism to Assist the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic (*hereinafter* IIIM), IIIM Gender Strategy and Implementation Plan (technical version),' 30 September 2022, at 8.

⁵ ICC, 'Office of the Prosecutor Policy Paper on Gender-Based Crimes (December 2023),' para. 27.

⁶ ICC, 'Office of the Prosecutor Policy Paper on Gender-Based Crimes (December 2023),' paras. 28-29.

⁷ IIIM Gender Strategy and Implementation Plan (technical version) (30 September 2022), at 13.

identity “reflects a deeply felt and experienced sense of one’s own gender. Most people have a gender identity, which is part of their overall identity. A person’s gender identity or gender identities may or may not be aligned with the sex assigned to them at birth.”⁸ The UN Independent Expert on sexual orientation and gender identity states that gender identity includes “the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other gender expressions, including dress, speech, and mannerisms.”⁹

- **Gender diverse:** The UN Independent Expert on sexual orientation and gender identity uses “gender diverse” to refer to persons whose gender identity, including their gender expression, is at odds with what is perceived as being the gender norm in a particular context at a particular point in time.¹⁰
- **LGBTQI+:** According to the ICC OTP, “[t]he acronym LGBTQI+ refers to a diversity of sexual orientations, gender identities and expressions, and sex characteristics. Specifically, it stands for: lesbian, gay, bisexual, transgender, queer and intersex persons, with a plus sign to indicate the non-exhaustive nature of this list.”¹¹
- **Sexual orientation:** Sexual orientation refers to a person’s physical, romantic and/or emotional attraction towards other people. Most people have a sexual orientation, which is part of their identity. For example, gay men and lesbian women are attracted to individuals of the same sex as themselves; heterosexual people are attracted to individuals of a different sex from themselves; bisexual people may be attracted to individuals of the same or different sex; pansexual people are attracted to individuals of any sex or gender; and asexual people are not sexually attracted to individuals of any sex or gender. Heterosexual, “[l]esbian, gay, ...bisexual, [pansexual and asexual] persons may have any gender identity or sex characteristics.”¹²
- **Sexual violence:** According to the ICC OTP, “[s]exual violence is a form of gender-based violence that involves the commission or attempted commission of sexual acts. An act can be ‘sexual’ even without physical contact, such as psychological violence that arises from threats of rape or genital mutilation. An act may be sexual regardless of whether sexual gratification was part of the intent or result. Finally, sexual violence can be committed by and against any person regardless of sex or gender; they may also involve persons of the same sex.”¹³ The OTP goes on to state that “there is no single understanding of the term ‘sexual’, nor should one be imposed. Rather, in many ways, the sexual nature and gravity of an act is determined by myriad factors such as identity, ability, age, race, sex, culture, religion, historical precedents, ethnicity, indignity and whether there was consent. It is also critical to take into account survivors’ own perspectives as to what constitutes an ‘act of a sexual nature’.”¹⁴

⁸ UN Office of the High Commissioner for Human Rights, ‘Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law (2nd Edition: 2019),’ at 5, available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/Born Free and Equal WEB.pdf>;

⁹ Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, ‘Report on Legal Recognition of Gender Identity and Depathologization,’ UN doc. A/73/152, 12 July 2018, para. 2.

¹⁰ *Ibid.*, para 5.

¹¹ ICC, ‘Office of the Prosecutor Policy Paper on Gender-Based Crimes,’ December 2023, para. 38.

¹² See OHCHR, ‘Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law (Second Edition),’ 2019, at 5, available at: <https://www.ohchr.org/en/publications/special-issue-publications/born-free-and-equal-sexual-orientation-gender-identity-and>

¹³ ICC Policy Paper on Sexual and Gender-Based Crimes (December 2023), paras. 31-32.

¹⁴ ICC Policy Paper on Sexual and Gender-Based Crimes (December 2023), para. 33.

Executive Summary

Sexual and gender-based violence (SGBV)¹⁵ remains a serious, pervasive, and largely underreported human rights plight in the Lao People's Democratic Republic (Lao PDR). Albeit comprehensive and up-to-date national data about it is lacking, available evidence demonstrates that SGBV continues to affect a significant proportion of the population of the country, particularly women and girls, and detrimentally impacts at-risk groups disproportionately, including women with disabilities.

Survey data also reveals the prevalence of SGBV and points to deeply entrenched social norms that tolerate or normalize violence, particularly within intimate and family relationships. Such norms include shared social beliefs that domestic violence is a private matter, that women should endure abuse to preserve family unity, and that the lack of physical resistance by victims/survivors in the face of SGBV actually negates sexual violence. Such attitudes directly contribute to SGBV's low reporting rates and limited engagement by victims/survivors with formal justice mechanisms.

This baseline study, conducted by the International Commission of Jurists (ICJ) with the support of the Embassy of the Kingdom of the Netherlands, examines the extent to which Lao PDR's laws, policies and practices enable or obstruct access to justice and effective remedies for victims/survivors of SGBV. It identifies systemic shortcomings in the legal framework, institutional responses, and available support services, and provides concrete recommendations aimed at strengthening survivor-centred, rights-based responses to SGBV.

Legal framework pertaining to SGBV

Lao PDR's response to SGBV is primarily governed by the Law on Preventing and Combatting Violence against Women and Children (LPCVWC) and the Penal Code. While these laws establish a basic framework for addressing violence, they leave significant gaps that undermine its effectiveness and, in some cases, actively deter victims/survivors from seeking justice.

A fundamental shortcoming of the legal framework is its limited recognition of who may be considered an SGBV victims/survivor. The LPCVWC, by definition, applies only to women and children, while many relevant Penal Code provisions, or their implementation in practice, similarly restrict the scope of who may be considered a victim to women and children. As a result, men and gender-diverse persons, who may also experience SGBV, are largely excluded from legal recognition as victims/survivors of SGBV and/or are denied protection.

Furthermore, definitions of what qualifies as sexual violence under Lao law fall well short of what international law and standards require with respect to SGBV. For example, rape is not defined on the basis of lack of freely given consent, but rather on the use or threat of force, or deception, without adequately recognizing coercive circumstances that affect consent, and is limited to narrowly defined non-consensual forms of penetration of a sexual nature. Marital rape is treated as a separate and less serious offence, carrying significantly lighter penalties, and remains eligible for mediation.¹⁶ Such shortcomings reinforce harmful gender stereotypes, diminish the gravity of sexual violence within marriage, and undermine victims/survivors' autonomy and protection. Rape that is followed by murder may also be punished by the death penalty. With respect to this, the ICJ considers that, while under international human rights law and standards States are obliged to take all necessary measures to respond effectively to SGBV, including by conducting prompt and impartial investigations with a view to bringing those responsible to justice, as well as securing meaningful protection and support for victims/survivors, these objectives can and must be pursued without resorting to capital punishment. The ICJ opposes capital punishment in all cases without exception. The death penalty constitutes the ultimate cruel, inhuman and degrading punishment and a fundamental violation of the right to life.¹⁷

¹⁵ Definitions for the various terms used in relation to SGBV are contained in the Glossary of the report. The International Criminal Court (ICC)'s Office of the Prosecutor (OTP) defines gender-based violence as "*an umbrella term for any harmful act that is perpetrated based on socially ascribed differences based on gender, usually because of a person's actual or perceived gender, sex, or sexual orientation.*" The OTP notes that it includes acts that inflict physical, sexual, or mental harm or suffering; threats of such acts; coercion; and deprivation of liberty. This conduct can occur in public or private settings and violates a person's human rights. Rooted in structural gender inequalities and power imbalances, gender-based violence is both a symptom of gender inequity and a tool used to reinforce it. It includes sexual violence and reproductive violence.

¹⁶ Under the LPCVWC, "mediation" may be used as forms of settlement and may be conducted only by established bodies, such as the Counselling and Protection Unit for Women and Children, police investigators, public prosecutors, or the People's Court, and is limited to conduct for which the punishment prescribed by law constitutes a minor offence or carries a maximum term of imprisonment of less than one year (see Part 3.2).

¹⁷ The right to life is guaranteed by all major international and regional human rights instruments, including the Universal Declaration of Human Rights (Article 3), the International Covenant on Civil and Political Rights (Article 6), the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, the European Convention on Human Rights (Article 2), Protocol No. 6 to the European Convention on Human Rights abolishing the death penalty in peacetime and Protocol No. 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances. The death penalty

The legal framework also fails to adequately address sexual harassment and technology-facilitated gender-based violence (TFGBV). There is no specific criminalization of sexual harassment; instead, the authorities rely on legal provisions scattered across the Labour Law, LPCVWC and the Penal Code, many of which are inadequately framed, undefined, or limited to non-criminal measures. Key Penal Code terms such as “sexual embarrassment” and conduct “contrary to fine tradition” are undefined and overly broad, resulting in inconsistent interpretation and weak enforcement. As a result, victims/survivors often encounter legal uncertainty, refusals to register complaints, or a lack of meaningful investigation of the incidents reported to the authorities, while some Penal Code provisions are applied in overly broad ways that risk restricting lawful expression instead of addressing harm effectively.

In addition, several Penal Code provisions criminalize conduct that disproportionately affects women and deters victims/survivors from reporting SGBV. These include the criminalization of abortion, of “incest” victims, sex work, adultery and other instances of consensual sexual relations, such as sex with monks, novices, nuns or hermits. Albeit abortion is allowed in certain circumstances, it remains regulated under criminal law, and access to safe and legal abortion services is severely constrained in practice.

Reliance on Informal Justice and Mediation

Another major barrier to justice for victims/survivors of SGBV is the widespread reliance on community-based informal or traditional justice mechanisms, presented as avenues of alternative dispute resolution. The LPCVWC permits “re-education”, “compromise”,¹⁸ and mediation in a broad range of cases, including some involving very serious forms of SGBV. In addition, even in cases where under international human rights law such processes may exceptionally be permitted,¹⁹ domestic law lacks clear criteria for determining which instances would be eligible for them and does not consistently require independent assessments to ensure victims’/survivors’ free and informed consent.²⁰ Interviews conducted for this study indicate widespread confusion among local authorities regarding which cases must proceed through the formal justice system, with even serious crimes—such as rape—sometimes diverted to mediation, resulting in de facto impunity.

In addition, in practice, mediation is frequently conducted by village-level actors who lack specialized training and often hold deeply entrenched patriarchal views. These processes commonly prioritize family unity and reconciliation over victim/survivor safety, accountability, and access to effective remedies.

Practical and Resource-Based Barriers

Beyond legal deficiencies, victims/survivors of SGBV face substantial practical obstacles in accessing justice. Harmful gender stereotypes and victim-blaming attitudes remain pervasive among police officers, prosecutors and judges. Victims/survivors are frequently subjected to insensitive or stigmatizing questioning, repeated interviews, and assumptions calling into question their credibility, contributing to secondary victimization²¹ and discouraging reporting.

Justice institutions generally lack gender-sensitive procedures and safeguards. Victims/survivors often report the absence of private reporting spaces, psychological support, protection against retaliation, separate entrances from the alleged perpetrator, closed hearings, or the provision of testimony remotely or via communication equipment during investigations and trials. Many victims/survivors are required to confront alleged perpetrators directly during judicial proceedings, further exacerbating their trauma.

is irreversible, prone to error, and has the potential to disproportionately affect marginalized and vulnerable communities. Its application is therefore not only incompatible with the values enshrined in various international human rights legal instruments, but it also undermines the pursuit of justice and the advancement of a fair and humane legal system. The death penalty does not fulfill what should be the primary objective of sentencing in criminal proceedings, which is to reintegrate individuals into society. Moreover, evidence does not support the idea that the death penalty serves as an effective deterrent against crime. The abolition of the death penalty is not only a crucial step towards building a world where the inherent worth of every individual is respected, and justice is pursued in a manner that upholds the principles of fairness, humanity, and the rule of law, but also contributes to the fostering and protection of human dignity and human rights. The ICJ, therefore, urges all countries where the death penalty still exists to abolish it and, pending this, to impose a moratorium on it, and to adhere fully to the right to life.

¹⁸ Under the LPCVWC, “re-education” or “compromise” may be used as forms of settlement carried out by family members, close relatives, village elders, or an organization to which the victim or the perpetrator of violence belongs, where the conduct “does not cause much harm.”

¹⁹ CEDAW Committee, ‘General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (1992)’, UN Doc. CEDAW/C/GC/35, 2017, para. 32 (b); and CEDAW Committee, ‘General recommendation No. 33 on women’s access to justice’, UN Doc CEDAW/C/GC/33, 3 August 2015, para. 57.

²⁰ The use of alternative dispute resolution mechanisms is elaborated further in Part 3.2 of the study.

²¹ Secondary victimization refers to victimization that occurs not as a direct result of the criminal act, but through the responses of institutions and individuals—including during contact with the criminal justice system and related systems—to the victim/survivor.

Capacity constraints further compound the plight of survivors/victims of SGBV. There is a severe shortage of trained female police officers and lawyers, particularly outside urban centers. Access to legal representation remains limited, and lawyers frequently encounter unjustified restrictions on access to case files and evidence. In addition, forensic examinations often require victims/survivors to bear the cost of forensic medical evidence themselves.

Support services for victims/survivors are critically under-resourced. Places in State-run shelters are extremely limited in number, dedicated funds for reparations are absent, and access to interpreters—particularly for minority languages and for sign language—is inadequate. Victims/survivors with disabilities face additional, compounded barriers, including reliance on caregivers that may prevent them from reporting abuse, inaccessible infrastructure, lack of procedural accommodations, limited access to information in accessible formats, and insufficient disability-sensitive referral and support mechanisms.

Summary of key recommendations

To align Lao PDR's legal framework and practices with its international human rights law obligations and ensure effective access to justice and remedies for SGBV victims/survivors, this baseline study recommends that Lao PDR:

- Strengthen the legal framework on SGBV by amending the Penal Code and the LPCVWC to ensure that protection be extended to all victims/survivors, including men and gender-diverse persons.
- Reform sexual violence laws, including by adopting a consent-based definition of rape where consent refers to voluntary agreement as the result of a person's free will, treating marital rape as a crime of at least equal gravity, criminalizing sexual harassment and TFGBV, and abolishing the death penalty in all circumstances. Pending abolition, impose a moratorium on capital punishment, and to adhere fully to the right to life.
- Repeal discriminatory criminal provisions that deter reporting and detrimentally affect women victims/survivors of SGBV disproportionately, including laws criminalizing abortion, "incest" victims, sex work, adultery and other instances of consensual sexual relations.
- Restrict the use of alternative dispute resolution in SGBV cases by ensuring that "re-education", "compromise", and "mediation" are not prioritized over judicial proceedings and are used only in exceptional cases when permitted under international human rights law and standards, with the victims'/survivor's free and informed consent, appropriate safeguards, and trained professionals.
- Improve justice sector responses through specialized SGBV units within police and prosecution services; provide mandatory, gender-sensitive training for justice actors; increase participation of trained female officers in handling SGBV cases; and discontinue practices that result in secondary victimization or expose victims/survivors to retaliation.
- Expand victim support, including shelter places, legal aid, forensic services, disability-inclusive accommodations, interpreters, and dedicated funds for reparations and assistance, particularly in rural areas and among marginalized communities, including minority ethnic communities, whose members are not fluent in Lao, and persons with disabilities.
- Strengthen implementation, monitoring, and data collection by establishing a system for the regular collection and publication of disaggregated data on all forms of SGBV.

1. Background

1.1. Sexual and Gender-based Violence (SGBV) in Lao PDR

As a country with a population over 7.9 million people, sexual and gender-based violence (SGBV)²² remains a serious and widespread human rights concern in the Lao People's Democratic Republic (Lao PDR). Yet, SGBV continues to be significantly underreported due to factors including shame, family pressure not to pursue or report cases, fear of reprisal, victims/survivors' fear of exposing themselves to criminal investigations and prosecutions, and cultural norms discouraging open discussion of violence. Comprehensive and up-to-date national data on SGBV remains lacking; nevertheless, several recent surveys point to persistent trends in the prevalence of such violence and concern persists regarding its level of social acceptance.

One of the most recent surveys, conducted by CARE International in Lao PDR in 2022 and involving 864 participants in Luang Namtha, Phongsaly, Oudomxay, and Savannakhet Provinces, found that 16 per cent of female participants had experienced some form of SGBV, including sexual harassment, bullying and physical violence. In addition, 11 per cent reported experiencing verbal violence, such as being insulted by their partner in front of others. Alarming, 40 per cent of women with disabilities, who participated in the study, reported having experienced SGBV.²³

The study also revealed high levels of acceptance of SGBV in certain contexts and circumstances, particularly instances of SGBV within intimate partner relationships. The same study also attested to deeply concerning attitudes among male respondents. More than half of male respondents agreed with the proposition that, "if a wife makes a mistake, her husband has the right to punish her." Nearly two-thirds (60 per cent) of men surveyed agreed or strongly agreed (five per cent) with the statement that, "a woman should endure violence in order to keep her family together". Similar attitudes were also observed among women respondents, albeit with lower scores, such as 34 per cent of women agreeing and 10 per cent strongly agreeing with the above-mentioned views in respect of family unity. Participants of all genders also commonly expressed the belief that family violence is a private matter that should remain within the household.²⁴

While these findings are significant, they must be interpreted in light of several important limitations. The data is relatively dated, and respondents may have been describing experiences that occurred some time ago rather than recent incidents. The surveys also focus largely on participants' perceptions, with limited information on the specific forms of SGBV experienced and on how cases were handled by both formal and informal justice mechanisms. More recent and detailed data is unavailable, as Lao PDR does not have a dedicated national system for collecting, analyzing, and publishing disaggregated statistical data on complaints related to all forms of SGBV and on their outcome, if any. As a result, it is difficult to assess the current scale and severity of the problem. Moreover, the surveys focused primarily on women victims/survivors, while SGBV also affects men and boys,²⁵ as well as lesbian, gay, bisexual, transgender, queer, intersex (LGBTQI+) persons,²⁶ whose experiences were not captured.

Despite these data gaps, available evidence strongly suggests that SGBV continues to be prevalent in Lao PDR. Such a conclusion is also consistent with entrenched gender norms and discriminatory attitudes that continue to underpin SGBV throughout the country. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) also expressed concern about the continued prevalence of SGBV in its latest set of concluding observations following its review of the 10th periodic report of Lao PDR in 2024, where the Committee noted: "alarming rates of gender-based violence against women in the public and

²² Definitions for the various terms used in relation to SGBV are contained in the Glossary.

²³ Sharon Smees, Athena Nguyen, and Pimpisa Sriprasert, 'Male Perceptions of Gender-Based Violence: Luang Namtha, Phongsaly, Oudomxay, and Savannakhet Provinces, Lao PDR', CARE International in Lao PDR, November 2022, available at: https://www.undp.org/sites/g/files/zskqke326/files/2023-05/Male%20Perceptions%20of%20Gender%20Based%20Violence_FINAL.pdf.

²⁴ *Ibid.*

²⁵ ICJ, 'Women's Access to Justice for Gender-Based Violence: ICJ Practitioners' Guide n° 12 launched,' 2016, at 203-204, available at: <https://www.icj.org/resource/womens-access-to-justice-for-gender-based-violence-icj-practitioners-guide-n-12-launched/> ('ICJ Practitioners' Guide No. 12')

²⁶ According to the International Criminal Court, Office of the Prosecutor Policy Paper on Gender-Based Crimes, "[t]he acronym LGBTQI+ refers to a diversity of sexual orientations, gender identities and expressions, and sex characteristics. Specifically, it stands for: lesbian, gay, bisexual, transgender, queer and intersex persons, with a plus sign to indicate the non-exhaustive nature of this list. International Criminal Court, Office of the Prosecutor Policy Paper on Gender-Based Crimes (December 2023), para. 38.

private spheres, including the increased incidence of rape and domestic violence in the context of economic crises, disproportionately affecting disadvantaged and marginalized groups of women.”²⁷

1.2. Project Description and Objectives

In response to the abovementioned concerns, and with support from the Embassy of the Kingdom of the Netherlands, the International Commission of Jurists (ICJ) conducted this baseline study to map and analyze existing laws, policies and practices in Lao PDR purportedly aimed at addressing SGBV. The study identifies gaps in both the design and implementation of current laws, policies and practices, including in respect to remedies for SGBV, and provides concrete and targeted recommendations to the responsible authorities within the Lao government on measures to align its legal framework with Lao PDR’s international human rights law obligations.

This baseline study is part of a two-year project supported by the Embassy of the Kingdom of the Netherlands on Strengthening Access to Justice and Effective Remedies for Gender-Based Violence. The overarching objective of the project is to improve accountability and promote access to justice and effective remedies for SGBV victims/survivors, taking a rights-based and survivor-centric approach. Under the same initiative, a separate baseline study on Access to Justice for Sexual and Gender-Based Violence in Thailand was published in November 2025.²⁸ Relevant analysis from that report, including on key international human rights law and standards applicable to SGBV, has informed this baseline study.

In addition, this study builds on and takes into account the ICJ’s submissions to the CEDAW Committee of 9 September 2024, submitted ahead of its review of Lao PDR’s 10th periodic report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),²⁹ the Committee’s Concluding Observations following the review, as well as the ICJ’s submission to the Universal Periodic Review of Lao PDR on 11 October 2024.³⁰

1.3. Methodology

This baseline study is based on both primary and secondary research, including interviews with 20 key informants. Interviewees included representatives of non-governmental organizations working on SGBV and/or supporting individuals hailing from marginalized groups, lawyers with extensive experience representing SGBV victims/survivors, and academics.

The analysis is grounded in Lao PDR’s international human rights law obligations and draws on the ICJ’s 12th Practitioner’s Guide, Women’s Access to Justice for Gender-Based Violence.³¹ The study is divided into three sections: (1) the international and domestic legal framework; (2) obstacles faced by SGBV victims/survivors due to discriminatory laws and the plural justice system;³² and (3) practical and resource-based barriers to access to justice and effective remedies in cases of SGBV.

Each sections include specific recommendations to address the identified concerns directed to responsible agencies, including, among others, the National Assembly—the highest representative body and legislative branch, holding the supreme power to amend the Constitution and to enact, amend, or repeal laws; relevant ministries and justice sector bodies; as well as the National Commission for the Advancement of Women, Mothers and Children (NCAWMC), an inter-ministerial high-level government mechanism tasked with formulating, implementing, and monitoring policies on gender equality and child rights.

²⁷ Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the tenth periodic report of the Lao People’s Democratic Republic,’ UN Doc. CEDAW/C/LAO/CO/10, 2024, at 26A (‘2024 CEDAW Committee’s Concluding Observations to Lao PDR’).

²⁸ Available at: https://www.icj.org/wp-content/uploads/2025/11/Baseline-study_GBV_Thailand.pdf.

²⁹ ICJ, ‘Submission of the International Commission of Jurists to the UN Committee on the Elimination of Discrimination Against Women in View of the Committee’s Examination of Lao PDR’s Tenth Periodic Report Under the Convention on The Elimination of All Forms of Discrimination Against Women,’ 9 September 2024, available at: https://www.icj.org/wp-content/uploads/2024/09/Submission-on-CEDAW_Lao-PDR_09092024.pdf (‘2024 ICJ Submission to CEDAW Committee’).

³⁰ ICJ, ‘submission of the ICJ to the Universal Periodic Review of Lao PDR, ‘11 October 2024’, available at: https://www.icj.org/wp-content/uploads/2024/10/Submission-Lao-UPR_11-OCT-2024.pdf (‘2024 ICJ Submission to UPR’).

³¹ ICJ, ‘Women’s Access to Justice for Gender-Based Violence: ICJ Practitioners’ Guide n° 12 launched,’ 2016, available at: <https://www.icj.org/resource/womens-access-to-justice-for-gender-based-violence-icj-practitioners-guide-n-12-launched/> (‘ICJ Practitioners’ Guide No. 12’)

³² According to the CEDAW Committee, plural justice systems refer to situations in which State laws, regulations and judicial processes coexist with religious, customary, indigenous or community laws and practices within a State. These systems may be formally recognized as part of the national legal order or operate without an explicit legal basis. See CEDAW Committee, ‘General Recommendation No. 33 on Women’s Access to Justice,’ UN Doc. CEDAW/C/GC/33, 2015, para. 61.

2. International and Domestic Legal Framework

2.1. International Human Rights Law and Standards Applicable to Lao PDR in Relation to SGBV

Lao PDR has a number of obligations under international human rights law relevant to ensuring access to justice and effective remedies for victims/survivors of SGBV, particularly under treaties to which it is a party. These include:

- a) The International Covenant on Civil and Political Rights (ICCPR);
- b) The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- c) The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- d) The Convention on the Rights of the Child (CRC) and its two Optional Protocols, namely: the Optional Protocol on the Involvement of Children in Armed Conflict; and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography;
- e) The International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- f) The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); and
- g) The Convention on the Rights of Persons with Disabilities (CRPD).

Lao PDR has also signed, but not yet ratified, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

These treaties require Lao PDR to ensure that the rights set forth in them be guaranteed in law and practice. This includes an obligation that State actors respect those rights guaranteed by the treaties, and that the State authorities take measure to protect individuals from human rights abuses committed by non-State actors, including private persons.

All of these treaties engage the responsibility of the full range of public authorities, from the executive, including administrative officials, to legislature, and the courts.³³

Each of these treaties in some way features obligations relevant to addressing SGBV. For example, the ICCPR guarantees: the right to non-discrimination (article 2(1)), the right to an effective remedy and reparation (article 2), equality of men and women (article 3), the right to life (article 6), freedom from torture and cruel, inhuman or degrading treatment (article 7), the right to liberty and personal security (article 9), and the right to equality before the law and equal protection of the law without discrimination (article 26). The ICESCR guarantees, among other, the rights to non-discrimination (article 2(2)), equality of men and women (article 3), and the right to health (article 12). The CRC guarantees the right to non-discrimination (article 2(1)), the best interests of the child (article 3), the right to life (article 6), freedom from all forms of sexual exploitation and sexual abuse (article 34), and the right to physical and psychological recovery and social reintegration of child victims (article 39). The UNCAT guarantees freedom from torture and other ill-treatment. The CEDAW guarantees the right to non-discrimination (article 2), the obligation to eliminate gender stereotyping and harmful cultural norms (article 5), and equality within the family (article 16).

The scope and content of these treaty provisions have been clarified and authoritatively interpreted by Committees of independent human rights experts acting in their capacity as members of supervisory bodies for each treaty. These interpretations are set out in General Comments and General Recommendations on specific rights provisions, and also reflected in the jurisprudence and commentary of the Committees in their function of reviewing the periodic reports of States and adjudicating individual communications (complaints).

The CEDAW Committee — the authoritative body that monitors the implementation of the CEDAW — has provided wide-ranging commentary on SGBV in relation to State obligations, including, most thoroughly, in its General Recommendation No. 35. The Committee has confirmed that the prohibition of SGBV has become a norm of customary international law,³⁴ binding on all States regardless of whether they have codified it domestically or become parties to any treaty in which the prohibition is enshrined. General

³³ Human Rights Committee, 'General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant,' UN Doc. CCPR/C/21/Rev.1/Add.13, 2004, paras 74 and 127.

³⁴ CEDAW Committee, 'General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (1992)', UN Doc. CEDAW/C/GC/35, 2017, para. 2 ('CEDAW General Recommendation No. 35').

recommendation No. 35 on gender-based violence against women affirms that SGBV encompasses a wide range of acts or omissions that are intended or likely to cause or result in a woman's death, or physical, sexual, psychological, or economic harm or suffering to her. This includes threats of such acts, harassment, coercion, and arbitrary deprivation of liberty.³⁵

The CEDAW Committee considers that SGBV also includes violations and abuses of women's sexual and reproductive health and rights—such as the criminalization of abortion; denial or delay of access to safe abortion and post-abortion care; forced continuation of pregnancy; and mistreatment of women seeking reproductive health services.³⁶ In certain circumstances, the Committee has emphasized that SGBV may amount to torture or cruel, inhuman or degrading treatment, particularly in cases involving rape and other sexual violence, domestic violence, or harmful practices.³⁷

Similarly, the CRC Committee — the authoritative body that monitors the implementation of the CRC — in its General Comment No. 13 on the right of the child to freedom from all forms of violence noted the gender dimensions of violence against children and urged States parties to ensure that policies and measures take into account the different risks facing girls and boys with respect to various forms of violence in different settings. States should address all forms of gender discrimination, including gender-based stereotypes, power imbalances, inequalities, and discrimination that supports and perpetuates the use of violence and coercion in the home, in schools and educational settings, in communities, in the workplace, in institutions, and in society more broadly.³⁸

Some forms of SGBV, such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity, may also constitute crimes under international law, including crimes against humanity and war crimes, according to, for example, articles 7 (1) (g), 8 (2) (b) (xxii) and 8 (2) (e) (vi) of the Rome Statute of the International Criminal Court (ICC).³⁹

The CEDAW Committee, among other bodies,⁴⁰ has also elaborated on the State obligation of due diligence in respect of its obligation to protect women and girls against SGBV. It has made clear that States parties may be held responsible for failing to take all appropriate measures to prevent, investigate, prosecute, punish, and provide reparations for acts or omissions by non-State actors that result in SGBV against women.⁴¹ The Committee has further recommended that States adopt measures across several key areas—namely, prevention, protection, prosecution and punishment, redress, data collection and monitoring, and international cooperation—to accelerate the elimination of SGBV.⁴² In line with this, States are also required to repeal discriminatory laws that “enshrine, encourage, facilitate, justify or tolerate any form of GBV.”⁴³

While the CEDAW Committee's primary focus is on SGBV against women and girls, it recognizes that violence against men and boys⁴⁴ and against LGBTQI+ persons may also “constitute a form of gender-based violence, driven by a desire to punish those seen as defying gender norms.”⁴⁵

Lao PDR has made a number of commitments at the political level to combat SGBV, including under the Universal Periodic Review (UPR), a process by which the UN Human Rights Council reviews the human rights record of all States and elicits pledges by States to take specific measures to improve it. Notably, at its last review in 2025, Lao PDR expressed support for all recommendations related to addressing SGBV.

³⁵ *Ibid*, para. 14.

³⁶ *Ibid*, para. 18.

³⁷ *Ibid*, paras 16 and 18.

³⁸ CRC Committee, 'General comment No. 13 (2011): The right of the child to freedom from all forms of violence,' UN Doc. CRC/C/GC/13, 18 April 2011, para. 72(b)

³⁹ CEDAW General Recommendation No. 35, paras 18; see also: International Criminal Court (ICC), 'Policy Paper on Sexual and Gender-Based Crimes,' 2014, available at: https://www.icc-cpi.int/sites/default/files/iccdocs/otp/Policy_Paper_on_Sexual_and_Gender-Based_Crimes-20_June_2014-ENG.pdf.

⁴⁰ For example, CAT, 'General comment No. 2 (2007) on the implementation of article 2 by States parties,' UN Doc. CAT/C/GC/2, 24 January 2008, para. 18 ('CAT General Comment No. 2'); CAT, 'General comment No. 3, Implementation of article 14 by States parties,' UN Doc. CAT/C/GC/3, 13 December 2012, para. 23. ('CAT General Comment No. 3').

⁴¹ CEDAW General Recommendation No. 35, para. 24(b).

⁴² *Ibid*, para 28.

⁴³ *Ibid*, para 29(c).

⁴⁴ ICJ Practitioners' Guide No. 12, at 203-204.

⁴⁵ OHCHR, 'Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law (Second Edition)', 2019, at 13, available at: <https://cambodia.ohchr.org/en/content/born-free-and-equal-0>.

Among others, Lao PDR accepted recommendations urging: (i) the taking concrete steps to combat SGBV; (ii) repealing provisions in the Penal Code that discriminate against women; (iii) criminalizing all forms of SGBV against women; (iv) adopting a consent-based definition of rape; (v) criminalizing marital rape; (vi) amending the Law on Preventing and Combating Violence Against Women; (vii) strengthening legal protections, access to justice, and support services for victims/survivors of violence against women and girls; (viii) ensuring the effective investigation and prosecution of crimes of violence against women; (ix) providing a supportive environment for women to report crimes and participate in criminal proceedings, including through specialized gender units within police and prosecution systems and access to psychological expertise; and (x) expanding shelter facilities.⁴⁶

2.2. Domestic Law Combating SGBV and its Shortcomings

Lao PDR is bound by its international human rights law obligations to adopt and implement legislation to address SGBV. These obligations include ensuring that all forms of SGBV that violate a victims'/survivor's physical, sexual, or psychological integrity are subject to criminal sanctions, and that victims/survivors have access to justice and effective remedies.⁴⁷

Two laws are primarily applicable in cases of SGBV in Lao PDR: Law on Preventing and Combatting Violence against Women and Children (2014) ('LPCVWC') and the Penal Code (1989). However, despite the existence of these laws, Lao PDR continues to fall short of meeting its international human rights law obligations vis-à-vis SGBV in several respects, including:

- a) Failure to recognize men and LGBTQI+ individuals as SGBV victims/survivors under the existing legal framework; and
- b) Inadequacies in the relevant provisions of the Penal Code in criminalizing all forms of SGBV.

2.2.1 Failure to recognize men and LGBTQI+ individuals as SGBV victims/survivors under the existing legal framework

As noted above, international human rights law and standards recognize that certain forms of violence against men and boys,⁴⁸ as well as against LGBTQI+ persons, may also "constitute a form of gender-based violence, driven by a desire to punish those seen as defying gender norms."⁴⁹ However, such individuals are largely disregarded as possible SGBV victims/survivors under the letter of Lao's legal framework addressing SGBV, as well as in practice.

The LPCVWC, as its title indicates, provides a framework to prevent and combat violence only against "women" and "children." Similarly, several provisions under Chapter VI of the Penal Code—titled Breach of Marital and Familial Relationships and Customs—which constitutes the primary set of provisions addressing SGBV, limits the recognition of victims/survivors to women and/or children, both in its wording and as interpreted in practice. This leaves a significant protection gap and fails to reflect the reality that SGBV victims/survivors are not only women or children, but may also be men and gender-diverse individuals.

For example, under Article 263 of the Penal Code, "torture", which refers to "applying methods of corporal or mental punishment", such as sexual abuse,⁵⁰ lists only women and children as victims.

The definition of rape, which is criminalized under Article 3(9), 248 and 249 of the Penal Code, was recently amended to expand the notion of victim beyond the previous reference to "women" only. The new definition now covers any "person", reflecting the notion that individuals of any gender may be victims/survivors of rape. However, according to interviews with several lawyers conducted for this baseline study, despite the amended language, legal practitioners widely understand that, in practice, rape is regarded as committed

⁴⁶ Working Group on the UPR, 'Report of the Working Group on the Universal Periodic Review,' UN Doc. A/HRC/60/7, 11 June 2025, paras 121.216-220, 121.228-240.

⁴⁷ CEDAW General Recommendation No. 35, para. 29(a)-(c).

⁴⁸ ICJ Practitioners' Guide No. 12, at 203-204

⁴⁹ OHCHR, 'Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law (Second Edition)', 2019, at 13, available at: <https://cambodia.ohchr.org/en/content/born-free-and-equal-0>

⁵⁰ The provisions define their scope as criminalizing the act of "applying methods of corporal or mental punishment to women by kicking, beating, tying, detaining, fasting, forcing them to work beyond prescribed limits, being unfaithful, or engaging in sexual abuse," rather than as "torture" as defined under the UN Convention against Torture (UNCAT) which is captured by Article 212 of the Penal Code.

only by men against women or girls, and only in the context of heterosexual sexual misconduct. This understanding appears to remain prevalent notwithstanding the recent legal amendment.

Furthermore, paragraphs 2 and 3 of Article 248 of the Penal Code continue to provide for aggravating circumstances only where the victim/survivor of rape is a “woman” who is subjected to battery during the rape, resulting in permanent disability or death, or where the victim is under 18 years of age. This disregards the recent amendment to paragraph 1 of the same provision according to which other genders may be victims/survivors.

Recommendations

- The National Assembly should review all legal frameworks addressing SGBV, including provisions under the LPCVWC and Chapter VI of the Penal Code, and make the necessary amendments to ensure that the recognition of victims/survivors is not limited to specific sexes or genders, but also includes men and gender-diverse individuals, both in law and in practice.

2.2.2 Inadequacies of Penal Code provisions in ensuring access to justice for SGBV victims/survivors

A. Rape

Definition of Rape

Under international human rights law, rape is a crime and a human rights violation or abuse, and a form of SGBV⁵¹ that amounts to torture.⁵² It constitutes a violation of multiple human rights, including the right to bodily integrity, autonomy, and sexual autonomy, the right to privacy, and the right to be free from violence, discrimination, torture and other cruel, inhuman or degrading treatment.⁵³

The current definitions of rape in the Penal Code and the LPCVWC are inconsistent with international human rights law, including CEDAW. Article 248 of the Penal Code, which provides for criminal liability for rape and attempted rape, defines the offence as entailing “using force, armed threats, chloroform or other substances or means to place a person in a state of helplessness, or abusing an opportunity in order to have sexual intercourse with that person against their will.” This provision must be read together with Article 3(9) of the Penal Code, which defines sexual intercourse and relies on the following definition to characterize the offence of rape, “putting men’s sexual organ into women’s sexual organs or putting female sexual organ into male sexual organs or putting sexual organs into other organs of the body.” In addition, Article 251 criminalizes the use of “deception” to cause a woman to have sexual intercourse with the offender or with another person against her will.

Similarly, Article 4 of the LPCVWC defines rape as entailing “the use of force, use of a weapon to threaten, use of anesthesia drug, use of alcohol or other methods that place women and children in situation that they cannot help themselves, to have sexual relations with women and children.”

Article 248 defines rape without explicitly referencing the absence of freely given consent to the sexual conduct in question, but instead relies on the use or threat of force or deception. References to a person being “in a state of helplessness” or acting “against their will” do not fully capture all the circumstances in which consent is absent,⁵⁴ including, for example, coercive circumstances. With respect to this, under international human rights law and standards, consent is an essential element of sexual assault offences, as the CEDAW Committee reaffirmed in General Recommendation No. 35 and related jurisprudence. The law further fails to define what constitutes consent or to clarify the relationship between consent and coercion. This omission leaves room for overly broad interpretations, whereby the silence of victims/survivors or their lack of physical resistance is relied upon to infer that they consented to the sexual act/s in question, and that the perpetrator’s conduct was not “against their will.” Such invidious

⁵¹ Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, ‘Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention’, UN Doc. A/HRC/47/26, 19 April 2021, para. 9.

⁵² CAT General Comment No. 2; Human Rights Committee, ‘General comment No. 28 : Article 3 (The Equality of Rights Between Men and Women)’, UN Doc. CCPR/C/21/Rev.1/Add.10, 29 March 2000.

⁵³ Šimonović, UN Doc. A/HRC/47/26, 2021, para. 20

⁵⁴ See also: Dubravka Šimonović, ‘A framework for legislation on rape (Model Rape Law): report of the Special Rapporteur on Violence against Women, Its Causes and Consequences,’ A/HRC/47/26/Add.1, 15 June 2021.

interpretations, regrettably, are a recurrent and deeply problematic practice in Lao PDR. For example, according to lawyers interviewed by the ICJ, there have been cases in which, despite clear evidence of blackmail or prolonged threats, where victims/survivors had been coerced by perpetrators to engage in sexual acts, the police nonetheless required proof from the victims/survivors that they had resisted in order for the acts in question to be characterized as rape.

Indeed, such harmful interpretations are reflected in widely accepted understandings of the law in practice. According to the Lao National Judicial Institute's textbook on the Penal Code, published in 2022 and used by legal practitioners across the country as a standard reference in assessing the elements of crimes, there are circumstances in which rape is considered not to have been committed due to "indirect consent". The textbook explains this concept as referring to situations in which a person is deemed to have implicitly agreed to sexual intercourse, including where consent is inferred from "circumstances suggesting that the person went along with the alleged perpetrator, despite allegedly knowing in advance that sexual intercourse or rape might occur, or from the fact that they accompanied the person alone or in a group to a secluded place at night."

Moreover, such harmful interpretations and perceptions are also widespread among the public, as reflected in a 2022 survey conducted by CARE International in Lao PDR involving 864 participants, which found that 52.5 per cent of men and 52 per cent of women agreed or strongly agreed that if a woman does not physically fight back, rape cannot have been committed. Worryingly, all survey participants who identified as members of the Village Health Committee, 60 per cent of village chiefs, and 41 per cent of members of the Village Mediation Committee shared this view.⁵⁵

The deficiencies outlined above are also not addressed in the Standard Operating Procedures for the Justice Sector Response to and Prevention of Violence against Women and Children,⁵⁶ which are intended to guide justice sector actors in the investigation of SGBV-related offences, including, chiefly, rape. These shortcomings amount to a failure to implement the protective guarantees of the CEDAW and facilitate violations of women's rights to personal security, autonomy, and bodily integrity. In fact, such gaps were highlighted by the CEDAW Committee in its 2024 Concluding observations on Lao PDR, in which the Committee expressed concern over "the absence of a definition of rape based on the absence of consent," and recommended that Lao PDR "adopt a definition of rape that is based on the absence of consent."⁵⁷

Beyond the issue of consent, the definition of sexual intercourse in Article 3(9) of the Penal Code, which is relied upon to characterize the offence of rape, is also unduly narrow. By limiting rape to acts involving "putting men's sexual organ into women's sexual organs or putting female sexual organ into male sexual organs or putting sexual organs into other organs of the body", the definition fails to comply with international human rights law and standards. A compliant definition should explicitly encompass all acts of penetration of a sexual nature, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.⁵⁸

The current definition excludes various instances of sexual penetration, including the penetration of the mouth or of sexual organs with objects, and the penetration of a victim's/survivor's sexual organs by body parts other than sexual organs – conduct which may instead be classified as the offence of "outrage", under Article 259 of the Penal Code, which, however, attracts significantly lower penalties upon conviction.⁵⁹ While the definition's wording could theoretically encompass same-sex rape, including male-on-male rape—particularly through the phrase "putting sexual organs into other organs of the body"—in

⁵⁵ Sharon Smee, Athena Nguyen, and Pimpisa Sriprasert, 'Male Perceptions of Gender-Based Violence: Luang Namtha, Phongsaly, Oudomxay, and Savannakhet Provinces, Lao PDR', CARE International in Lao PDR, November 2022, available at: https://www.undp.org/sites/g/files/zskqke326/files/2023-05/Male%20Perceptions%20of%20Gender%20Based%20Violence_FINAL.pdf

⁵⁶ Available at: <https://www.undp.org/laopdr/publications/standard-operating-procedures-justice-sector-response-and-prevention-violence-against-women-and-children>.

⁵⁷ 2024 CEDAW Committee's Concluding Observations to Lao PDR, paras 26 and 27.

⁵⁸ See, for example, ICC, 'Definitions of Crimes of Sexual Violence in the ICC (as contained in the Elements of Crimes Annex and the Rome Statute)', available at: <http://iccwomen.org/resources/crimesdefinition.html>, defines rape as when "the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body"; See also, the framework for legislation on rape based on international law and standards proposed by the former UN Special Rapporteur on violence against women and girls, its causes and consequences, Dubravka Šimonović, 'A framework for legislation on rape (Model Rape Law): report of the Special Rapporteur on Violence against Women, Its Causes and Consequences,' UN Doc. A/HRC/47/26/Add.1, 15 June 2021, at 6.

⁵⁹ Article 259 of the Penal Code defines "outrage" as follows: "Any person who engages in any act that causes embarrassment of a sexual nature to another person against that person's will shall be sentenced to imprisonment for a term ranging from three months to two years, or to re-education without deprivation of liberty, and shall be fined between 3,000,000 kip and 10,000,000 kip (approx. USD 140-465)."

practice many lawyers interviewed by the ICJ indicated that the interpretation and application of the provision continue to focus primarily on sexual acts involving male and female genitalia.

Aggravating Circumstances

The aggravating circumstances for rape set out in paragraphs 2 and 3 of Article 248 of the Penal Code are reportedly not taken into account in certain instances. For example, according to information obtained by the ICJ from practising lawyers in Lao PDR, while Article 248 of the Penal Code provides for aggravating circumstances where the victim of rape is a woman between the ages of 15 and 18 years and is “dependent on the offender’s care”, or where the victim is a girl under 15 years of age,⁶⁰ in practice the police often rely on Article 250 criminalizing “sexual conduct with a child”, instead of Article 248. This is reportedly justified on the basis that proceeding under Article 250 is easier, as the prosecution does not have to prove all elements of rape. However, on conviction Article 250 provides for lower penalties than Article 248.⁶¹

Sentencing for Rape

Subject to article 249 of the Penal Code, rape that is followed by murder may be punished by imprisonment or by the death penalty — an approach that contravenes international human rights law and standards.⁶² The ICJ opposes the death penalty unconditionally and in all circumstances, viewing it as a violation of the right to life⁶³ and the ultimate cruel, inhuman and degrading punishment. The organization further notes that the UN General Assembly, by overwhelming majorities, has repeatedly called on all States retaining the death penalty to declare a moratorium on the practice with a view to abolition.⁶⁴

In this regard, while international human rights law and standards require States take all necessary measures to respond effectively to SGBV, including by conducting prompt and impartial investigations with a view to bringing those responsible to justice, as well as securing meaningful protection and support for victims/survivors, these objectives can and must be pursued without resorting to capital punishment.

Marital Rape

Article 252 of the Penal Code criminalizes “forcible sexual intercourse with one’s wife” and defines the offence as entailing “a person having sexual conduct with his wife against her will by using force, threats, or when the wife is not in a state of readiness.” Like the rape provisions, the offence of “forcible sexual intercourse” fails to make the lack of consent an essential element, but, instead, relies on the use or threat of force or coercion. In addition, references to the offence occurring when the wife is “not in a state of

⁶⁰ Under Article 248 of the Penal Code, where the victim of rape is a woman between the ages of 15 and 18 and is dependent upon the offender’s care or is a patient of the offender, the offender shall be sentenced to imprisonment for a term ranging from six to 10 years and shall be fined between 5,000,000 kip and 30,000,000 kip (approx. USD 235-1,400). In cases of collective rape, rape of a girl under 15 years of age, battery committed during the rape, or rape resulting in the victim’s permanent disability or death, the offender shall be sentenced to imprisonment for a term ranging from 10 to 20 years and shall be fined between 10,000,000 kip and 70,000,000 kip (approx. USD 465-3,270).

⁶¹ Under Article 250 of the Penal Code, any person who has sexual intercourse with a girl or boy between 15 and 18 years of age by luring, inciting, paying, or by any other form of deceit shall be sentenced to imprisonment for a term ranging from one to three years and shall be fined between 3,000,000 kip and 5,000,000 kip (approx. USD 140-235). Any person who has sexual intercourse with a girl or boy aged between 12 and 15 years by paying or providing any type of benefit shall be sentenced to imprisonment for a term ranging from three to five years and shall be fined between 5,000,000 kip and 7,000,000 kip (approx. USD 235-325). Any person who engages in sexual activity with a girl or boy under 12 years of age by any means shall be deemed to have committed rape and shall be sentenced to imprisonment for a term ranging from 10 to 15 years and shall be fined between 7,000,000 kip and 15,000,000 kip.

⁶² See also: Human Rights Committee, ‘General comment No. 36 on article 6: right to life’, UN Doc. CCPR/C/GC/36, 3 September 2019, paras 5, 10, 35.

⁶³ The right to life is guaranteed by all major international and regional human rights instruments, including the Universal Declaration of Human Rights (Article 3), the International Covenant on Civil and Political Rights (Article 6), the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, the European Convention on Human Rights (Article 2), Protocol No. 6 to the European Convention on Human Rights abolishing the death penalty in peacetime and Protocol No. 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances. The death penalty is irreversible, prone to error, and has the potential to disproportionately affect marginalized and vulnerable communities. Its application is therefore not only incompatible with the values enshrined in various international human rights legal instruments, but it also undermines the pursuit of justice and the advancement of a fair and humane legal system. The death penalty does not fulfill what should be the primary objective of sentencing in criminal proceedings, which is to reintegrate individuals into society. Moreover, evidence does not support the idea that the death penalty serves as an effective deterrent against crime. The abolition of the death penalty is not only a crucial step towards building a world where the inherent worth of every individual is respected, and justice is pursued in a manner that upholds the principles of fairness, humanity, and the rule of law, but also contributes to the fostering and protection of human dignity and human rights. The ICJ, therefore, urges all countries where the death penalty still exists to abolish it and, pending this, to impose a moratorium on it, and to adhere fully to the right to life.

⁶⁴ For example, most recently in the resolution adopted by the General Assembly on 17 December 2024, UN Doc. A/RES/79/179.

readiness” do not fully capture lack of consent and fail to take into account coercive circumstances, which, as recognized under international criminal and human rights law and standards negate consent.

Furthermore, distinguishing marital rape from the crime of rape simpliciter and characterizing the former as “forcible sexual intercourse with one’s wife” (การบังคับร่วมเพศกับเมีย) is also of concern because, under the Penal Code, this offence carries more lenient penalties than the crime of rape simpliciter, ranging from three months to one year of imprisonment, or “re-education without deprivation of liberty and a fine.”⁶⁵ Only where “forcible sexual intercourse with one’s wife” results in serious injury does the prescribed penalty increase to imprisonment from one to five years and a higher fine ranging from 1,000,000 kip to 5,000,000 kip (approximately USD 45–230). In contrast, the offence of rape simpliciter carries a significantly harsher penalty, with imprisonment ranging from four to six years and a fine of between 5,000,000 kip and 30,000,000 kip (approximately USD 230–1,388). As a result, the punishment for “forcible sexual intercourse with one’s wife”—that is, marital rape—is considerably less severe than that for rape, reinforcing unequal legal protection and discrimination against women.

Under international human rights law, the punishment for rape and other sexual offences must fully reflect the seriousness of the crime. The differentiation between rape and “forcible sexual intercourse with one’s wife” – both in terminology as well as with respect to the penalty upon conviction – further reinforces harmful and discriminatory notions about rape. Instead, lack of consent, the use of force and/or the victim’s relationship with the perpetrator or lack thereof, are among the critical factors that should guide the determination of the offence’s severity. The significantly lower penalty for marital rape and characterizing it as “forced sex”, instead of rape, also makes the rape of one’s wife appear a minor crime.

Such harmful gender stereotypes and discriminatory attitudes were captured in a 2022 survey conducted by CARE International in Lao PDR involving 864 participants, which revealed widespread acceptance of forced sex within marriage. The survey found that 55 per cent of men agreed that a woman cannot refuse to have sex with her husband. Alarming, 68 per cent of women also agreed or strongly agreed that they can be expected to consent to sex with their partner whenever he wishes. These findings underscore how the country’s legal framework both reflects and reinforces deeply entrenched harmful gender stereotypes and discriminatory attitudes toward women’s sexual autonomy.⁶⁶

The harmful mislabeling of marital rape as “forcible sexual intercourse with one’s wife”, distinguishing it from the offence of rape simpliciter and characterizing it as a less serious crime, has further negative implications. In addition to the Penal Code, Article 51 of the LPCVWC provides that violence against women may be subject to mediation where: (i) the conduct does not constitute a criminal offence; (ii) is defined as a minor offence; or (iii) carries a punishment of less than one year’s imprisonment. As the penalty for “forced sex within marriage”, under both the LPCVWC and the Penal Code, ranges from three months to one year’s imprisonment, or “re-education without deprivation of liberty and a fine,” the law appears to permit marital rape to be subject to mediation under the LPCVWC framework.⁶⁷ As discussed below in Part 3.2, this is inconsistent with international human rights law and standards, including, in particular with the right to access to justice and effective remedies for victims/survivors of SGBV.

Recommendations

- The National Assembly should amend Articles 3(9), 248, 249 and 251 of the Penal Code, as well as Article 4 of the LPCVWC, which criminalize and define rape, to ensure that they:
 - Include within the definition of the offence all types of non-consensual penetration of a sexual nature, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any

⁶⁵ Article 47 of the Penal Code defines “re-education without deprivation of liberty” as “punishment inflicted upon the offender at his/her place of work or at other locations, and pursuant to which five (5) to twenty (20) per cent of his/her total salary is remitted to the State in accordance with the court’s decision.”

⁶⁶ Sharon Smees, Athena Nguyen, and Pimpisa Sriprasert, ‘Male Perceptions of Gender-Based Violence: Luang Namtha, Phongsaly, Oudomxay, and Savannakhet Provinces, Lao PDR’, CARE International in Lao PDR, November 2022, available at: https://www.undp.org/sites/g/files/zskqke326/files/2023-05/Male%20Perceptions%20of%20Gender%20Based%20Violence_FINAL.pdf.

⁶⁷ It should be noted that mediation under the framework of the Village Mediation Committees—a body that the LPCVWC permits to act as mediators—must be read together with Article 21 of the Decree on the Village Mediation Committee (No. 626), which sets out the types of conduct that may be subject to mediation. SGBV offences, apart from adultery, are not included in that list. However, Decree No. 626 does not address or regulate other bodies that may conduct mediation under the LPCVWC framework, such as the Counselling and Protection Units for Women and Children, police investigators, public prosecutors, or the People’s Court.

other part of the body, including causing another person to use an organ or object to penetrate the perpetrator;

- Provide a definition and criteria for consent whereby it must be voluntary, genuine, and result from free will, and contains express provisions that consent may not be inferred from the victims'/survivors' silence, non-resistance (whether verbal or physical), past sexual behaviour, status, occupation or relationship to the accused. The question as to whether there was a coercive environment or coercive circumstances must be taken into account in determining whether any consent is genuine; and
- Abolish the death penalty in all circumstances, including for cases where rape results in the victim's death.
- The National Commission for the Advancement of Women, Mothers and Children (NCAWMC) and the Lao National Judicial Institute should revise and/or adopt new guidelines to ensure that the interpretation of the elements of rape complies with international law and standards, including the recommendations noted above. The guidelines should also clarify the relationship and distinction between Articles 248 and 250 of the Penal Code in cases where rape victims/survivors are under 18 years of age, in order to prevent misapplication or misuse of these provisions; and
- The National Assembly should repeal or substantially amend Article 252 of the Penal Code, which criminalizes "forcible sexual intercourse with one's wife", to ensure the appropriate criminalization of marital rape, and that such offence attract a punishment commensurate with the seriousness of offending taking into account all relevant mitigating and aggravating circumstances, if any.

B. Sexual Harassment and Technology-facilitated Gender-Based Violence (TFGBV)

Sexual Harassment

Lao PDR has no specific legislation criminalizing sexual harassment, let alone technology-facilitated gender-based violence (TFGBV), even in cases where such conduct would warrant criminal sanctions, particularly when it is repeated or where a single course of conduct involves more than one separate crime. Instead, only a limited and fragmented legal framework exists.

This includes, for example, Article 83 of the Labour Law, which grants employees the right to request the termination of an employment contract and to seek compensation in cases of molestation, harassment, or sexual harassment by an employer, or where the employer fails to address such conduct. In addition, Article 15 of the LPCVWC defines "sexual violence" as an act or attempted act that harms the sexual rights of women and children, including "acts of obscenity, sexually indecent assault, unwanted sexual comments, or sexual touching." However, conduct falling under this provision is generally subject only to non-criminal measures—such as "re-education", "compromise", or "mediation".

Certain forms of sexual harassment can be pursued under Article 259 of the Penal Code, which addresses the offence of "outrage" and criminalizes acts of a sexual nature that cause embarrassment to another person against that person's will. In those circumstances, criminal sanctions may, in theory, apply. However, the law does not define what constitutes "acts of a sexual nature that cause embarrassment," leaving the scope of the provision vague and open to inconsistent interpretation and providing little guidance on how such conduct is to be proven in the context of criminal proceedings. As a result, law enforcement officers have, in some cases, refused to register complaints—even in serious cases involving repeated acts or conduct involving more than one separate crime. This legal uncertainty leaves victims/survivors of sexual harassment in a legal limbo and, according to lawyers interviewed for this study, discourages many victims/survivors from pursuing complaints, as they anticipate that their cases will not be taken seriously by the justice system due to the absence of clear, consistently applied Penal Code provisions explicitly addressing sexual harassment.

These concerns were underscored by the CEDAW Committee in its recent concluding observations on Lao PDR. The Committee recommended amendments to the Penal Code to explicitly criminalize all forms of sexual and gender-based violence, including "sexual harassment".⁶⁸

⁶⁸ 2024 CEDAW Committee's Concluding Observations to Lao PDR, paras 27(d) and (f).

Technology-facilitated gender-based violence (TFGBV)

Under international human rights law and standards, technology-facilitated gender-based conduct that causes substantial harm to a person's human rights should be prohibited, and its most harmful manifestations should be subject to criminal sanctions, particularly where such conduct entails violations of physical, sexual, or psychological integrity and amounts to TFGBV. Lao PDR, however, currently lacks a legal framework that specifically addresses TFGBV.⁶⁹

Instead, apart from the provisions addressing "outrage" under Article 259 of the Penal Code, as examined above, the existing framework for addressing technology-facilitated gender-based conduct is largely limited to provisions criminalizing the dissemination of "obscene materials" under Articles 169 and 267 of the Penal Code, which are analyzed further below, as well as the vaguely worded offence of "causing harm through online media" under Article 168 of the Penal Code. Article 168 is most commonly enforced in cases of online defamation or libel; however, according to a lawyer interviewed for this baseline study by the ICJ, it has rarely—if ever—been applied in TFGBV cases, with only a few recent attempts reported and no meaningful progress to date.

According to the same source, most TFGBV cases never reach the justice system. Even where cases are reported, the absence of clear legal definitions, guidance, and enforcement standards means that existing laws are rarely applied in practice. Moreover, the current legal framework lacks the specificity necessary to clearly encompass common forms of TFGBV, including doxxing (that is, the non-consensual publication of private information, such as contact details, with malicious intent to expose victims to harassment); sextortion (that is, threats to release intimate images to extort further intimate content or sexual acts); online stalking; and threats to share intimate content.⁷⁰

In contrast, Articles 169 and 267 of the Penal Code criminalize individuals who "disseminate obscene media through propaganda, distribution, or instruction, including photographs, films, or videos showing explicit images/footage of sexual organs or sexual acts through computer systems," as well as those who engage in the widespread production, distribution, or dissemination of "pornographic items", magazines, pictures, video cassettes, or other obscene materials deemed "contrary to fine tradition." Article 3(10) of the Penal Code defines "obscene material" as anything that depicts or portrays sexual organs and human sexual behavior. Relatedly, Article 258 criminalizes any person who, in the presence of members of the public or in a public place, engages in an act of sexual intercourse or exposes their sexual organs. While these provisions provide a formal legal basis for criminalization, their scope is not limited to non-consensual conduct, and their broad terms have enabled the targeting of individuals involved in consensual sexual expression or services, rather than effectively addressing TFGBV.

These provisions also constitute a violation of the freedom to express ideas and thoughts, including through print, writing, or images—whether in the form of a novel, article, or graphic illustration—without illegitimate restriction. Any limitation on such expression must comply with the strict and narrow conditions set out in Article 19(3) of the ICCPR, which applies equally to online expression. These conditions include the requirements of legality, legitimate purpose, necessity, proportionality, and non-discrimination. However, terms such as "contrary to fine tradition" are not defined in the Penal Code. The overly broad and vague nature of those terms is inconsistent with the principle of legality, which requires that laws restricting freedom of expression be formulated with sufficient clarity and precision to enable individuals to regulate their conduct accordingly and to prevent those enforcing the law from exercising unfettered discretion. Criminalizing such conduct also contravenes the principles of necessity and proportionality, which require that any restriction be narrowly tailored, not overbroad, and constitute the least intrusive means of achieving a legitimate protective aim.⁷¹

Recommendations

- The National Assembly should adopt provisions under the Penal Code addressing sexual harassment and TFGBV, and ensure that they clearly define, prohibit, and apply a sanction

⁶⁹ ICJ, 'OGBV Law Checklist', May 2023, available at: <https://www.icj.org/wp-content/uploads/2023/05/ICJ-OGBV-Law-Checklist.pdf>.

⁷⁰ ICJ, 'OGBV Law Checklist', May 2023, available at: <https://www.icj.org/wp-content/uploads/2023/05/ICJ-OGBV-Law-Checklist.pdf>.

⁷¹ Human Rights Committee, 'General comment No. 34, Article 19: Freedoms of opinion and expression,' UN Doc. CCPR/C/GC/34, 12 September 2011, paras. 25 and 26. See also the 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty, in particular Principle 1 (Principle of Legality), Principle 2 (Harm Principle), Principle 7 (Human Rights Restrictions on Criminal Law), and Principle 8 (Legitimate Exercise of Human Rights), available at: https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf.

commensurate with the gravity of the offence, including criminal sanctions, with respect to all forms of sexual harassment and TFGBV that violate a person's the physical, sexual, or psychological integrity — including doxing, sextortion, online stalking, non-consensual distribution of intimate content, and threats to share intimate content;

- The National Assembly should address the vagueness of the patchwork of legal provisions that criminalize sexual harassment, including by amending Articles 168 and 259 and providing clear definitions of "sexual embarrassment" or "causing harm through online media"; and
- The National Assembly should amend the provisions related to the production, distribution, or dissemination of "obscene materials" under Articles 3, 169, 258 and 267 of the Penal Code to limit them to non-consensual production, possession, and dissemination only, except in cases involving child pornography.

C. Gender-Related Killings (Femicide)

Gender-related killings of women, or femicides, encompass the intentional killing of women and girls on the basis of their gender. They represent an extreme manifestation of SGBV⁷² and constitute the ultimate infringement of women's right to life, protected under article 6 of the ICCPR.

States have a due diligence obligation to prevent, investigate, prosecute and sanction unlawful killings, whether committed by State or private actors, including femicides.⁷³ The 2023 report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions examined various legal approaches to addressing femicide, including models that define it as a distinct criminal offence or treat gender-related motivation as an aggravating factor in homicide cases. The Special Rapporteur recommended recognizing femicide in law in order to raise public awareness of gender-based killings of women and improve the quality of investigations and accountability.⁷⁴

Femicide under Domestic Law

Lao PDR does not, however, provide for a specific criminal offence of the gender-related killing of a woman or "femicide," nor does it recognize gender-based motivation as an aggravating factor under its criminal law. Article 188 of the Penal Code, instead, identifies other aggravating circumstances related to the targeting of specific groups, such as the killing of a pregnant woman, a child, a wife or husband, close relatives, persons with disabilities, or other vulnerable persons. As a result, homicides of women motivated by their gender are prosecuted as ordinary homicide offences under the Penal Code, which remains the primary legal framework applied.

Sentencing

Under Lao criminal law, murder can be punishable by death.⁷⁵ The UN Human Rights Committee has concluded that aspects of Lao law concerning the death penalty are non-compliant with its ICCPR obligations and recommended that Lao PDR give due consideration to the abolition of the death penalty for all offences.⁷⁶ The ICJ opposes the death penalty unconditionally and, in all circumstances, and considers that it constitutes a violation of the right to life and a form of cruel, inhuman, and degrading punishment.

In some cases, the imposition of the death penalty itself may amount to femicide and arbitrary deprivation of the right to life—particularly when courts fail to consider crucial mitigating circumstances, such as a long history of domestic violence. However, Lao PDR does not codify gender-specific defences or mitigating circumstances in capital cases. As a result, instances of SGBV that may have played a significant part in the offence are discounted. On the contrary, the marital bond between the defendant and the victim in instances of killings of a "wife or husband" constitutes an aggravating circumstance under Article 188 of

⁷² UN Women, 'Five essential facts to know about femicide,' 25 November 2024, available at: <https://www.unwomen.org/en/articles/explainer/five-essential-facts-to-know-about-femicide>

⁷³ See also Special Rapporteur on extrajudicial, summary or arbitrary executions, 'Femicide', UN Doc. A/78/254, 28 July 2023, para 14.

⁷⁴ *Ibid*, para 35

⁷⁵ Article 188 of the Penal Code.

⁷⁶ Human Rights Committee, 'Concluding observations on the initial report of the Lao People's Democratic Republic', UN Doc. CCPR/C/LAO/CO/1, 23 November 2018, paras 17 and 18

the Penal Code, which may result in the imposition of the death penalty and may operate to the detriment of women who kill in response to prolonged abuse.

More generally, Articles 75–78 of the Penal Code provide for the imposition of lighter or increased penalties based on factors such as the nature and degree of social danger posed by the offence, the manner of its commission, the intent of the offender, and the offender’s personal circumstances. In addition, Article 190 provides for a reduced penalty in cases of killing committed “as a consequence of being severely mentally affected or provoked by the illegal acts of the victim,” where the offender was unable to control their actions.

While these provisions could, in principle, allow individuals who kill in response to prolonged abuse to receive reduced penalties, the absence of an explicit requirement to consider offenders’ lived experiences as victims/survivors of SGBV—including a history of domestic violence or coercive control— in practice, result in their rare application, as noted by a Lao lawyer interviewed by the ICJ.

Recommendations

- The National Assembly should abolish the death penalty in all circumstances, including for homicide, and until that it is done the government should declare and institute a moratorium on the death penalty in practice;
- The National Assembly should review and amend national laws to effectively address gender-related killings of women, in particular, including by considering the enactment of a specific femicide law, and ensure that sentences in such cases are not more severe than those imposed for other forms of homicide unless warranted by the presence of aggravating circumstances; and
- The National Assembly should consider codifying gender-specific defences and mitigation in capital trials that include all forms of SGBV.

D. Non-discrimination

The CEDAW Committee has repeatedly emphasized that, because women experience varying and intersecting forms of discrimination, SGBV may affect different groups of women in different ways and to varying degrees. This reality necessitates targeted legal and policy responses.⁷⁷ As such, addressing SGBV requires a comprehensive examination of Lao PDR’s legal framework on gender equality and non-discrimination.

Lao PDR has an international legal obligation to incorporate the principles of equality between women and men, as well as non-discrimination in the enjoyment of human rights, into domestic law—including the Constitution and relevant legislation—with an enforceable and overriding effect.⁷⁸ It must also protect women from multiple and intersecting forms of discrimination. In this context, adopting legal provisions that prohibit discrimination on various grounds beyond sex is essential to safeguarding the human rights of women hailing from high-risk or marginalized groups.⁷⁹ However, in reality, the Lao Constitution, as well as other relevant legislation, lack sufficient legal guarantees against non-discrimination, including in addressing forms of discrimination beyond gender.

Constitution

While article 8 of the Lao Constitution prohibits: “discrimination among ethnic groups,” this protection does not expressly extend to discrimination on other grounds, including gender.

Article 35 of the Constitution further provides that, “Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group.” However, equality before the law is not, by itself, coterminous with the obligation of non-discrimination. The provision also limits its scope

⁷⁷ CEDAW General Recommendation No. 35, para. 12.

⁷⁸ Article 2 of the CEDAW; Articles 2, 3 and 26 of the ICCPR; Article 3 of the ICESCR; and CEDAW General Recommendation No. 28, para. 31.

⁷⁹ Articles 2(1) and 26 of the ICCPR; Article 2(2) of the ICESCR; CEDAW General Recommendation No. 28, paras 18 and 31; CESCR, ‘General Comment No. 20: Non-discrimination in economic, social and cultural rights,’ UN Doc. E/C.12/GC/20, 2009, para. 17; CERD, ‘General Recommendation 25, Gender Related Dimension of Racial Discrimination,’ UN Doc. A/55/18, 2000, Annex V.

only to certain status grounds, failing to address such grounds protected under Lao PDR’s international human rights law obligations, including, among others, race, colour, sex, political or other opinion, property, birth, sexual orientation, gender identity, and other status.⁸⁰ Finally, Article 35 restricts its scope of protection to “citizens” only, whereas the obligation of equality before the law and non-discrimination must, consistent with international human rights law, extend to all persons regardless of citizenship.

Article 37 of the Constitution states that: “Lao men and women enjoy equal rights in political, economic, cultural, social, and family life.” While this provision reflects an attempt to recognize the principle of gender equality, it nevertheless falls short of constituting a comprehensive guarantee of non-discrimination and excludes gender-diverse individuals. The CEDAW Committee echoed these concerns during its 2024 review of Lao PDR, and expressed concern about the absence of an explicit constitutional prohibition of gender-based discrimination and the lack of comprehensive anti-discrimination legislation.⁸¹

In addition, fundamental characteristics of sexual orientation, gender identity, and gender expression (SOGIE) are not explicitly recognized under the Lao legal framework, including the Constitution. Lao PDR has neither an overarching legislative framework nor specific laws aimed at protecting LGBTQI+ individuals, leaving them generally unprotected under the law. Notably, there is no legal gender recognition for gender-diverse persons.

Penal Code

While article 224 of the Penal Code establishes criminal liability for “discrimination against women,”⁸² defined broadly as conduct that “divides, obstructs, or restricts any woman from participating in any political, economic, scientific, socio-cultural, or family activity on the basis of their gender”, this provision may run counter to international human rights law and standards. While some forms of gender discrimination may justify criminal, civil or disciplinary penalties, not all acts, as broadly defined, warrant criminal sanctions—particularly where the conduct does not amount to a violation of a survivor’s physical, sexual, or psychological integrity.⁸³

In addition, an academic expert interviewed by the ICJ reported that the justice system generally interprets discrimination as premised only on sex assigned at birth. This narrow interpretation of discrimination may result in the exclusion of discrimination against LGBTQI+ individuals, who also may experience discrimination based on sexual orientation, gender identity, or gender expression (SOGIE).

In addition, the CEDAW Committee noted in its 2024 concluding observations on Lao PDR that, despite the criminalization of discrimination against women under article 224 of the Penal Code, no cases have been brought before the courts, due in part to a “cultural preference to resort to mediation.”⁸⁴

Men and Women Equality Law

The Men and Women Equality Law, adopted in 2019, defines “equality” in Article 2 as encompassing equality of rights, benefits, responsibilities, and opportunities. The law establishes a framework outlining the responsibilities of various State authorities, as well as of men and women themselves, at different levels, to promote equality between men and women. It also establishes a five-year action plan for the period 2021–2026, mandating relevant committees and departments to take measures to advance gender equality. However, as its title suggests, gender-diverse persons are not recognized or included within this framework.

In addition, the implementation of the law remains a matter of serious concern. The CEDAW Committee, in its 2024 concluding observations on Lao PDR, recommended that the Government adopt measures to ensure the effective application of the Law at the provincial, district, and municipal levels, and to allocate adequate human, technical, and financial resources for its implementation.⁸⁵

[Redacted]

⁸⁰ UN Human Rights Committee, ‘Concluding observations on the initial report of the Lao People’s Democratic Republic,’ CCPR/C/LAO/CO/1, 23 November 2018, para. 15.

⁸¹ 2024 CEDAW Committee’s Concluding Observations to Lao PDR, para. 10 (b).

⁸² On the other hand, the Penal Code also criminalizes discrimination against persons with disabilities, children, and ethnic minorities under Articles 225, 226, and 227, respectively.

⁸³ See also Principles 1 and 13 of the 8 March Principles.

⁸⁴ 2024 CEDAW Committee’s Concluding Observations to Lao PDR, para. 10(c).

⁸⁵ 2024 CEDAW Committee’s Concluding Observations to Lao PDR, paras 10-11.

Recommendations

- The National Assembly should include a specific provision in the Constitution explicitly prohibiting discrimination on all grounds prohibited under international human rights law, including race, colour, sexual orientation, gender identity or expression, age, gender, religion, language, political or other opinion citizenship, nationality or migration status, national, social or ethnic origin, descent, health status, disability, property, socio-economic status, birth or other status, and extend this protection to all persons regardless of citizenship;
- As previously committed to during the UPR in 2025, the National Assembly should enact comprehensive anti-discrimination laws to ensure adequate and effective substantive and procedural protection against all forms of discrimination on all prohibited grounds under international human rights law, including recognizing sexual orientation and gender identity and expression as protected characteristics and prohibiting discrimination on these grounds;⁸⁶
- The National Assembly should amend article 224 of the Penal Code to ensure that people of all genders, including LGBTQI+ individuals, are recognized as protected groups, and that discrimination be prohibited, including on the grounds of SOGIE, with sanctions that are commensurate with the gravity of the offence; and
- The National Assembly should expand the scope of the Men and Women Equality Law to also protect gender-diverse individuals and ensure the effective applicability of the law.

3. Obstacles Faced by SGBV Victims/Survivors Due to Discriminatory Laws and Plural Justice System

In addition to gaps in the laws themselves and their poor enforcement, other laws create substantial barriers for victims/survivors of SGBV in their quest for justice and effective remedies for the harm they have endured. Such laws include discriminatory legal provisions that facilitate or tolerate certain forms of SGBV, thereby deterring victims/survivors from reporting such violence. Further challenges arise in practice as a result of the operation of community-based informal practices or the traditional justice system; some of these practices result in de facto impunity in SGBV cases.⁸⁷

3.1. Discriminatory provisions in the Penal Code

International human rights law and standards, in particular CEDAW, require States parties to repeal legal provisions that discriminate against women or that “enshrine, encourage, facilitate, justify, or tolerate” any form of SGBV, as well as laws that prevent or deter victims/survivors from reporting such violence.⁸⁸ As elaborated by the CEDAW Committee, this obligation extends to criminal provisions that penalize abortion, “women in prostitution”, and adultery, as well as other criminal laws that disproportionately affect women.⁸⁹

With respect to this, the Lao Penal Code contains a number of provisions that discriminate against women, in contravention of CEDAW, including those previously identified by the CEDAW Committee. These include the criminalization of abortion, of “incest” victims, of “prostitution”, adultery and of consensual sexual relations with monks, novices, nuns, or hermits. In practice, these provisions disproportionately affect women due to gendered social norms and power imbalances, and they create substantial barriers to access to justice by instilling fear of arrest or prosecution among victims/survivors of SGBV, thereby discouraging reporting and facilitating impunity.

⁸⁶ Working Group on the UPR, ‘Report of the Working Group on the Universal Periodic Review,’ UN Doc. A/HRC/60/7, 11 June 2025, paras 121.61.

⁸⁷ CAT General Comment No. 2, paras 18 and 21.

⁸⁸ CEDAW General Recommendation No. 35, para. 29(c)(iii).

⁸⁹ CEDAW General Recommendation No. 35, para. 29(c)(i).

3.1.1. Criminalization of abortion

International human rights law and standards, including the jurisprudence of UN treaty bodies, as well as WHO's Abortion care guideline,⁹⁰ incorporate the obligation of States to decriminalize abortion and ensure access to abortion services as part of their duty to eliminate discrimination against women and ensure the right to health, among other human rights.⁹¹ Denying women access to safe and legal abortion, including through the criminalization of abortion, and the refusal or delay of safe abortion services, or forced continuation of pregnancy, generally amount to violations of the rights to non-discrimination, sexual and reproductive autonomy, dignity, health⁹² and privacy.⁹³ The denial of such access is also a form of SGBV against women and, in some circumstances, may constitute cruel, inhuman, or degrading treatment.⁹⁴ For these reasons, consistent with general criminal law principles and international human rights law and standards, the 8 March Principles prescribe that abortion should not be addressed under criminal law, but rather must be removed from its scope.⁹⁵

Notwithstanding these obligations, article 201 of the Penal Code criminalizes the act of "performing an unlawful abortion," whether on oneself or on another person, as well as attempts to commit such acts. A Ministerial Directive adopted in 2021 outlines the circumstances under which abortion is legal,⁹⁶ including certain medical reasons, rape, failed contraceptives, having more than four children, poverty, and young age. However, even in those circumstances abortion is only available up to a gestational limit of no more than 28 weeks. Importantly, the availability of safe and legal abortion in those limited sets of circumstances, in any event, does not remove it from the scope of criminal law and, therefore, falls short of what international human rights law and standards and WHO Abortion care guideline require. Moreover, the continued criminalization of abortion may deter SGBV victims/survivors from reporting violence, for fear of prosecution if they have sought, or are perceived to have sought, an abortion deemed unlawful.

In addition, even within the limited circumstances in which abortion may be legally permitted, access to safe abortion services remains largely inaccessible in practice. According to a healthcare authority official interviewed by the ICJ, this is due to a combination of factors, including: religious beliefs that view abortion as a sin, leading some healthcare providers to refuse to offer such services; the costs associated with accessing abortion services; limited access to information and a lack of knowledge about women's sexual and reproductive health and about the legal availability of abortion services, particularly in remote and hard-to-reach areas, and among women in disadvantaged situations; and bureaucratic procedures for the preparation and approval of documentation by health authorities, which in some cases take so long that the pregnancy exceeds the legal 28-week limit, making abortion no longer possible under domestic law.

In light of this situation, the CEDAW Committee expressed concern in its 2024 concluding observations on Lao PDR regarding the limited grounds on which abortion is permitted, the lack of access to safe abortion services, and the stigmatization of women and girls seeking abortion services. The Committee recommended that Lao PDR legalize and decriminalize abortion in all cases and ensure that women and adolescent girls have adequate access to safe abortion and post-abortion services.⁹⁷

⁹⁰ WHO, 'Abortion care guideline', 2025, available at: <https://www.who.int/publications/i/item/B09573>

⁹¹ OHCHR, 'Abortion,' 2020, available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf.

⁹² CEDAW, 'L.C. v. Peru,' UN Doc. CEDAW/C/50/D/22/2009, para. 8.15; CESCR, 'General Comment 22 on the Right to sexual and reproductive health,' UN Doc. E/C.12/GC/22, 2016, para. 49.

⁹³ Human Rights Committee, 'Whelan v. Ireland,' UN Doc. CCPR/C/119/D/2425/2-14, para. 7.8; 'Mellet v. Ireland,' UN Doc. CCPR/C/116/D/2324/2013, para. 7.7; 'K.L. v. Peru,' UN Doc. CCPR/C/85/D/1153/2003, para. 6.4; 'V.D.A. v. Argentina,' UN Doc. CCPR/C/101/D/1608/2007, para. 9.3; Human Rights Committee, 'General Comment 36, Article 6: right to life,' UN Doc. CCPR/C/GC/36, 3 September 2019, para. 8.

⁹⁴ Mellet v. Ireland, paras 7.4-7.6; Whelan v. Ireland, para. 7.6; K.L. v. Peru, para. 6.3; V.D.A. v. Argentina, para. 9.2.

⁹⁵ Principle 15 of the 8 March Principles. See ICJ, 'The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty', March 2023, available at: https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf ('8 March Principles').

⁹⁶ Ministry of Health Lao PDR (MoH), "ຂໍ້ ຕົກລົງວ່າດ້ວຍການຄຸ້ມຄອງ ການໃຫ້ຖື ມາແທນ ແລະ ການໃຫ້ຫຼຸດລູກ (Health Minister Approvals on the Governance of Surrogacy and Abortion)," 8 July 2021; and Laotian Times, 'Authorities Draft New Legislation on Surrogacy and Abortion in Laos,' 21 July 2021, available at: https://laotiantimes.com/2021/07/21/authorities-draft-new-legislation-on-surrogacy-and-abortion-in-laos/?fbclid=IwY2xjawQl_jNleHRuA2FlbQIxMQBicmlkETF2QzZVFvGx4MktXbktONTFpc3J0YwZhcHBfaWQOMjIyMDM5MTc4ODIwMDg5MgABHmbfVnuZRLktBEMo06TwwfzSIYCoGoGazxPnDaVfa2kKrOUBuL4mSR6kxj7Z_aem_1fHF4RlmaL_blvuKkKecO8Q

⁹⁷ 2024 CEDAW Committee's Concluding Observations to Lao PDR, paras 42 and 43.

Recommendations

- The National Assembly should decriminalize abortion, including by repealing Article 201 of the Penal Code; and
- Ministry of Health should address barriers that continue to restrict access to safe abortion services in Lao PDR, including by:
 - raising public awareness of abortion rights and services, including information about the law, available healthcare providers, services, and patients' rights;
 - conducting training to ensure that medical and related personnel provide abortion services free from bias and stigma, and to ensure the availability, accessibility, acceptability, quality, and affordability of such services; and
 - Fully implementing WHO's Abortion care guideline.

3.1.2. Criminalization of sex work

In recent years, the UN Secretary-General, the UN Office of the High Commissioner for Human Rights, and global and regional human rights mechanisms, bodies and experts, as well as national courts, legislatures and domestic human rights institutions, have expressed concern about the harmful human rights impact of criminal laws proscribing conduct associated with consensual sexual activity, including the criminalization of sex work, highlighting its detrimental impact. Criminalization violates sex workers' human rights; it forces them to live in fear of police and clients, and deters them from reporting crimes due to the risk of arrest and prosecution. It increases their exposure to violence, excludes them from essential services, such as healthcare and legal assistance, and perpetuates impunity.⁹⁸ The UN Working Group on Discrimination against Women and Girls has also recognized that criminalizing sex workplaces women in situations of injustice, vulnerability, and stigma, impairing the enjoyment of their human rights.⁹⁹

In light of these concerns, there is growing international understanding that the full decriminalization of adult, voluntary – that is, absent coercion, force, abuse of authority or fraud – sex work is essential to ensure that human rights protections can be guaranteed under international law. The CEDAW Committee, for example, has recognized that criminalizing sex workers constitutes a form of gender-based discrimination.¹⁰⁰ The 8 March Principles also affirm that consensual sexual services exchanged between adults should not be criminalized, absent coercion, force, abuse of authority or fraud.¹⁰¹

Sex work and related activities, however, remain criminalized under Lao law. Article 260 of the Penal Code criminalizes individuals who “engage in”, “assist or facilitate” or “purchase prostitution services”. In practice, the criminal proscription of sex work effectively prevents SGBV victims/survivors from reporting violence due to fear of prosecution. According to sex worker advocacy groups, criminalization also exposes

⁹⁸ Human Rights Council, 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover', UN Doc. A/HRC/14/20, 27 April 2010, para. 42-43; and Working Group on discrimination against women and girls, 'Women's human rights in the changing world of work', UN Doc. A/HRC/44/51, 2020, para. 43; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, 'Violence and its impact on the right to health', UN Doc. A/HRC/50/28, 14 April 2022, para. 71.

⁹⁹ Working Group on discrimination against women and girls, 'Women's human rights in the changing world of work', UN Doc. A/HRC/44/51, 2020, paras 42-43

¹⁰⁰ CEDAW Committee, 'CEDAW General Recommendation No. 19: Violence against women', 1992, paras. 14-16; CEDAW General Recommendation No. 35, para. 29(c)(i). See also: Working Group on discrimination against women and girls, 'Eliminating discrimination against sex workers and securing their human rights,' UN Doc. A/HRC/WG.11/39/1, 7 December 2023, para 23, available at: <https://www.ohchr.org/en/documents/tools-and-resources/guidance-document-working-group-discrimination-against-women-and>

¹⁰¹ Principle 17 of the 8 March Principles reads as follows: “The exchange of sexual services between consenting adults for money, goods or services and communication with another about, advertising an offer for, or sharing premises with another for the purpose of exchanging sexual services between consenting adults for money, goods or services, whether in a public or private place, may not be criminalized, absent coercion, force, abuse of authority or fraud.

Criminal law may not proscribe the conduct of third parties who, directly or indirectly, for receipt of a financial or material benefit, under fair conditions – without coercion, force, abuse of authority or fraud – facilitate, manage, organize, communicate with another, advertise, provide information about, provide or rent premises for the purpose of the exchange of sexual services between consenting adults for money, goods or services.”

them to abuse by corrupt officers, including demands for unpaid services, and discourages them from reporting not only SGBV but also other crimes, such as theft or physical assault.

In this regard, the CEDAW Committee also expressed concern in its 2024 concluding observations on Lao PDR about the exploitation of “women in prostitution” and the criminalization of “women in prostitution”. The Committee recommended that Lao PDR undertake the necessary legal amendments to decriminalize “women in prostitution”.¹⁰²

Recommendation

- The National Assembly should decriminalize sex work, including by repealing Article 260 of the Penal Code related to the criminalization of the exchange of sexual services between consenting adults, and remove criminal liability for those third parties who – without coercion, force, abuse of authority or fraud – directly or indirectly, receive financial or material benefit, facilitate, manage, organize, or advertise such services under fair conditions.

3.1.3. Criminalization of other forms of consensual sexual conduct

Other legal provisions that, in the view of the CEDAW Committee, are discriminatory against women and that enshrine, encourage, facilitate, justify, or tolerate SGBV, or that prevent or deter women from reporting SGBV, include laws that criminalize consensual sexual conduct, such as adultery. The 8 March Principles further emphasize that consensual sexual conduct, irrespective of the marital status of the persons involved, must not be criminalized under any circumstances.¹⁰³

A. Adultery

However, Article 247 of the Penal Code criminalizes “a married person having a sexual relationship with a third person”, as well as the partner in the adulterous relationship and attempts to commit this offence. This provision may be used to prosecute victims/survivors of SGBV,¹⁰⁴ rather than to protect or support them in coming forward and reporting their experiences.

B. “Incest” and the criminalization of victims of “sexual intercourse with close relatives”

The CEDAW Committee has called on and urged States to take all necessary measures to eradicate intra-family sexual abuse against women and girls and to repeal the criminalization of victims of “incest”.¹⁰⁵ However, instead of explicitly criminalizing sexual violence within the family, Lao PDR’s Penal Code criminalizes “incest” under Article 255, defining it as “engaging in sexual intercourse with a biological parent, adoptive parent, step-parent, grandparent, parent-in-law, biological child, adopted child, step-child, grandchild, or sibling.” This provision imposes penalties on both parties to the “incestuous relationship”, failing to take into account power imbalances, including in cases involving children who may be victims of sexual abuse.¹⁰⁶ The provision may also be used to prosecute victims/survivors of SGBV within the family, and deter them from reporting SGBV.

¹⁰² 2024 CEDAW Committee’s Concluding Observations to Lao PDR, paras 30 and 31.

¹⁰³ See, Principle 16, which, among other things states “[c]onsensual sexual conduct, irrespective of the type of sexual activity, the sex/gender, sexual orientation, gender identity or gender expression of the people involved or their marital status, may not be criminalized in any circumstances. Consensual same-sex, as well as consensual different-sex sexual relations, or consensual sexual relations with or between trans, non-binary and other gender-diverse people, or outside marriage – whether premarital or extramarital – may, therefore, never be criminalized.”

¹⁰⁴ It is noted that, under Article 21 of the Decree on the Village Mediation Committee (No. 626), adultery is listed as a criminal offence that may be subject to mediation where the complainant does not lodge a request for prosecution but instead seeks mediation at the village level.

¹⁰⁵ See one of its most recent examples in the concluding observations on the Solomon Islands: CEDAW Committee, ‘Concluding observations on the combined fourth and fifth periodic reports of Solomon Islands,’ UN Doc. CEDAW/C/SLB/CO/4-5, 10 July 2025, para. 26.

¹⁰⁶ In addition, Article 150 of the Penal Code criminalizes sexual intercourse with a girl or boy under the age of eighteen.

C. Consensual sexual acts with monks, novices, nuns or hermits

Another provision that opens the door to the criminalization of consensual sexual conduct disproportionately affecting women, and which may be used to prosecute victims/survivors of SGBV or that, in practice, has the effect of preventing or deterring them from reporting SGBV, is Article 266 of the Penal Code. This provision criminalizes a female or male person who willingly engages in a consensual sexual act with a monk, novice, nun, or hermit, as well as the religious figure involved.

Recommendation

- The National Assembly should repeal provisions that criminalize adultery (Article 247 of the Penal Code), and sexual acts with a monk, novice, nun, or hermit (Article 266 of the Penal Code). Adultery should be treated as a matter of civil family law and should not entail criminal liability; and
- With respect to “incest”, which is criminalized under Article 255 of the Penal Code, this provision should be amended to ensure that: (i) the right of victims/survivors of intra-family sexual abuse to access to justice and effective remedies, excluding any criminal liability on their part, for the sexual abuse to which they have been subjected; and (ii) properly characterize as criminal offences any intra-family non-consensual sexual conduct.

3.2. Reliance on Alternative Dispute Resolution

Another barrier to access to justice and effective remedies in SGBV cases is the continued resort to community-based informal or traditional justice system. Often framed as alternative dispute resolution mechanisms, these processes prioritize “compromise” and “reconciliation”, even in serious SGBV cases, sometimes at the expense of justice and effective remedies for victims/survivors. While the UN General Assembly has acknowledged that such mechanisms can be a positive means of administering justice, it has emphasized that this is only so “when [they are] in accordance with international human rights law.”¹⁰⁷

Similarly, Principle 7 of the Principles on Indigenous and other Customary or Traditional Justice Systems, Human Rights, and the Rule of Law, developed by the ICJ and international experts, affirms that indigenous and other traditional or customary justice systems should “operate in harmony with internationally recognized human rights and the rule of law in the broadest possible sense,” particularly in relation to proceedings that “constitute, or are analogous to, criminal adjudication and punishment, or otherwise affect fundamental interests of the parties.”¹⁰⁸

In addition, in certain circumstances, these processes also run counter to the CEDAW Committee’s General Recommendation No. 33, which indicates that SGBV should not generally be resolved through informal mechanisms.¹⁰⁹ If used, mechanisms should only be applied in exceptional cases, and only after a specialized team has assessed the situation to ensure that the victim/survivor gives free and informed consent, and that no further risk exists to them or their family members. Where permitted, they must be administered by professionals trained in SGBV response, with appropriate safeguards in place to prevent re-victimization.¹¹⁰

Nevertheless, under the Lao legal framework, community-based informal or traditional justice processes are widely used in SGBV cases and are characterized by a lack of adequate safeguards, resulting in practices that fall short of international human rights law and standards.

3.2.1. Cases Eligible for Alternative Dispute Resolution

The LPCVWC establishes three pathways for addressing cases of violence against women and children as alternatives to judicial proceedings: “re-education”, “compromise”, and “mediation”.

¹⁰⁷ UN General Assembly, ‘Resolution adopted by the General Assembly on 24 September 2012’, UN Doc. A/RES/67/1, 30 November 2012, para. 15, available at: <https://undocs.org/A/RES/67/1>.

¹⁰⁸ ICJ, ‘Principles on Indigenous and other Customary or Traditional Justice Systems, Human Rights, and the Rule of Law’, June 2022, available at: https://www.icj.org/wp-content/uploads/2022/06/Principles-and-Commentary_Eng_March-2021.pdf.

¹⁰⁹ CEDAW General Recommendation No. 33, para. 57(c).

¹¹⁰ CEDAW General Recommendation No. 35, para. 32(b).

A. “Re-education” and “compromise”

The LPCVWC permits measures such as “re-education” or “compromise” to be carried out by family members, close relatives, village elders, relevant organizations, Village Mediation Committees, or the Counselling and Protection of Women and Children Unit,¹¹¹ where violence against women and children “does not cause much harm.”¹¹² However, the law does not define what constitutes “harm” or how to assess its severity. This vague formulation grants wide discretion to authorities and mediators, leaving decisions vulnerable to subjective interpretation and discriminatory attitudes, particularly in patriarchal social contexts.¹¹³

B. “Mediation”

The LPCVWC also permits “mediation”—conducted by the Counselling and Protection Unit for Women and Children, police investigators, public prosecutors, or the People’s Court¹¹⁴—where the violence does not constitute a criminal offence, is classified as a “minor offence,” or carries a maximum penalty of less than one year’s imprisonment. This framework allows certain serious forms of SGBV to be treated as eligible for “mediation”, including marital rape under Article 252 of the Penal Code, which carries penalties ranging from three months to one year’s imprisonment.

In practice, entrenched patriarchal norms, social stigma, and structural barriers to accessing the formal justice system significantly increase the risk that these legal ambiguities will be interpreted in ways that undermine victims/survivors’ rights. This creates space for the expanded use of “re-education”, “compromise”, and “mediation” in cases that should, instead, be addressed through formal judicial processes, particularly serious cases of SGBV.

C. Village Mediation Committees

In addition, the LPCVWC includes Village Mediation Committees as potential mediators. However, this must be read together with Article 21 of the Decree on the Village Mediation Committee (No. 626),¹¹⁵ which sets out the types of conduct that may be subject to “mediation”. SGBV offences are not included in that list. Thus, while the LPCVWC appears to leave room for “mediation”, in principle, Village Mediation Committees should not mediate SGBV cases.

Yet, according to interviews conducted by the ICJ with lawyers and civil society organizations supporting SGBV victims/survivors, there is also widespread confusion and lack of awareness at the level of village mediators regarding which cases are eligible for alternative dispute resolution, and which must proceed through the formal justice system. Numerous instances were reported in which cases clearly ineligible for mediation—including serious crimes such as rape—were nonetheless mediated rather than pursued through judicial channels.¹¹⁶

In addition, a number of civil society actors interviewed by the ICJ referred to the notions of “case-free village” or “model village” as barriers to reporting SGBV and pursuing formal justice, as cases are reportedly handled informally and quietly within the village without being formally registered, allowing villages to maintain a “case-free” status. This is reportedly due to fear of being blamed for discrediting the village, embarrassing village authorities, or damaging the village’s reputation and image. This finding is consistent with a 2022 study conducted by the Gender Development Association in which 25 per cent of 563 respondents identified the “case-free” or “model village” status as a primary factor preventing the reporting of SGBV.¹¹⁷

¹¹¹ Article 49, LPCVWC.

¹¹² Articles 47-48, LPCVWC.

¹¹³ Article 49, LPCVWC.

¹¹⁴ Article 52, LPCVWC.

¹¹⁵ See: <https://laofficialgazette.gov.la/kcfinder/upload/files/Decree%20english.pdf>.

¹¹⁶ See also: World Bank Group, ‘GBV Institutional Mapping Report,’ April 2020, at 13-14, 16-17, available at: <https://documents1.worldbank.org/curated/en/300891594091530233/pdf/Lao-PDR-Gender-Based-Violence-Institutional-Mapping-Report.pdf?fbclid=IwAR3yLCpqLfsLrevmDoGeVJHLkAbwtsrLU0ufbAyOgBE8-3sDE8TIJCMv7bw>.

¹¹⁷ Dina Vivona, ‘Examining Barriers to Justice for Survivors of Violence Against Women, Especially Ethnic Women in Vientiane and Oudomxay Provinces,’ Gender Development Association (GDA), June 2022, available at: https://www.undp.org/sites/g/files/zskgke326/files/2023-03/Report_-_Examining_Barriers_to_Justice_for_Survivors_of_Gender-Based_Violence-FINAL_Eng.pdf.

3.2.2. Insufficient safeguards in the use of alternative dispute resolution

As noted above, under international human rights law and standards, the use of alternative dispute resolution with respect to SGBV offences are typically inappropriate and wholly inadequate means of achieving justice and contravene the CEDAW Committee's prescriptions outlined in General Recommendation No. 33, which advises against using such mechanisms to address crimes of this nature.¹¹⁸

Moreover, the use of alternative dispute resolution mechanisms in SGBV cases in Lao PDR frequently fails to comply with the minimum preconditions set out by the CEDAW Committee in General Recommendation No. 35.¹¹⁹ In particular, the law does not require a prior assessment by a specialized, independent body to ensure the victim/survivor's free and informed consent, nor does it adequately empower victim/survivors to make autonomous decisions regarding access to justice.

A. Lack of prerequisite consent and independent assessment

These shortcomings are evident in the LPCVWC, under which the consent of the victim/survivor does not appear to be required in cases involving "re-education" or "compromise." By contrast, Article 53 of the LPCVWC provides that "mediation" must be consensual, prioritize victim/survivor's safety, and ensure the voluntary acceptance of outcomes.¹²⁰

Nevertheless, even where consent is formally required, serious concerns remain regarding the quality and validity of consent assessments. Mediation processes are often conducted by individuals who rely on discriminatory gender stereotypes, and who lack adequate training in addressing SGBV. As a result, the possibility of free and informed consent is seriously undermined.

According to civil society organizations and academics interviewed by the ICJ, Village Mediation Committees—typically composed of male villagers—play a central role in mediation despite lacking professional training in SGBV. While some CSOs provide training, they acknowledged that meaningful coverage is difficult given the existence of more than 20,000 mediation units nationwide and the common five-year rotations of committee members. Many committees lack female representation altogether. As a result, mediation processes often reinforce harmful gender stereotypes, fail to protect victims/survivors' rights, and contribute to re-victimization.

These concerns regarding harmful gender stereotypes and patriarchal attitudes among those responsible for mediation are reflected in findings from a 2022 CARE International survey involving 864 participants across four provinces. Alarmingly, 100 per cent of respondents identifying as Village Health Committee members agreed with the proposition that a woman should endure violence to keep her family together. More than one-third of Village Mediation Committee members also shared this view,¹²¹ and 59 per cent agreed with the statement that men should make final household decisions.¹²² Furthermore, all Village Health Committee respondents and 41 per cent of Village Mediation Committee members agreed with the proposition that if a woman did not physically fight back, she could not have been raped.¹²³

B. Prioritization of "Family Status, Security and Solidarity"

In accordance with international human rights law and standards, considerations such as family unity or cohabitation should never be the determining factors in establishing whether an act of domestic violence has taken place or whether to prosecute. However, the LPCVWC permits mediation actors to prioritize family considerations over victims/survivor's safety and perpetrators' accountability.

¹¹⁸ CEDAW Committee, 'General recommendation No. 33 on women's access to justice,' UN Doc CEDAW/C/GC/33, 3 August 2015, para. 57(c). In addition, CEDAW's General Recommendation No. 35 discourages mandatory referrals of GBV cases to alternative dispute resolution. See: CEDAW General Recommendation No. 35, para. 32(b).

¹¹⁹ CEDAW General Recommendation No. 35, para. 32(b).

¹²⁰ According to Article 54 of the LPCVWC, in mediating cases of violence against women and children, organizations empowered to mediate can use the following measures against perpetrators of violence: apology to the victim, the victim's family, and other affected persons; warning; "re-educating" the perpetrator of violence to understand the negative impact of his/her action and to stop that behaviour; management of the behaviour that caused the violence, such as psychological rehabilitation, rehabilitation for alcohol and drug abuse; community service of a certain duration; or "other measures as needed."

¹²¹ Sharon Smee, Athena Nguyen, and Pimpisa Sriprasert, 'Male Perceptions of Gender-Based Violence: Luang Namtha, Phongsaly, Oudomxay, and Savannakhet Provinces, Lao PDR', CARE International in Lao PDR, November 2022, at 34.

¹²² *Ibid*, at 41.

¹²³ *Ibid*, at 42.

Articles 48 and 49 of the LPCVWC provide that “re-education” and “compromise” may be conducted by family members with the aim of “resolving violence within the family” in order to “maintain family status, security, and solidarity.” Where such efforts fail, close relatives or village elders may intervene “to foster understanding, love, reconciliation, and to stop the use of violence.” Article 50 further assigns this role to an organization to which the victim/survivor or perpetrator belongs, with the objective of “maintaining solidarity, reconciliation, cooperation, and stopping the use of violence.” Collectively, these provisions prioritize family unity, with the risk of doing so at the expense of victim/survivor’s protection and offender’s accountability.

Such prioritization is particularly harmful in a social context characterized by widespread tolerance of domestic violence. The 2022 CARE International survey found that more than half of male respondents agreed with the statement that “a husband has the right to punish his wife if she makes a mistake”. In addition, nearly two-thirds agreed or strongly agreed with the proposition that “a woman should endure violence to keep her family together”.¹²⁴ Violence was also widely viewed as a private matter: almost half of women surveyed and a significant majority of men endorsed this perspective.¹²⁵

With respect to this, in its concluding observations on Lao PDR’s tenth periodic report, the CEDAW Committee expressed concern about “persistent barriers, including stigma, fear of retribution, deep-rooted discriminatory gender stereotypes and limited legal literacy, that are deterring women and girls from bringing complaints about violations of their rights,” and observed that women’s access to justice was further restricted by “the frequent use of mediation.” The Committee further recommended that Lao PDR ensure that “mediation” is not given priority over court proceedings.¹²⁶

Recommendations

- The National Assembly and Lao Government should amend the LPCVWC and the Decree on Village Mediation Committee (2021), and adopt implementing regulations and/or official guidelines to ensure that any use of alternative dispute resolution mechanisms complies with CEDAW and the Committee’s General Recommendations Nos. 33 and 35, among others. The law should be amended to:
 - Ensure that SGBV victims/survivors are not automatically referred to alternative dispute resolution measures for “re-education”, “compromise”, and “mediation,” and that they are clearly informed of their right to seek justice through the formal legal system; and
 - Where alternative dispute resolution is exceptionally permitted, it should be carried out only when victims/survivors have provided their free and informed consent, and that it has been assessed as such by a specialized team. In addition, only independent, professionally trained mediators or conciliators who are equipped to handle SGBV cases should be charged with supervising and managing the alternative dispute resolution processes. Moreover, such processes must not prioritize family unity over victim/survivor’s safety and must actively prevent gender stereotyping.
- The Ministry of Justice and National Commission for the Advancement of Women, Mothers and Children (NCAWMC) should increase the number of women counselors trained in SGBV response and ensure their placement within all Village Mediation Committees. These counselors should play a central role in mediation processes where permitted and, together with male conciliators, must receive training consistent with the rights of SGBV victims/survivors under international human rights law and standards; and
- The Ministry of Justice should increase public awareness about the law and the protection mechanisms available to SGBV victims/survivors, ensuring that women are fully informed about their legal options and judicial forums available for their claims.

¹²⁴ *Ibid*, at 29.

¹²⁵ *Ibid*, at 32.

¹²⁶ 2024 CEDAW Committee’s Concluding Observations to Lao PDR, paras 12(b) and 13.

4. Practical and resource-based barriers to access to justice for SGBV victims/survivors

SGBV victims/survivors continue to face practical and resource-based barriers in accessing justice, in violation of Lao PDR's international human rights obligations, including under the CEDAW and UNCAT.¹²⁷ These barriers stem from a range of factors, including harmful gender stereotypes among justice sector actors, the absence of a gender-sensitive justice system, the lack of dedicated funding for protection, limited shelter capacity, inadequate assistance, and a lack of tailored support for victims/survivors with disabilities.

4.1. Gender stereotypes within the justice system

Negative attitudes among justice sector actors frequently result in victim-blaming and revictimization, obstructing access to justice for SGBV victims/survivors. Conduct of this nature will generally contravene Articles 2(d), 2(f), and 5(a) of CEDAW, and the CEDAW Committee has therefore recommended adopting confidential and gender-sensitive procedures to avoid stigmatization in legal proceedings.¹²⁸ The Committee also urges States to review evidentiary rules and their application to ensure that they are not overly restrictive or influenced by gender stereotypes.¹²⁹ Similarly, the Committee against Torture (CAT) has emphasized the importance of gender-sensitive complaint and investigative procedures to ensure that SGBV victims/survivors can access effective redress without fear of revictimization.¹³⁰

Notwithstanding these obligations, harmful gender stereotypes and the stigmatization of victims/survivors persist in Lao PDR, not only at the village level but also within the formal justice system. Such stereotypes, together with unresponsive or insensitive attitudes, are particularly evident in the manner in which justice sector actors question SGBV victims/survivors. Lawyers and civil society organizations interviewed by the ICJ reported numerous instances in which police officers, public prosecutors, and judges failed to adopt a gender-sensitive approach during investigations and court proceedings.¹³¹ Instead, the authorities often relied on discriminatory assumptions and harmful gender stereotypes, using blaming, shaming, or retraumatizing language, at times openly questioning or even impugning the credibility of victims/survivors.

In rape and other SGBV cases, lawyers and CSO representatives described justice sector actors asking victims/survivors questions such as: "If you were unwilling, why did you follow the perpetrator?"; "Why didn't you shout for help?"; "Can you show proof of resistance?"; or "Why are you only reporting this now?" Victims/survivors were also questioned about their lifestyle or personal choices, including why they dyed their hair, whether they enjoyed nightlife, or whether they drank alcohol — questions that, in many cases, reflect prejudicial assumptions rather than legitimate evidentiary concerns.

While some of the questions noted above may not be inappropriate if posed in a non-suggestive manner solely to establish the factual record, they become deeply problematic when relied upon narrowly or disproportionately, without consideration of the broader context. In particular, an undue focus on factors such as delays in reporting or the nature of the relationship between the victim/survivor and the alleged perpetrator often inappropriately influences investigative outcomes and may be decisive in determining whether a case proceeds. This over-reliance on such lines of inquiry was echoed in expert views gathered by the ICJ. Under international human rights law and standards, reliance on these questions and notions undermines gender-sensitive justice processes, as it reflects harmful gender stereotypes and discriminatory assumptions.¹³²

With respect to this, in its concluding observations on Lao PDR's tenth periodic report, the CEDAW Committee noted with concern the existence of "deep-rooted discriminatory gender stereotypes" that deterred women and girls from bringing complaints about violations of their rights, and recommended that Lao PDR address judicial gender bias and gender stereotypes among law enforcement personnel.¹³³

¹²⁷ These include the Lao PDR's due diligence obligation to prevent, investigate, prosecute, punish, and provide reparations for acts or omissions by non-State actors that result in SGBV against women. See also CEDAW General Recommendation No. 33 and CAT General Comment No. 3.

¹²⁸ CEDAW General Recommendation No. 33, para. 51(g).

¹²⁹ *Ibid*, para. 51(h).

¹³⁰ CAT General Comment No. 3, para. 33.

¹³¹ CEDAW General Recommendation No. 33, para. 51(g).

¹³² CAT General Comment No. 3, para. 33; and CEDAW, 'Karen Tayag Vertido v. Philippines, Communication No. 18/2008,' 1 September 2010, paras 8.5-8.9.

¹³³ 2024 CEDAW Committee's Concluding Observations to Lao PDR, paras 12-13.

4.2. Safeguards to Ensure Gender-Sensitive Environments

Discriminatory attitudes among justice system actors are further reflected in the failure to implement gender-sensitive procedures¹³⁴ and to establish a supportive environment for reporting SGBV.¹³⁵ In practice, SGBV victims/survivors are frequently subjected to secondary victimization in the course of their interactions with judicial authorities, contrary to the CEDAW Committee's General Recommendations.¹³⁶ For example, victims/survivors are often interviewed repeatedly without the assistance of psychological experts. One lawyer recalled a case in which a victim/survivor was required to recount the violence endured up to five times, each time in response to the same set of questions, because police claimed to need additional information or clarification.

More broadly, interactions with justice sector institutions are frequently conducted without the supportive conditions necessary for victims/survivors to exercise their rights, report crimes, and meaningfully participate in criminal proceedings.¹³⁷ At the stage when the police are involved in the investigations, generally, victims/survivors are not offered separate waiting areas or private rooms to report abuse confidentially, and police interviews are sometimes conducted in the presence of alleged offenders. Similarly, victims/survivors generally do not have access to separate court entrances, or closed hearings and often cannot provide testimony remotely. As a result, SGBV victims/survivors are often required to testify in manner that leads to them having to directly come into contact with alleged perpetrators, alongside unrelated parties present at court, and who happened to be there on the same day testifying in other cases.

In line with General Recommendation No. 33, States have a duty to take measures to prevent retaliation against women seeking recourse through the justice system¹³⁸—a duty also enshrined in the LPCVWC.¹³⁹ However, according to several CSO representatives and lawyers interviewed by the ICJ, the police frequently ignore concerns regarding victims/survivors' safety or even that of their lawyers. Police do not consistently intervene or impose emergency protection measures, even where clearly warranted, and in some cases victims/survivors have faced further violence or retaliation after reporting SGBV instances, without any subsequent action by authorities.

4.3. Shortage of Trained Female Justice Service Providers and Barriers to Legal Representation

Several additional practical barriers further impede access to justice for SGBV victims/survivors, including a shortage of female justice service providers. Information received by the ICJ indicates a significant paucity of female police officers. CSO representatives reported that female officers are rarely available, even in the capital, Vientiane. Similar female shortages affect Village Mediation Units, where committee members are overwhelmingly male.

With respect to legal representation, according to the Lao Bar Association (LBA), as of 1 September 2024, in a country of 7.5 million people, there were only 529 lawyers registered with the LBA, which is a requirement to practise law, and only 133 of them were women.

Moreover, lawyers, including those officially appointed by the State, frequently encounter difficulties accessing case files and evidence collected by the police and public prosecutors when acting and providing support to their clients who are SGBV victims/survivors. Although Article 71 of the Criminal Procedure Code guarantees the right of lawyers to access and make a copy of documents from the case file, lawyers report that in practice access is often denied. Police and prosecutors commonly justify this by claiming that file sharing might impede the investigation or that the information is confidential. Such responses hinder women's access to high-quality, gender-sensitive legal advice and their ability to seek justice and effective remedies.¹⁴⁰

¹³⁴ CAT General Comment No. 3, para. 33.

¹³⁵ CEDAW General Recommendation No. 33, para. 51 (d)

¹³⁶ CEDAW General Recommendation No. 33, paras 14-15 and 51 (c)

¹³⁷ CEDAW General Recommendation No. 33, para 51 (d)

¹³⁸ CEDAW General Recommendation No. 33, para 51 (d)

¹³⁹ For instance, Articles 29 and 30 of the LPVWC empower the police to intervene immediately to stop violence and assist the victim by interviewing, collecting data, and assessing the situation. Additionally, police are tasked with referring cases to the court for protection measures under Article 43, and imposing emergency protection measures when necessary under Article 44.

¹⁴⁰ CEDAW General Recommendation No. 33, paras 13 and 16(c)

4.4. Burden Placed on Victims/Survivors to Obtain Evidence and Proving Harm

CSO representatives also identified a lack of capacity, understanding, and resources among justice sector officers for the collection and preservation of forensic evidence in SGBV cases. As a result, in most cases, SGBV victims/survivors have to request medical evidence at their own expense. A number of lawyers also informed the ICJ of practical challenges in obtaining such medical certificates. For example, there are not enough doctors specialized in handling SGBV cases to conduct medical examinations, resulting in long waiting times and the potential loss of evidence. Furthermore, even when medical certificates are obtained, they may be deemed inadmissible by the police if they are not issued by one of the five major hospitals identified under the Standard Operating Procedures for the Justice Sector Response to and Prevention of Violence against Women and Children—all of which are located in the capital city, Vientiane.

This burden also extends to claims for monetary compensation—a form of remedy—available to SGBV victims/survivors. While courts usually exercise their powers under Articles 480 and 481 of the Civil Code to determine compensation for psychological, reputational, or economic harm, lawyers interviewed by the ICJ noted that challenges often arise from the requirement that victims/survivors provide “proof”, typically in the form of written documentation, to substantiate the harm suffered. This reportedly poses difficulties, for example, where victims/survivors are required to obtain medical certificates to prove psychological harm and must secure such certification on their own.

4.5. Limited Access to Temporary Shelters and Other Forms of Support

The CEDAW Committee has emphasized the importance of ensuring access to financial aid, crisis centers, shelters, hotlines, and medical, psychosocial, and counseling services for SGBV victims/survivors.¹⁴¹ The Committee has further indicated that States should adopt and implement effective measures to protect and assist women complainants and witnesses of SGBV before, during, and after legal proceedings. Such measures should include access to financial assistance; free or low-cost, high-quality legal aid; trauma-informed healthcare services, including mental, sexual, and reproductive health services; 24/7 free helplines; and an adequate number of safe, well-equipped crisis, support, and referral centers, as well as shelters for women, their children, and other family members, as needed.¹⁴²

Nevertheless, many of these essential services remain unavailable or ineffective in Lao PDR. There are no specific funds allocated for reparations to SGBV victims/survivors, nor are there women-specific funds to ensure that women receive adequate reparations when those responsible for abusing their rights are unable or unwilling to provide such reparations—despite repeated recommendations by the CEDAW Committee.¹⁴³ This funding gap also significantly undermines both prevention and support mechanisms, leaving many victims/survivors without the help they need and to which they are entitled as of right.

In the absence of adequate resources, the number of State-run emergency shelters for SGBV victims/survivors remains extremely limited.¹⁴⁴ To the ICJ’s knowledge, there are only three government-run protection shelters for victims/survivors of SGBV provided by the Lao Women’s Union.¹⁴⁵ While these shelters are critical to ensuring access to justice,¹⁴⁶ they are far too few in number to meet existing needs. At the same time, according to a lawyer interviewed by the ICJ, shelters are often a less preferred option for SGBV victims/survivors due to the lack of livelihood opportunities and financial support during their stay. As a result, many victims/survivors take significant risks by remaining outside shelters in order to work, even at the expense of their own safety.

Finally, with respect to language assistance, although the Lao government recognizes 50 ethnic groups in Lao PDR, at least one expert working closely with justice sector actors interviewed by the ICJ highlighted a severe shortage of professional interpreters in minority languages—particularly female interpreters—further impeding access to justice for marginalized groups.

¹⁴¹ CEDAW General Recommendation No. 33, para. 16(b).

¹⁴² CEDAW General Recommendation No. 33, para. 31(a)(iii).

¹⁴³ CEDAW General Recommendation No. 35, para. 33(b); and CEDAW General Recommendation No. 33, para. 19(d).

¹⁴⁴ CAT General Comment No. 3, para. 18.

¹⁴⁵ Lao News Agency, ‘Bokeo opens women and children’s protection shelter,’ 26 April 2023, available at: <https://kpl.gov.la/EN/detail.aspx?id=72694>

¹⁴⁶ CEDAW General Recommendation No. 33, para 16(b)

4.6. Lack of Adequate Support for SGBV Victims/Survivors with Disabilities

As a party to the Convention on the Rights of Persons with Disabilities (CRPD), Lao PDR is obligated to ensure effective access to justice for persons with disabilities on an equal basis with others.¹⁴⁷ It must also take appropriate measures to protect persons with disabilities from all forms of exploitation, violence, and abuse, including SGBV, and to exercise due diligence in investigating, prosecuting, and punishing perpetrators.¹⁴⁸ Lao PDR is also required to provide disability-sensitive mechanisms that support individuals in recognizing, avoiding, and reporting violations, while also promoting recovery, rehabilitation, and social reintegration for victims/survivors.¹⁴⁹ In practice, however, support for SGBV victims/survivors with disabilities appears to be severely inadequate, including at the initial reporting stage.

The CRPD Committee has recognized that women with disabilities face heightened risks of violence, exploitation, and abuse compared to other women.¹⁵⁰ In Lao PDR, there is no nationwide statistical data on SGBV against persons with disabilities. Nevertheless, as previously noted, a survey conducted by CARE International in Lao PDR in 2022 found, alarmingly, that 40 per cent of the 15 women with disabilities who participated in the study reported having experienced SGBV.

Multiple barriers continue to prevent persons with disabilities from reporting SGBV and accessing justice, contributing to impunity and invisibility. These barriers include dependency on caregivers, gaps in the legal framework, lack of accessible information, inaccessible justice institutions and absence or ineffectiveness of procedural accommodations.

Many persons with disabilities are dependent on caregivers. According to an expert interviewed by the ICJ, the most frequently reported perpetrators of SGBV against persons with disabilities in Lao PDR are family members or close relatives, who are often also their caregivers. In the circumstances, it is not uncommon for persons with disabilities to fear that, if they report the violence to the authorities, it could result in their losing this essential support. As a result, victims/survivors may be unable or unwilling to pursue justice due to fear of losing such critical support. Indeed, in the experience of an organization supporting persons with disabilities in Lao PDR interviewed by the ICJ over the past decade, none of the cases of violence—including physical and sexual violence—against persons with disabilities that it supported have reached the formal justice system. Instead, they were settled at the village level following compensation agreements, often due to victims'/survivors' unwillingness to proceed or pressure from family members.

With respect to legal and policy gaps, the CRPD Committee, in its concluding observations on Lao PDR's initial report in 2022, raised concern regarding the lack of provisions under the LPCVWC for disability-sensitive referral systems, recovery services and facilities, reintegration measures, accessible information, and education on exploitation, violence, and abuse. The Committee accordingly recommended that Lao PDR ensure that legislation and policies to prevent and combat all forms of violence, including the LPCVWC, explicitly include persons with disabilities.¹⁵¹

Beyond these legal and policy gaps, practical barriers further impede access to justice. Based on information received by the ICJ from lawyers and civil society representatives, some victims/survivors were unaware that they had been abused or did not know how to report such abuse. Even when victims/survivors wish to report, physical inaccessibility constitutes a major obstacle to accessing justice. Victims/survivors frequently face difficulties reaching police stations, courts, and other justice-sector facilities, many of which, in practice, are not accessible to persons with disabilities, making it physically unsafe or impossible for persons with disabilities to report violations. In addition, assistive devices or accommodations—such as walkers or canes—are often not available at these facilities.

Communication barriers compound these obstacles. The lawyers and civil society representatives interviewed by the ICJ also highlighted that legal documents are often available only in formats often inaccessible to persons with disabilities, such as paper-based or image files that cannot be read by assistive technologies. In addition, there is a shortage of qualified sign language interpreters, further limiting the ability of persons with disabilities to participate meaningfully in legal proceedings.

¹⁴⁷ Section 13 of the CRPD

¹⁴⁸ CRPD Committee, 'General Comment No. 3: Article 6: Women and girls with disabilities,' UN Doc. CRPD/C/GC/3, 2 September 2016, para. 26 ('CRPD General Comment No. 3').

¹⁴⁹ Section 16 of the CRPD

¹⁵⁰ CRPD General Comment No. 3, para. 29

¹⁵¹ Committee on the Rights of Persons with Disabilities, 'Concluding observations on the initial report of the Lao People's Democratic Republic,' UN Doc CRPD/C/LAO/CO/1, 30 September 2022, paras 28-29.

These concerns have likewise been highlighted by the CRPD Committee in its 2022 concluding observations, which noted the lack of access to justice for persons with disabilities due to the absence of procedural and age-appropriate accommodations; limited access to physical facilities, information, and communication procedures used in the administration of justice; inaccessible legal clinics and dissemination platforms; insufficient understanding of legal proceedings among persons with disabilities; and limited awareness among members of the judiciary and law enforcement officials regarding the rights of persons with disabilities.¹⁵²

¹⁵² *Ibid*, para. 22.

Recommendations

- The National Commission for the Advancement of Women, Mothers and Children (NCAWMC), in collaboration with the Ministry of Justice, should act to enhance training for justice sector actors and other responsible authorities on the application of international human rights law and standards to the investigation, prosecution, adjudication, and sentencing of SGBV-related criminal offences, and to prevent and counter gender stereotyping within the administration of justice;
- The Ministry of Public Security and the Supreme People’s Prosecutor Office should establish specialized SGBV units within the police and prosecution systems to ensure the consistent, effective, and survivor-centred application of domestic law, and should publicly communicate the existence, mandate, and accessibility of such units;
- Justice sector actors should discontinue practices that expose victims/survivors of SGBV to secondary victimization throughout legal proceedings and ensure the creation of supportive environments that guarantee their rights and enable them to assert their right to access to justice and effective remedies for SGBV. They should also prevent retaliation against those entitled to such remedies by providing adequate protection measures;
- As a matter of high priority, the Ministry of Public Security should increase the number of female police officers trained to handle SGBV cases and enhance women’s participation across the justice sector;
- The Lao Bar Association should increase the number of trained lawyers, including qualified female lawyers, and ensure that they are empowered to provide high-quality, gender-sensitive, free legal aid to SGBV victims/survivors;
- The Ministry of Justice should expand the pool of interpreters, particularly female interpreters and interpreters proficient in languages commonly spoken by persons from minority ethnic groups;
- The NCAWMC and Lao Women’s Union should establish specific funds to provide financial redress and other forms of assistance to SGBV victims/survivors;
- The Ministry of Health and Ministry of Public Security should provide training and allocate adequate financial resources for police and healthcare providers on the collection and preservation of forensic evidence in SGBV cases, including in documenting physical, sexual, psychological and economic harm suffered by victims/survivors;
- The Lao Women’s Union should increase and ensure the availability of State-run shelters for SGBV victims/survivors, particularly in rural and remote areas. All services should be fully accessible, adequately resourced, and responsive to victims/survivors’ needs;
- The NCAWMC should establish a system to regularly collect, analyze, and publish statistical data on the number of complaints related to all forms of SGBV, including those that are technology-facilitated; the number and type of protection orders issued; the rates of dismissal and withdrawal of complaints; prosecution and conviction rates; the time taken for case resolution; sentences imposed on perpetrators; and reparations provided. All data should be disaggregated by type of violence, the relationship between the victim/survivor and the perpetrator, and intersecting forms of discrimination, including the disability status of the victim/survivor; and
- With a view to ensuring full access to justice for SGBV victims/survivors with disabilities:
 - The National Assembly to ensure that legislation and policies to prevent and combat all forms of SGBV, such as the LPCVWC, include persons with disabilities;
 - The Ministry of Justice and the Ministry of Labour and Social Welfare should take measures to guarantee physical, informational, and communication accessibility, such as the provision of professional sign language interpreters, materials in Braille, and other procedural accommodations; and
 - The Ministry of Justice and the Ministry of Labour and Social Welfare should provide comprehensive training for court personnel, judges, police officers, and other law enforcement officials on the rights of persons with disabilities, particularly the right to

access to justice and effective remedies for SGBV victims/survivors with disability, and the right of persons with disabilities to enjoy legal capacity on an equal basis with others in all aspects of life.

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