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# LAO INTERNATIONAL LAW NEWS LETTER

Volume 1, 2009

April—September 2009

## UN Secretary General visits Lao PDR - 10-11 April 2009

United Nations Secretary-General Ban Ki-moon visited Lao PDR on 10-11 April in response to an invitation from the President of Lao PDR, Choummaly Sayasone. Mr Ki-moon is the eighth secretary-general of the UN. He is from the Republic of Korea and prior to his appointment as Secretary-General he was the Republic of Korea's Minister of Foreign Affairs and Trade.



Dr Thongloun Sisoulith and Mr Ban Ki-moon shake hands at the ceremony.

Mr Ki-moon spoke at the official opening of UN House, which houses several agencies of the Lao PDR UN Country team. He also launched the second Millenium Development Goals Progress Report which details Lao PDR's progress towards achieving the United Nations Millenium Development Goals (MDGs)

In his speech, the Secretary-General praised Laos for recent development progress and commended the Lao Government on the progress it has made towards the MDGs. He commented that poverty has declined, child mortality rates are falling while school enrollment and literacy rates continue to grow.

However, he noted that rural health standards must be im-

proved to meet the MDGs by 2015. In particular, he was concerned about high rates of child malnutrition and maternal mortality. He also cited education, adult literacy and nutrition as other challenges Lao PDR must address in working towards its MDG commitments and graduate from least developed country status.

To do this, Laos will also need to maintain high economic growth and increase per capita income and to ensure that this growth is sustainable. Mr Ki-moon stated that sustainable growth will require increased investment in human development, the social sector and environmental sustainability.

Of particular interest to the International Law Project, Mr Ki-moon stated that Laos is increasingly governed by the rule of law and accountability systems are growing stronger.

At the opening ceremony, Deputy Prime Minister and Minister of Foreign Affairs, Dr Thongloun Sisoulith expressed the genuine appreciation of the Lao Government and people for the continued support and assistance provided by the UN country team. The UN has played an important role in Lao PDR's development since it became a UN member state in 1955.

## Lao PDR prepares for UPR

The International Law Project assisted Lao PDR with its preparation for the upcoming Universal Periodic Review (UPR) held a workshop on the International Covenant on Civil and Political Rights (ICCPR) and the UPR for high level officials from 16-18 June in Thalat.

Presentations at the workshop examined the different rights covered in the ICCPR and the ways in which existing laws of the Lao PDR already meet some of the obligations created. This incited some interesting discussion among the workshop participants.

The workshop was lucky to have the presence of a regional representative from the UN Office of the High Commissioner of Human Rights, Mr

***“...the UPR would look positively upon ratification of the UN core human rights conventions.”***



Mr Phoukhong Sisoulath, Mr Homayoun Alizadeh and Mr Bounpheng Saykanya at the Workshop on ICCPR Implementation and the UPR.

Homayoun Alizadeh.

Mr Alizadeh provided background on the ICCPR's Human Rights Committee (HRC) and Reporting Procedure. He discussed whether there is a need and necessity for ratification of the UN core human rights conventions in the context of the UPR and he provided an overview of the UPR process.

In short the HRC, created by Article 28 of the ICCPR is constituted by 18 experts elected by State Parties. It meets 3 times

per year to monitor compliance of State Parties with ICCPR obligations and consider individual complaints communicated to it. A State Party's report to the HRC should deal with: all rights in the ICCPR; any reservations-declarations-derogations; factors and difficulties; any restrictions/limitations on rights; and equal enjoyment of rights by both genders.

He highlighted that the objectives of the UPR are to improve a State's human rights situation, to fulfill its human rights obliga-

tions, to assess any positive developments and challenges the State faces; to enhance its capacity; to share best practice; and to encourage full cooperation and engagement with the HRC and other human right bodies. Mr Alizadeh believes that the UPR would look positively upon ratification of the UN core human rights conventions.

## Lao PDR ratifies the ICCPR, the UNCAC and the disabilities convention

By deposit of instruments of ratification on 25 September 2009 the Lao PDR has ratified three key international treaties relating to human rights and good governance. These were the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention Against Corruption (UNCAC), and the Convention on the Protection of the Rights of Persons with Disabilities (the disabilities convention).

In the first half of 2009, the Lao PDR has been actively considering the ratification of these core international treaties. The International Law Project organized a special workshop on 9 July 2009 in preparation for the Lao PDR's participation in the 2009 UN Treaty Event to be held in September.

The meeting was presided over by the Assistant Minister of Foreign Affairs, H.E. Mr Alounkeo Kittikhoun and UNDP Deputy Resident Representative, Mr Stéphane Vigié.

Two young officers from MoFA and Mr Sengpraarthit Snook-

phone, ILP Assistant Project Manager, made presentations on the ICCPR and the disabilities convention. Mr Khamkheuang Bounteum, the Director General of the Treaties and Law Department, MoFA made a presentation on UNCAC drawing on materials he had learned and gathered from his involvement in regional discussions on UNCAC in Bangkok.

The workshop was a great success with participants voting in favour of ratification for all three instruments. The matter was then forwarded to the Government and the National Assembly. After further discussions with the National Assembly regarding the treaties they have been ratified.

This is an important development in Lao PDR's engagement in international law and will greatly promote human rights and good governance in Lao PDR.

As a country with a Civil Law oriented legal system, one of the persistent issues that confronts law makers in the Lao PDR is the incorporation, transformation of treaties into domestic



Mr Stéphane Vigié and Mr Alounkeo Kittikhoun preside over the Treaty Event Workshop.

law. The National Assembly Standing Committee has in principle approved the latest draft of the Presidential Ordinance on the Conclusion and Implementation of Treaties and will forward it the President for issuance, hopefully later in 2009.

When adopted, the Ordinance will become the definitive law on the incorporation of treaties in to Lao domestic law, among other issues. Under the draft Ordinance, treaties adopted in accordance with Lao law will take precedence over local law when there is an inconsistency. The Constitution of the Lao PDR will however remain the supreme law of the land.



Mr Khamkheuang Bounteum gives a presentation to the workshop.

## Assistant Project Manager undertakes internship at UN in Geneva

Mr Sengpraarhit Snookphone, joined the International Law Project this year as the Assistant Project Manager.

He has just returned from Geneva where he spent one month serving as an intern with the Lao Permanent Mission to the United Nations Office and other International Organisations.

During his internship he attended the 11th session of the Human Rights Council and other related meetings.

This gave him the opportunity to observe debates about human rights issues, rules of procedure of the human rights council, and how delegations interact over certain issues.

Mr Sengpraarhit believes the internship was a valuable experience for a young officer, like himself. It greatly built his capacity in the field of international human rights. He had the opportunity to enhance his understanding of the human rights council and its special procedures, in particular the Universal Periodic Review (UPR).



Mr Sengpraarhit Snookphone at the Human Rights Council in Geneva.

Mr Sengpraarhit had improved his skills as a valuable resource person in the ILP. He will now be able to share his knowledge and ex-

perience with other officers through discussions in workshops and seminars.

## AYAD comes to work with ILP



Ms Bronwen Burfitt

**“...a comprehensive, democratic legal framework (is important) for effective administration.”**

In March 2009 Ms Bronwen Burfitt, an Australian Youth Ambassador for Development (AYAD), commenced work with the ILP as a volunteer. She holds a Bachelor of Laws and Bachelor of Science both with Honours from the University of Sydney and she is admitted as a Lawyer of the Supreme Court of New South Wales (NSW).

Ms Burfitt's area of specialty is in International Environmental Law. Before coming to Lao PDR she worked for the Australian Government Department of the Environment, Water, Heritage, and the Arts as a policy

officer in the international section where she worked on the Australian Government's engagement with the United Nations Environment Programme and the process of International Environmental Governance Reform. She has also worked as a legal researcher for a judge at the NSW Land and Environment Court.

Bronwen is excited to be working in the ILP because of her strong belief in the importance of a comprehensive, democratic legal framework for effective administration, and the injustices that lack of understanding of the law and effective legal

representation can engender.

As part of Ms Burfitt's work with the project she is placing a special focus on knowledge dissemination and capacity building in the area of International Environmental Law as she recognizes the importance of environmental protection in a country such as Lao PDR which relies heavily upon its natural resources.

Bronwen loves living in Lao PDR. She thinks it's an incredibly beautiful country with very kind people, delicious food and a wonderful way of life.

## Understanding UNCAC

On 25 September 2009 Lao PDR ratified the United Nations Convention Against Corruption (UNCAC). UNCAC is the first legally binding global instrument designed to help Member States fight corruption in both the public and private sectors. The Convention rests on four pillars: prevention and criminalization of corruption, international cooperation and asset recovery.

Ratifying countries enter into a legal obligation to:

- criminalise an array of corrupt practices;
- develop national institutions to prevent corrupt practices and to prosecute offenders;
- cooperate with other governments to recover stolen assets; and
- help each other, including with technical and financial assistance, to fight corruption, reduce its occurrence and reinforce integrity.

The Convention has 140 signatories and 137 parties. States who have ratified the Convention include the Asian states of Brunei Darussalam, Cambodia, China, Indonesia, Malaysia, Mongolia, the Philippines and the Republic of Korea.

In his foreward to the UN Convention Against Cor-

ruption, the then Secretary-General of the UN, Kofi Annan said:

*Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organised crime, terrorism and other threats to human security.*

Ratification of the Convention will allow the Lao PDR to take advantage of its provisions that require Member States of especially the developed world, to return assets obtained through corruption to the country, usually in the developing world, from which such assets were stolen. As a developing nation, the Convention allows the Lao PDR to adopt specific and well defined measures in cooperation with the international community that will protect its resources from any further exploitation by more powerful and developed nations of the world through corrupt practices.

Ratification of the Convention sends a clear signal of a commitment to good governance, transparency and the willingness to meet intentional standards. It is a vital infrastructure for confidence building in international

investment attraction and therefore essential in diversification of investment sources for the Lao PDR.

Currently, the law in the Lao PDR and the work of the State Inspector's Office reflect aspects of the Convention. The idea of the Convention is therefore consistent with the general direction of Lao national policy.

**“Corruption is an insidious plague that has a wide range of corrosive effects on societies. “**

## ILP reaches out to the Provinces

On 28 and 29 May 2009 the International Law Project held a workshop on international law for district officials of Vientiane province in Thalat.

The workshop was the first time that the ILP has reached out to district level authorities.

The participants comprised chiefs/deputy chiefs of districts and relevant district officials from 13 districts of Vientiane province and officials from Vientiane provincial departments of international relations, justice, court, prosecutor's office and public security command.

The workshop gave a general background on International Law, International Agreements of relevance to Lao PDR, Lao PDR's implementation of International Law and how it relates to the work of officials at a local level.

The workshop was a great success with approximately 170 attendees. It marks a new phase in the work of the ILP whereby its capacity work is being extended to local, district and provincial officials.

## FOCUS ON: ENVIRONMENT

### World Environment Day - June 5 2009



World Environment Day walkers listen to address from Mr Asang Laoly.

World Environment Day fell on Friday June 5 2009. To mark the day and show support for greenhouse gas emission reduction a march from Patouxay Monument was held.

About 1,000 people participated in the march World Environment Day fell on Friday June 5 2009. To mark the day and show support for greenhouse gas emission reduction a march from

Patouxay Monument was held. The theme of the day was 'Your planet needs you! Unite to combat climate change.'

About 1,000 people participated in the march which began with an address from the Deputy Prime Minister and Chairman of the National Environment Committee and National Strategy on Climate Change, H.E Mr Asang Laoly.



Ms Gemma Archer and Ms Bronwen Burfitt walk for World Environment Day.

### The strong link between Environment and Human Rights

There is a close connection between the protection of human rights and environmental protection in the context of sustainable development.

Globally, people are experiencing the effects of ecosystem decline: water shortages; declining fisheries; landslides on deforested slopes.

The victims of environmental degradation tend to belong to more vulnerable sectors of society - racial and ethnic minorities and the poor - who regularly carry a disproportionate burden of such abuse.

Increasingly, many basic human rights are being placed at risk, as the right to health affected by contamination of resources, or the right to property and culture compromised by commercial intrusion.

A number of regional agreements, such as the Protocol of San Salvador to the American Convention on Human Rights, expressly recognize the right to live in a healthy or satisfactory environment as a fundamental human right.

In the last decade a substantial body of case law

and decisions from international treaty bodies have recognized the violation of a fundamental human right as the cause, or result, of environmental degradation.

Further, a significant number of decisions at the national and international levels have identified environmental harm to individuals or communities arising as a result of violations of the rights:

- to health,
- to life,
- to self-determination,
- to food and water, and
- to housing.

***“The victims of environmental degradation tend to belong to more vulnerable sectors of society”***

## Human Rights and Climate Change - Further Links

More specifically, it is becoming apparent that climate change will have implications for the enjoyment of human rights.

The United Nations Human Rights Council recognized this in its resolution 7/23 “human rights and climate change” (March 2008). The resolution expressed concern that climate

change “poses an immediate and far-reaching threat to people and communities around the world” and requested the Office of the United Nations High Commissioner to prepare a study on the relationship between climate change and human rights.



Destruction caused by flooding in the Xekong Province following the typhoon Ketsana of September 2009. Extreme weather events such as typhoons and floods are

## Climate Change induced forced migration

The First Assessment Report of the Intergovernmental Panel on Climate Change in 1990 noted that the greatest single impact of climate change might be on human migration.

The Stern Review on the Economics of Climate Change in 2006 estimates displacement of 200 million people by climate change related phenomena like desertification, increasing water scarcity, floods and storm etc.

Climate change-induced forced migration would undermine fundamental human rights. For instance:

- Universal Declaration of Human Rights: the freedom of movements and other social, cultural and eco-

conomic rights might be threatened.

- Right to Adequate Housing: sea level rise and storm surge will have a direct impact on coastal settlements which will lead to the relocation of peoples and communities.
- The Right to Self Determination: this includes the right of a people not to be deprived of its own means of subsistence; this would be impacted by the inundation and disappearance of States’ territory and small island States.

### Case Study: Bangladesh

Along with other extreme weather events like flooding and tropical cyclone, sea level rise is an impending threat to the coastal areas in

Bangladesh which has long and densely populated coastlines with many low-lying islands.

In the severe climate change scenario, sea level rise threatens to inundate 18 percent of Bangladesh’s total land, directly impacting 11 percent of the country’s population.

**“The Stern Review ... estimates displacement of 200 million people by climate change”**



A family tries to rescue their possessions from a flood in Bangladesh.

## Meet Christine Green - UNV English Trainer at IFA



Ms Christine Green.

***“IFA is a critical actor for capacity building in Laos. ... the Institute has great potential for advancing the rule of law...”***

In October 2008, UN Volunteer English trainer Christine Green joined the Institute of Foreign Affairs (IFA), MoFA's training centre which conducts 5-month English training courses for government officials from various ministries and provinces nationwide. Her contract is funded under the International Law Project in an effort to boost the English capacity of Lao civil servants and lay the foundation for better implementation of international law in Laos.

Ms. Green is an experienced English trainer with a Master's degree in Humanitarian Aid and Development. Having worked in Asia, Africa, Latin America and Europe, cultural exchange and international development are key aspects of the lessons she teaches.

Aside from her day-to-day work teaching and updating the Institute's curriculum with a development-oriented focus, she also organizes weekly presentations by representatives of NGOs and UN agencies.

“During this course we've invited presenters on everything from the 2008 MDG report, to international human rights law, to environmental sustainabil-

ity in the face of expanding hydropower development. These discussions have provided students the opportunity to meet foreign experts and learn about topics critical to the economic and social development of their country. It has also created the catalyst for very interesting dialogue,” Ms. Green added.

“Christine is very enthusiastic and self-motivated. She is working very hard on teaching and helping IFA staff in improving English teaching skills and the curriculum of the training course at IFA. Furthermore she is the most important person for IFA in coordinating and finding UNDP cooperation,” said IFA Director General Malayvieng Sakohnninhom.

IFA is a vital training centre for the government,

but there are severe shortages not only with qualified English trainers, but also with computer equipment, learning materials, IT training and Lao staff training.

“IFA is a critical actor for capacity building in Laos. Every year hundreds of government officials come for training here and the Institute has great potential for advancing the rule of law and other aspects of socio-economic development. I'm very excited to be apart of that process,” Ms. Green said.



Ms Green teaching her students.

## International Legal Concepts - What do you know?

**Accession:** The act by which one power becomes party to engagements already in force between other powers. Or, put more simply, The process by which a country can join an international agreement.

**Amendment:** Any alteration made to a proposal or document by adding, deleting, substituting or omitting.

**Bilateral:** Affecting or undertaken by two parties. In particular a bilateral agreement is an agreement made between two states.

**Condition:** A specific requirement, express demand or provision stipulated in an agreement.

**Customary law:** Norms of behaviour or practices observed by numerous states over time, which they consider to a legal requirement. Customary law is not documented in the written codes. It is ranked by the ICJ as secondary in importance only to treaties. It is held to exist if

- objectively the custom exists
- subjectively it is a behavioural norm

**Good Governance:** the government's ability to 1) ensure political transparency and voice for all citizens, 2) provide efficient and effective public services, 3) promote the health and well-being of its citizens, and 4) create a favorable climate for stable economic growth.

**Human Rights Council:** An inter-governmental body within the UN system made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on 15 March 2006 by resolution 60/251. Its main purpose is to address situations of human rights violations and make recommendations on them.

**Interpretive declaration:** Unlike a reservation, a declaration is not meant to affect the State's legal obligations but is attached to State's consent to a treaty to explain or interpret what the State deems unclear.

**Millennium Development Goals (MDGs):** A set of eight goals and associated targets to achieve poverty alleviation by 2015, which found their origin in the Millennium Summit

2000. The goals are:

1. Eradicate extreme poverty and hunger;
2. Achieve universal primary education;
3. Promote gender equality and empower women;
4. Reduce child mortality;
5. Improve maternal health;
6. Combat HIV/AIDS, malaria, and other diseases;
7. Ensure environmental sustainability;
8. Develop a global partnership for development

**Multilateral:** affecting or undertaken by more than two parties. A multilateral agreement is one made between a large number of state parties.

**Rule of law:** All government officials and all private citizens must follow the laws of the nation and must be treated equally under the law. The government is created by and for the people and is answerable to the people.

**Reservation:** A caveat (a qualification or exemption) to a state's acceptance of a treaty.

*Article 2 (1)(d)* of the 1969 Vienna Convention on the Law of Treaties (VCLT), defines a reservation as a "unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a

treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State."

In effect, a reservation allows the state to be a party to the treaty, while excluding the legal effect of that specific provision in the treaty to which it objects. States can not take reservations after they have accepted the treaty; a reservation must be made at the time that the treaty affects the State.

**Universal Periodic Review:** A process which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a cooperative process, between the State and the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations.

The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251.

## INTERNATIONAL LAW PROJECT



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## ILP Phase III - Building national capacity

In January 2009 the International Law Project commenced Phase III of the project implementation. The primary objective of Phase III is to enhance the participation of the Lao PDR in the international legal system by developing a comprehensive capacity development for the country to meet the demands of its increasing participation in treaties and in international law generally. The focus of the project is to develop capacity for the immediate and long term needs of the Lao PDR by:

- Providing specialist training for personnel in the Ministry of Foreign Affairs;
- Strengthening the capacity of selected institutions that provide training infrastructure in international law;
- Providing training to the Judiciary, Line Ministries, law enforcement agencies and civil society organizations in monitoring international law application and raising awareness about it in the Lao PDR;
- Strengthening the capacity of the National Assembly in the adoption and implementation of treaties

## Enabling the disabled: ILP recruits field workers for LDPA

The Lao Disabled People's Association (LDPA) is a non-government organization, constituted under the laws of the Lao People's Democratic Republic.

The LDPA is a Lao organization that advocates for the rights of people with disabilities and provides services to members based on their needs. Its mission is to empower people with disabilities to personal achievement, assist them to develop their livelihoods and interests, and bring about their full participation in society.

The International Law Project is assisting the LDPA to recruit 5 National UN Volunteers (NUNVs) to further the work of the LDPA in 5 provinces: Champasak, Houaphan, Salavan, Xiangkhoang, Xekong.

The Provincial Branch Field Workers will promote awareness and understanding of Disability Rights and of the LDPA's programs and activities among local government, disability communities, provincial branches of NGOs and the general public. They will further develop and maintain existing systems that provide access for members to disability services as well as building capacity in fundraising and financial management.



A disabled person learns vocational skills.

The successful NUNVs will build their individual capacities by developing valuable skills in management, administration, accounting, communication and community development.

This is a positive development in the promotion of the rights of people living with disabilities in the Lao PDR. These rights will be further developed by the incorporation of the newly ratified Convention on the Rights of Persons with Disabilities into Lao law.