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ATROCITY CRIMES RISK ASSESSMENT SERIES

LAO PEOPLE'S DEMOCRATIC REPUBLIC

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INTRODUCTION

The following risk assessment for the Lao People's Democratic Republic (Lao PDR) uses the Framework of Analysis for Mass Atrocity Crimes (2014) developed by the United Nations Special Advisers on the Prevention of Genocide and on the Responsibility to Protect¹ (hereafter referred to as 'the Framework'). As such, the risk factors, indicators and numerical references used throughout this assessment correspond with those set out within the Framework.

The following assessment refers only to the risk factors deemed relevant to the current situation in Lao PDR. The absence of discussion of some risk factors is not to suggest that they are of objectively lesser importance, merely that they are inapplicable to the situation in Laos.

This report finds a medium level of risk of atrocity crimes in the Lao PDR over the short-to-mid-term. Land-locked Laos (Lao People's Democratic Republic) is bordered by some of the most influential economic and political powers in the Asia-Pacific; China, Thailand, Cambodia and Vietnam. To its north-west lies Myanmar, a country rife with its own political and ethnic struggles. Under-researched by the international community, Lao PDR currently exhibits a low risk of atrocity crimes but there are several areas of concern which, if not addressed, could result in elevated risk. The situation in Laos is characterised by, economic instability, evidence of poor governance, human rights violations and the severe curtailment of civil and political rights. As such, Common Risk Factors 1 (situations of armed conflict or other forms of instability), 2 (record of serious violations of international human rights or humanitarian law), 3 (weakness of state structure) and 6 (absence of mitigating factors), were evident. Additionally, the treatment of the ethnic Hmong by the Laos government appears to satisfy some of the indicators of Special Risk Factor 9. Continuing discrimination against the Hmong is of particular concern. The report provides a number of recommendations to provide guidance on how to combat these issues, including ratification of additional international law treaties, easing of restrictions on national media and non-government organisations and an increased commitment on the part of international actors to the clearing of unexploded ordnance.



LIST OF ABBREVIATIONS

Association of Southeast Asian Nations (ASEAN)
Lao People's Democratic Republic (Lao PDR/Laos)
Lao People's Revolutionary Party (LPRP)
Office of the High Commissioner for Human Rights (OHCHR)
Unexploded Ordnance (UXO)
United Nations (UN)
United Nations Development Program (UNDP)
United Nations Children's Fund (UNICEF)
United States of America (US)
Universal Periodic Review (UPR)

FRAMEWORK OF ANALYSIS

The Framework of Analysis is comprised of 14 Risk Factors of atrocity crimes. Each Risk Factor has an accompanying set of more specific Indicators. The Framework is intended to be used "to guide the collection and assessment of information" regarding the potential for atrocity crimes.

The Risk Factors are separated into two different groups: the Common Risk Factors may apply to the potential risk for any atrocity crime, while the Specific Risk Factors are further broken down into the risks associated with genocide, crimes against humanity, and war crimes (risks of ethnic cleansing are integrated into those of the other atrocity crimes). The more Risk Factors and Indicators that are present, the greater the risk that atrocity crimes may be committed. However, not all Risk Factors must be present to represent a significant risk. The Risk Factors and Indicators are not ranked by importance and should be considered in a broader context, taking account for a society's politics, history, and culture.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
Genocide		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
Crimes against humanity		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
War Crimes		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations

Each of these Risk Factors is also accompanied by 6-18 more specific Indicators, which can be used to more precisely and accurately address and analyze the risks of atrocity crimes. These Indicators and further information on the full UN Framework of Analysis for Atrocity Crimes can be found by clicking here or by visiting the UN website at www.un.org.

COMMON RISK FACTORS

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

The first risk factor relates to the 'situations that place a State under stress and generate an environment conducive to atrocity crimes'. While atrocity crimes ordinarily take place within an already developed or developing context of armed conflict, a State's propensity to commit atrocity crimes can also be influenced by other forms of instability². In the case of Lao PDR, there is little evidence to suggest that current international or non-international armed conflict is influential (**Indicator 1.1**), or that a security crisis (**Indicator 1.2**) is occurring. However, other indicators related to Risk Factor 1 are found to be present in Laos.

Insecurity from Humanitarian Crisis

Indicator 1.3 relates to a 'humanitarian crisis or emergency, including those caused by natural disasters or epidemics'. There are no current humanitarian crisis or emergencies. Nevertheless, Laos is at risk of, and has suffered from, natural disasters (most commonly floods and droughts) due to the tropical nature of its climate. This susceptibility has been further increased at the hands of climate change³. The impact of a drought-flood cycle is particularly debilitating and raises food scarcity concerns given the country's reliance on rice harvesting for sustenance⁴. Crops can be depleted by as much as 50% in some downstream areas of the Mekong⁵.

The most prevalent cause of death and illness within Laos is that caused by infectious diseases⁶. Lack of adequate sanitation (37%) and access to clean drinking water (52%) contribute greatly to the spread of illnesses such as influenza. Malnutrition is wide-spread, particularly among children, increasing susceptibility to disease epidemics⁷. Positively, the Laotian government, with assistance from international disaster management partners, continues to make commendable progress in the planning of disaster management protocol. Unfortunately, implementation of such plans requires funding which it is currently not being afforded⁸.

Political Situation

Indicator 1.6 pertains to 'political tension caused by autocratic regimes or severe political repression'. Lao PDR operates under a one-party State controlled by the communist Lao People's Revolutionary Party (LPRP)⁹. Polity IV indicators find that Laos has an autocratic regime, with a Polity IV score in 2010 of -7¹⁰. The Economist has gone so far so to claim that "Laos has what may be the world's most closed political system after North Korea"¹¹. By law, the LPRP is the only party allowed to exist and membership of the parliament is entirely controlled by the LPRP¹². Elections are held regularly, though it is widely acknowledged that they are neither fair or free¹³. The autocratic regime has existed for some four decades now with a high degree of stability such that **Indicator 1.4** regarding abrupt or irregular regime changes is not applicable.

Political opposition groups are prohibited and evidence suggests that where dissent has occurred, it has been stifled by the security forces¹⁴. While it is plausible to suggest that such an oppressive regime would increase the likelihood of political dissent, there is little evidence to suggest the Laotian authorities have met civil resistance in the exercise of their power. It is worth noting that the transmission of accurate information from within Laos is limited. Nevertheless, the current regime appears to have left little possibility for 'disputes over power or growing nationalist, armed or radical opposition movements' (**Indicator 1.5**)¹⁵.

RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

Political repression remains and is exemplified by the high likelihood of government involvement in the 2012 ‘disappearance’ of political activist Sombath Somphone¹⁶. Sombath was a key community development leader, advocating for sustainable farming practices and increasing the participation of rural citizens in civil society¹⁷. The unwillingness of Laos officials to investigate Sombath’s disappearance is indicative of a broader trend towards restriction on freedom of political expression¹⁸. Where government investigations have been conducted, they have failed to provide a worthy explanation in relation to the events surrounding the disappearance. In particular, no justification for the CCTV-recorded actions of police who stopped Sombath’s vehicle, removed him and took him into the police post before an unidentified vehicle arrived to transport him away¹⁹. Government involvement in the events has been widely recognised by the international community, who continue to call for Sombath’s safe return²⁰. A similar case occurred in 2007 to an ecotourism entrepreneur Sompawn Khantisouk who was taken away in near identical fashion and remains to be found²¹. Such instances are in obvious violation of the International Convention for the Protection of All Persons from Enforced Disappearances, to which Laos is a signatory and of an attack on civil liberties more generally.

While the suspicious disappearance of individual political activists is cause for concern, there is no evidence of coordinated or systematic action on the part of the government or of oppositional political activism which could contribute to ‘tension’. This is not to suggest that an uprising or political tension due to the autocratic nature of the regime is not a plausible risk. Quite to the contrary, autocratic regimes would seem to increase the risk of opposition movements forming. However, the tactics used by the LPRP to silence political dissent have proved effective in the LPRP’s aim of stifling political opposition. Given the heavy restrictions on media and the operation of international NGOs, as discussed in **Risk Factor 6**, it is difficult to evaluate the likelihood of future political uprisings.

Economic Instability

Indicator 1.7 addresses ‘economic instability caused by scarcity of resources or disputes over their use or exploitation’. Despite recent economic growth at rates which exceed other states in the Asia Pacific, Laos remains one of the world’s least developed states²². The Laotian economy relies largely on the commodification of natural resources for its productivity²³. In the early 2000’s, the country generated profit from the exploitation of copper and gold mines²⁴. The unsustainability of such enterprises, however, has already been evidenced within Lao, given the negative impacts which were felt within the industry as a result of the 2007-2008 financial crisis²⁵. More recently, hydropower has become a focus of national and international investors, with hydroelectricity being generated for export to neighbouring countries, in particular to Thailand²⁶.

While stakeholders such as the World Bank have lauded Laos for its development in this sector, reports of environmental destruction and forced relocation of communities are common²⁷. International interest, particularly from China and Thailand in the continuation of such projects raises concerns over the possibility of further exploitative schemes at the expense of both civil society and the environment²⁸. International NGOs such as Oxfam have called for an increase in civilian control and access to Lao’s natural resources to prevent their misappropriation and to ensure durability in their use for the long term²⁹. Continued dependency on natural resources for economic prosperity could well lead to a situation of crisis within the national economy (**Indicator 1.8**).

The World Bank notes the negative impact of climate change on the profitability of the country’s agricultural sector³⁰. Importantly, Laos has turned attention to increasing the export capacity of its manufacturing sector in an attempt to mitigate this. Laos has attracted some large multinational corporations, such as Nikon and Toyota, who have begun production in Lao’s ‘Special Economic Zones’³¹. International economic partnerships have begun to form. In particular, The Mekong-Ganga Coop-

eration (MGC) (collaborative partnership between Laos, Thailand, Vietnam, Cambodia, Myanmar and India) has expressed its intention to construct a highway connecting the countries³². Such plans produce new opportunities for growth of the Laos economy while simultaneously raising concerns over the traction and consequential influence that such regional States may be able to exercise over Lao PDR as a result.

Poverty and Inequality

Indicator 1.9 addresses 'economic instability caused by acute poverty, mass unemployment, or deep horizontal inequalities'. While Laos should be lauded for its economic advances, wealth has not been evenly distributed throughout society³³. Although Laos has made considerable ground in reducing poverty, 23% of the population remains under the poverty line³⁴. Additionally, while admirable progress has been made in the field of education, with primary education enrolments increasing dramatically, considerable work remains in ensuring children remain in school³⁵. Secondary school enrolment rates drop below 50% for both genders³⁶. Lack of viable educational pathways for young individuals remains a barrier to development. Reliance on the natural resource sector has left little room for job creation, leaving the majority of Laotians working within the failing agriculture sector³⁷.

This has amplified, arguably the most prevalent cause of instability within the Laotian economy; horizontal inequalities. Disparities in the economic situations of Lao's rural and urban populations are well documented. Sanitation and access to clean drinking water remains unavailable to a sizeable portion of those living in rural areas³⁸. Urbanisation is increasing; further widening the gap between the urban populous and those residing in rural Laos³⁹. Within rural regions, a further horizontal inequality exists between the ethnic Laos majority and minority ethnic groups⁴⁰. Poverty is more prevalent in minority ethnic populations who are geographically located in the highlands where food scarcity is particularly common due to the nature of the geophysical environment⁴¹.

As previously stated, the poorest rural communities rely heavily on the agricultural industry for their livelihood. Coupled with environmental barriers to productivity, the profitability of the industry has also been challenged by the overwhelming number of Unexploded Ordnance (UXO)⁴². As a result of US involvement in the Second Indochina war, per capita, Laos is 'the most heavily bombed nation in the world'⁴³. Communities are unable to farm land or construct basic infrastructure (sanitation, roads, houses) for risk of being severely injured or killed by an explosion from the some 80 million cluster munitions which failed to detonate⁴⁴. Of the 45 poorest districts in Laos, 41 of those suffer from the highest rates of UXOs⁴⁵. While progress has been significant thanks to organisations such as Mines Advisory Group who employ locals to undertake clearing, a considerable amount of UXOs remain. UXO Lao estimated they had cleared only 0.05% of cluster munitions in the period from 1996-2010⁴⁶.

Beyond inequality between rural populations, gender inequality also remains prevalent, limiting the capacity of the economy to flourish. While legislation offers adequate protection to women, some social and cultural norms, particularly within minority populations remain problematic⁴⁷. Discrimination occurs in relation to inheritance rights, women remain subject to being 'sold' into marriage and domestic violence is widespread⁴⁸. Women are underrepresented within the workforce, as traditional customs prevent women commuting far to work⁴⁹. Human trafficking continues to disproportionately affect women, with 72% of victims being females aged 18 or younger⁵⁰. Women in rural areas are particularly likely to be exploited for trafficking purposes. As organisations such as the UNDP acknowledge, beyond the protection of women's human rights, gender equality is also crucial for ensuring the populous as a whole is able to develop effectively⁵¹.

RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

The second risk factor concerns any 'past or current serious violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct, and including those amounting to atrocity crimes, that have not been prevented, punished or adequately addressed and, as a result, create a risk of further violations'. Most relevant to the situation in Laos are systematic violations of political and civil rights and discrimination of protected groups which also contribute to the applicability of this Risk Factor. While some past and current violations are worth noting, there is no evidence of such incidences 'assuming an early pattern of conduct' or amounting to atrocity crimes in themselves.

Past and Present Violations of International Human Rights and Humanitarian Law

Indicator 2.1 refers to 'past and present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations, or individuals'. The relationship between the Laotian Government and the ethnic Hmong hill tribe has been tumultuous for a number of decades⁵². Hmong fought with the French during colonial wars and with the United States during the second Indochina war, naturally causing tension with the communist LPRP regime that eventuated after independence⁵³. Hmong resistance groups formed and conflict in the 1970's and 80's was quite violent, with the Laos government responsible for a number of violent assaults on civilian Hmong⁵⁴. The Hmong who can be defined as a 'protected group' under the Framework⁵⁵, commonly face discrimination and are subject to violent practices by the government. Hmong civilians faced torture and other human rights abuses, prompting many to flee to Thailand⁵⁶. More recent incidents regarding the treatment of the Hmong by the Laotian government are to be discussed in **Risk Factor 9**.

Human Rights Watch has reported extensively on the treatment of those residing in drug 'treatment' facilities within Laos. In particular, the treatment of those in Somsanga Treatment and Rehabilitation Centre in Vientiane has been well documented⁵⁷. Marketed as a voluntary therapy program, evidence suggests that Somsanga is actually primarily punitive in nature with some inmates driven to take their own lives⁵⁸. Those detained are subject to indefinite detention without trial and are at risk of beatings and other physical abuse in contravention of international human rights law⁵⁹. Additionally, the centre appears to have transformed into a mechanism for the Laotian government to isolate those they consider 'undesirable' from the rest of society, through detention of homeless people and those suffering from mental illness⁶⁰.

The United States Department of State maintains that as at 2011 there was no evidence to support the claims of human rights violations occurring in Somsanga⁶¹. It should be noted that the United States has funded the Drug Centre for a number of years and continues to do so, announcing in February of 2016 that they would fund a reservoir and green house program for detainees⁶². This is in direct contradiction to the reports of abuse tabled by Human Rights Watch, who condemn the US embassy's involvement in the Centre⁶³. Reports suggest that more broadly, prison conditions across the country are inconsistent with human rights standards and of the Convention against Torture, to which Laos is a party⁶⁴. The Laotian government and the United Nations Office on Drugs and Crime deny that such abuse occurs, contributing to the applicability of **Indicator 2.6**.

Violations of civil and political rights by the Laotian authorities are commonplace. While such rights are nominally protected under the constitution⁶⁵, and by the International Covenant on Civil and Political Rights to which Laos is a party, in practice, they are frequently and systemically abused. Religious freedom is restricted, as is freedom of speech. Such violations are discussed more extensively in relation to **Risk Factor 6**.

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

The third risk factor concerns 'circumstances that negatively impact on the capacity of a state to prevent or halt atrocity crimes'. A weakness of state structure, while not necessarily a cause of atrocity crimes in and of itself, can be indicative of a State's ability or inability to protect its own population against an atrocity crime's occurrence. When considered in light of other applicable Factors, weakness of state structure may be particularly influential in determining the overall likelihood of atrocity crimes occurring.

Institutional Protections

Indicator 3.1 observes a 'national legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties'. The national legal framework as it currently stands requires some improvements. The Constitution, which came into force in 1991 provides for a number of rights, though does not reference international law⁶⁶. Laos is not a party to the Rome Statute, such that any atrocity crimes perpetrated against the civilian population may not be readily tried in the International Criminal Court⁶⁷. The UNDP notes that while an adequate legal framework incorporating decrees and resolutions is in operation, there is a need for increased enforcement capacities⁶⁸. The UNDP has been implementing, for a number of years, various plans to increase the application of the rule of law within Lao's legal framework⁶⁹. The lack of operation of the rule of law within Laotian legal systems has created a legal system in which law is applied arbitrarily, often at the expense of civilian rights⁷⁰. Unfortunately, between provinces, application of the rule of law and of the national legal framework lacks the consistency required to provide effective protection for all citizens⁷¹. The cultural particularities of some ethnic communities within Laos still favour the operation of specific traditional legal practices⁷². The Legal Sector Master Plan aims to address this problem by enhancing access to justice and implementing streamlined, cohesive legal processes throughout the country⁷³.

Sentences of detention are rarely limited to that which is prescribed by law⁷⁴. Concerningly, the death penalty is in operation for a number of criminal offences, including murder, terrorism, drug trafficking and robbery⁷⁵. 89 individuals are currently on death row, though there is no record of any executions having taken place for over 20 years⁷⁶. Lao's refusal to establish a formal moratorium on the death penalty in line with International Law was the subject of concern for a large number of States during the Universal Periodic Review (UPR) of 2015⁷⁷.

The UPR also called for the ratification of a number of international human rights and humanitarian law treaties⁷⁸. Relevant to the aforementioned disappearance of Sombath Somphone is the Laotian government's non-ratification of the International Convention for the Protection of All Persons from Enforced Disappearances⁷⁹. Laos has ratified nine of eighteen United Nations Human Rights Instruments⁸⁰. Those ratified include the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁸¹. Optional Protocols to the International Covenant on Civil and Political Rights, including that related to the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families have not been signed or ratified⁸². While formal commitments to international law are commendable, doubt remains about their implementation in practice. Reports suggest that the State continues to violate international human rights standards⁸³. Freedom of speech and other associated civil and political rights remain heavily restricted⁸⁴. The allegations of mistreatment of drug offenders in detention and of the Hmong population, as discussed under 'Current Violations' in relation to **Risk Factor 2** coupled with the restrictions on civil and political rights violations discussed in **Risk Factor 6** are indicative of a legal framework in need of greater protection for those subject to it.

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

It becomes clear from an examination of the current judicial, law enforcement and human rights institutions that there is a tangible means-end gap as a result of insufficient resources and training mechanisms (**Indicator 3.2**). The UNDP considers the most pertinent issue to be the absence of adequately trained professionals in the legal sector⁸⁵. In March of 2016, UNDP noted that for a country of almost 6.8 million people, fewer than 200 lawyers are currently practising within Laos⁸⁶. Judicial training does exist, though lacks sufficient explanation of how judges should apply human rights law and fair trial procedures⁸⁷.

Integral to the operation of an effective legal framework is that citizens are informed of their rights and obligations under the law. Dissemination of legal information to populations remains a serious issue. However, the opening of a Legal Aid Center and Information Kiosk in one province at the beginning of 2016 is a promising development⁸⁸. Minority ethnic groups continue to be disadvantaged by an inability to access adequate legal resources in appropriate languages⁸⁹. In order to remedy this, UNDP has assisted in the implementation of Community Radio initiatives which provide legal updates in native languages⁹⁰. Such initiatives are a positive development and should be expanded where possible.

Judiciary

Indicator 3.3 refers to a 'lack of an independent and impartial judiciary'. There have been reports of corruption within Lao's judiciary and of extensive influence over the judiciary by members of the LPRP Executive⁹¹. Freedom House has gone so far as to expressly state that the courts exist under the control of the LPRP⁹². The National Assembly Standing Committee is responsible for the appointment and dismissal of the judiciary⁹³. This was previously a task undertaken by the government and while in practice, this appears an improvement, of the 149 seats in the National Assembly a mere 5 are not members of the LPRP⁹⁴. Consequently, bribery is rife and regrettably, no jury system is currently in operation⁹⁵. Instead, cases are adjudicated in a panel arrangement, increasing the necessity for judges who are independent, impartial and adequately trained⁹⁶.

Security Forces

Indicator 3.4 relates to a 'lack of effective civilian control of security forces'. The state military holds a prominent position in the influence of state affairs and does not exist under civilian control⁹⁷. The Lao People's Army (LPA) is considered to be a 'third pillar' of the State, and as such conforms to the LPRP's wishes for the military to act as a mechanism to subdue any 'political and civil unrest' of the civilian population⁹⁸. Military spending was last recorded in 2011 as accounting for a mere 0.23% of Lao's GDP. The Ministry of Public Security is similarly under the control of the LPRP, though a mechanism for citizen complaints in relation to police behaviour does exist¹⁰⁰.

Corruption

Indicator 3.5 relates to 'high levels of corruption or poor governance'. High levels of corruption persist within the Laotian government, with Laos routinely ranking in the lower quartile for corruption measures of countries globally. Transparency International allocated Laos a Corruption Perception Index score of 25 (where 0 is 'highly corrupt' and 100 is 'very clean') in 2015, ranking Laos in 139th position out of 168 countries¹⁰¹. Absolute control by the State over the majority of sectors prevents effective accountability mechanisms for mitigating corruption and consequently, bribery is common¹⁰². In January 2016, the former Finance Minister Phouphet Khamphounvong was arrested due to allegations of involvement in a 'ghost project' (where money is provided to officials for projects and the projects never eventuate causing a loss to the State), along with the Governor of Oudomxay province¹⁰³. The project is reported to have suffered a loss of \$36 million US dollars at the hands of Khamphounvong and his colleagues¹⁰⁴. There is evidence to suggest that this is not an isolated incident.

RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

Promisingly, Freedom House reports an improvement in transparency in relation to the operation of government, with legislative bills now being made available to the public prior to their commencement¹⁰⁵. The amount of presidential decrees being issued as compared with the passing of legislation through parliament, also appears to be decreasing¹⁰⁶. Despite this, elections remain widely recognised as unfair and LPRP continues to exert influence over all facets of government and non-government institutions (such as the judiciary)¹⁰⁷.

Accountability

Indicator 3.6 relates to an 'absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims'. Corruption in Laos is symptomatic of the lack of government oversight and accountability. As previously mentioned, the LPRP retains control over virtually all areas of government and public life¹⁰⁸. As will be evidenced in **Risk Factor 6**, the media is incapable of acting in its role as 'fourth estate'. Courts are not required to publish their decisions. However, promisingly, the Legal Sector Master Plan aims to implement a peer review mechanism to ensure greater accountability in this field¹⁰⁹. Unfortunately, rural populations are frequently relocated due to government projects without due compensation¹¹⁰. Recent initiatives to allow for a complaints mechanism regarding government policy is a positive advancement¹¹⁰. The UNDP's implementation of a computer program to allow public servants to monitor aid projects is another notable improvement¹¹².

Awareness of Human Rights and Capacity for Reform

There is no evidence that the Laos government has taken steps to train military forces or those exercising other security roles about the topic of international human rights or humanitarian law (**Indicator 3.7**)¹¹³. Laos appears to lack the resources for necessary reforms or to ensure protection of populations (**Indicator 3.9 and 3.10**). It is difficult to ascertain presently whether such resource deficiencies stem from misappropriation of funds through corruption, inefficient allocations or whether there is merely a tangible financial deficit.

RISK FACTOR 4: MOTIVES OR INCENTIVES

Risk factor 4 refers to the reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals. The likelihood of an atrocity crime occurring within a given State can also be influenced by an actor's motivations or incentives to commit such acts. The degree to which motives and/or incentives can affect the occurrence of an atrocity crime is difficult to categorise. Nevertheless, it is important to retain an awareness of the circumstances which might encourage actors to use violence in the attainment of their goals. Few factors are found to be applicable to the current situation in Laos.

Consolidation of Power or Economic Power

Indicator 4.1 and 4.2 are related to the 'political motives, particularly those aimed at the attainment or consolidation of power' and 'reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals, including by actors outside of State borders' respectively. Political rule remains largely uncontested, such that no evidence exists of another political group attempting to attain power (**Indicator 4.1**). Similarly, the rule of the LPRP is such that there exists no necessity for the LPRP to attempt to 'consolidate' their power by way of atrocity crimes (**Indicator 4.1**). The control currently exercised by the LPRP over the civilian population is sufficient in the achievement of the LPRP's political goals. As previously articulated in discussion of **Factors 1 and 3**, deep horizontal inequalities and corruption are present in Laos, to the benefit of political elites. Continued interest by other States in the profitability of the natural resources which the Laotian government currently exploits contribute further to the applicability of **Indicator 4.2**, in relation to economic interests. It is plausible to suggest that the LPRP elites are motivated to maintain their current degree of wealth and control over natural resources.

There is no evidence to suggest that the aforementioned economic interest is coupled with a strategic or military interest (**Indicator 4.3**).

Identity Politics

While some tensions in relation to the treatment of the ethnic Hmong tribe have occurred in Laos, there is no recent evidence to suggest that the homogenisation of any area is currently of interest to any actor (**Indicator 4.4**). The LPRP undoubtedly favours the supremacy of communist ideology such that **Indicator 4.7** may be applicable. However, given the absolute control that the government already exercises over the population, it is questionable whether or not this could be described as a motivation for carrying out an atrocity crime.

RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

Risk factor 5 points to 'conditions that indicate the ability of relevant actors to commit atrocity crimes'. Atrocity crimes are not carried out on a whim. They require planning and resources. As such, an important indication of the likelihood of an atrocity crime's occurrence is the capacity of relevant actors to commit such crimes. Capacity to commit an atrocity crime is not necessarily indicative of an impending act being committed, particularly where little to no motives or incentives are present. In the present case, while a small number of indicators are present, there does not appear to be adequate practical capacity for the Laos government or other actors to carry out an atrocity crime.

Available Resources

As previously mentioned in relation to **Risk Factor 3**, Lao's military is not particularly well resourced or funded¹¹⁴. Global Firepower ranks Lao's military forces as 121st of 126, with active personnel of a mere 30 000¹¹⁵. Military spending is low and it is not foreseeable that there would be the financial capacity, public or otherwise, to finance an atrocity crime.

Mobilisation and Control of Civilian Population

There is little doubt that the Laos government's control of the media and of the civilian population generally, would provide them with the capacity to encourage or recruit large numbers of supporters from the general public (**Indicator 5.3**). The repressive political regime, particularly given the length of time for which it has existed, has contributed to the creation of a culture of obedience to authority and group conformity (**Indicator 5.4**).

Support System

There is no evidence of the Laos government having links with other armed forces or non-State armed groups, or of their presence within Laos (**Indicator 5.5**). While financial and political support is provided to Laos by wealthy nations in the form of foreign aid, there is no indication that major donors such as the United States and Australia would support the committing of an atrocity crime (**Indicator 5.7**). Quite to the contrary, the support from those actors would likely be hastily withdrawn at any indication of an atrocity crime being perpetrated.

RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

Risk factor 6 refers to the 'absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations or individuals'. Crucial to the prevention of atrocity crimes is the capacity of a State and the international community to halt their occurrence. Taken as a whole, the presence of indicators within this Risk Factor can be indicative of the success with which an attempt to commit atrocity crimes could occur. Some of the indicators in relation to Risk Factor 6 are found to be present in Laos.

Domestic and International Civil Society

Indicator 6.2 refers to a 'lack of strong, organised and representative national civil society and of a free, diverse and independent national media'. Political and civil rights are heavily restricted, weakening civil society. Freedom of assembly is heavily regulated by the State, with an outright ban on public demonstrations or protests¹¹⁶. Freedom of speech and of religion are also heavily restricted. Freedom of association is restricted for workers whose unions must, by law, be under the control of the LPRP's Lao Federation of Trade Unions¹¹⁷. There is no evidence of formal mechanisms which allow protected groups or individuals to empower and protect themselves (**Indicator 6.1**).

Where dissent has occurred, it has been in individual cases which have been met with severe consequences at the hand of the State. The disappearance of Sombath Somphone as previously discussed is a case in point. Additionally, Swiss humanitarian aid worker, Anne-Sophie Gindroz was forcibly removed from Laos in 2012 for opposing the LPRP's authoritarian regime and in particular, its poor reception of NGOs¹¹⁸. More recently, in March 2016, three individuals were arrested under the internet laws discussed below which prevent anti-LPRP messages being publicised on social media¹¹⁹. Their punishment included a forced public apology on television and a term of imprisonment¹²⁰.

Media in Laos operates under the strict control of the State¹²¹. The Laos Constitution provides for 'freedom of press' though in practice, a number of heavy restrictions and regulations are placed upon the operation of media outlets¹²². A mere three of forty TV channels are privately-owned suggesting that Lao's mediascape cannot be categorised as 'diverse'¹²³. Regulations introduced in January of 2016 further restrict the publication rights of national and international media outlets by requiring that coverage be approved by the Laos government prior to its release¹²⁴. Criticism of the State is punishable by criminal prosecution such that self-censorship of media outlets who fear legal action is rife¹²⁵.

The rise of social media and internet use has not escaped government attention and control either, with legislation being passed in 2014 providing under Article 9 that Internet users found to be criticising the LPRP will be subject to criminal penalties (jail sentences)¹²⁶. Article 9 also bans "spreading information that distorts the truth or tarnishes the dignity and rights of individuals, sector, institutions or organisations" [emphasis added]¹²⁷. The regulations also prohibit individuals creating anonymous profiles online, criminalising those who do not provide their full name and address¹²⁸. While there has been no direct evidence that the LPRP is conducting censorship of the content and websites which Laotians may access online, the 2014 Internet Laws provide for extensive surveillance of online activity for a number of government agencies¹²⁹. Such regulations are a blatant restriction on the freedom of speech of Laotian civil society.

International Media

Indicator 6.3 refers to the 'lack of interest and focus of international civil society actors or of access to international media'. Some international media is accessible from within Laos though government censorship has been reported¹³⁰. Restrictions on the operation of foreign media while in Laos were amended in January of 2016 to require the submission of media content to the Laos govern-

RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

ment to gain approval before publishing¹³¹. Additionally, foreign journalists are to provide the Ministry of Foreign Affairs with notice of what they intend to cover ahead of time¹³². The visa process for visiting media outlets is particularly rigorous¹³³. Recently, controversy arose over the coverage of the ASEAN Summit by foreign media outlets, though officials have claimed to ensure exceptions to the rules in this case¹³⁴. Consequently, the situation in Laos could not be described as one which encourages access to international media by its own citizens or which facilitates the distribution of information about Laos to the international community.

Limited Presence of International Actors

Indicator 6.4 refers to a 'lack of or limited presence of the United Nations, INGOs or other international or regional actors in the country and with access to populations'. The United Nations operates an office in Vientiane and several UN agencies (including UNDP) also have country offices located throughout Laos, maintaining a definitive presence in the network of international actors¹³⁵. The operation of both national and international Non-Government Organisations in Laos is, however, extremely restricted¹³⁶. Between 1953 and 1986, a mere three international NGOs were permitted to work in Lao PDR¹³⁷. Freedom House reports that following the signing of the International Covenant on Civil and Political Rights, Laos established a licensing system for NGOs. The number of international NGOs operating within Laos has now increased to over 150, though heavy restrictions on their operation remain¹³⁸. NGOs wishing to work within Laos must first seek permission from the State under the license scheme, with the State routinely denying access¹³⁹. Even where access is granted, NGOs face heavy government restrictions in relation to a number of matters, including; 'operating permits, office approval, project approval, approval to recruit staff, and approval to undertake activities not linked to a project'¹⁴⁰. Consequently, the ability of such actors to effectively access communities and address relevant problems is limited.

Nevertheless, notable progress has been made in some areas, particularly in relation to the protection of women and children. The passing of a presidential decree by the Laotian government in 2004 signified the beginning of an ongoing commitment to the protection and development of women¹⁴¹. The decree recognised the integral role the Lao Women's Union (LWU) plays in advocating for the rights and interests of women¹⁴². Just 2 years later in 2006, the LWU with the assistance of UNICEF opened Lao's first women's and children's shelter for victims of domestic violence or trafficking¹⁴³. UNICEF also provided financial support for the production of a documentary televised on Lao stations for the purposes of educating the population on the risks of being trafficked¹⁴⁴. The Law on Development and Protection of Women was followed in 2007, by another presidential decree, the Law on the Protection of the Rights and Interests of Children¹⁴⁵. This law was followed by the passing of an additional law in 2014, 'Preventing and Combatting Violence against Women and Children' which along with UNICEF's continued support has led to considerable progress in relation to women's and children's issues¹⁴⁶. A number of positive developments have occurred as a result, such as the government's implementation of a formal child protection system in collaboration with UNICEF¹⁴⁷. Available services include a youth counselling hotline, establishment of Child Court Chambers and the development of Juvenile Criminal Procedure Law¹⁴⁸.

Regional and International Partnerships

Laos has performed well in relation to participation in international and regional organisations such that **Indicators 6.5 and 6.6** appear inapplicable. Laos maintains a Permanent Mission to the United Nations in New York, of which it has been a full member since 1955¹⁴⁹. Laos is also actively involved in ASEAN, acting in the position of Chair for 2016 and hosting the 2016 ASEAN Summit. Through these organisations, Laos has also proved eager to increase its political and economic ties

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with countries within the region, in particular with China and Thailand in relation to hydropower dams on the Mekong¹⁵⁰. On an international level, Laos has left some members of the international community a little frustrated at its lack of responsiveness to the recommendations of its Universal Periodic Reviews¹⁵¹.

Despite commendable participation in international and regional bodies, Laos continues to place restrictions on the operation of NGOs as previously discussed and thus fails at least in part, to co-operate with human rights mechanisms (**Indicator 6.7**). There is no evidence of an early warning mechanism being in place for atrocity crimes (**Indicator 6.11**).

Support of Neighbouring States

Indicator 6.10 is related to the 'lack of support by neighbouring states to protect populations at risk and in need of refuge, including the closure of borders, forced repatriation or aid restrictions'.

Since 2004, members of the ethnic Hmong tribe have been moving across the border into Thailand in order to apply for refugee status¹⁵². At one point in 2007, Amnesty International reported that as many as 7000 Hmong were living in a makeshift camp in Northern Thailand¹⁵³. By January 2009, that number had dropped to around 5000, with the Thai Foreign Ministry threatening their return to Laos¹⁵⁴. At this point, 150 recognised refugees had been detained in a Thai immigration facility for over 2 years¹⁵⁵. In December of 2009, the Thai government repatriated, by force, over 4000 Hmong citing a Laos government assurance that the returnees would be treated humanely¹⁵⁶. The move quickly sparked condemnation from the United Nations, who urged Thailand to reconsider and provide protection to the Hmong who were at risk of human rights abuses in Laos¹⁵⁷. Recent reports of Vietnamese involvement in conflict between the Hmong and the Laos government is similarly concerning¹⁵⁸. The Hmong will be further discussed in relation to **Risk Factor 9**, though this event appears indicative of neighbouring states failing to provide protection.

RISK FACTOR 7: ENABLING CIRCUMSTANCES OF PREPARATORY ACTION

Risk factor 7 refers to the Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration. Given that atrocity crimes require planning and resources, it is often possible to identify circumstances where actors are beginning to undertake such activities. While the lack of media freedom and restrictions on NGOs may be somewhat applicable to **Indicators 7.6 and 7.7**, impositions on the press and civil society are well established within Laos and are not sudden, nor do they appear to be occurring in conjunction with any of the other indicators of Risk Factor 7.

RISK FACTOR 8: TRIGGERING FACTORS

Risk factor 8 relates to 'events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset'. None of the indicators in Risk Factor 8 are currently applicable to the situation in Laos, such that no unpredictable events or circumstances have occurred which may contribute to a sudden increase in the likelihood of atrocity crimes. While **Indicator 8.10**, referring to discovery of natural resources or launching of exploitation projects that have a serious impact on civil communities, is the case in Laos, there has been no recent change in this practice worth noting.

SPECIFIC RISK FACTORS

CRIMES AGAINST HUMANITY

RISK FACTOR 9: INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

Risk Factor 9 relates to 'past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes'. Risk Factor 9 is specific to the atrocity crime of genocide and refers to discrimination of a protected group on the basis of identity (national/ethnic/racial/religious). The Hmong ethnic tribe are considered a 'protected group' under the meaning provided in Section I of the Framework given they have been targeted on the basis of their ethnicity. As previously stated, tension between the Laos government and the Hmong has existed for a number of decades, however in the early 2000's reports emerged of particularly poor treatment towards the Hmong. It is these events which satisfy some of the indicators of this Risk Factor, though it should be noted that the events do not appear to amount to satisfaction of Risk Factor 10.

Discrimination

Indicator 9.1 refers to 'past or present serious discriminatory, segregational, restrictive or exclusionary practices, policies or legislation against protected groups'. Stereotyped as an 'anti-government' group since the end of the Second Indochina War, the ethnic Hmong have faced continuous abuse from the Laos government. The Hmong have been confined to the isolated mountainous regions towards the North of the country¹⁵⁹. The highly restrictive state of the law regarding the civil and political rights, as mentioned in **Risk Factor 2 and 3**, of all Laotians extends to the treatment of the Hmong. As such, they are unable to freely express their cultural and religious identity for fear of persecution¹⁶⁰. Additionally, the systemic inequalities between rural and urban populations as expressed in **Risk Factor 1** continue to disadvantage the Hmong. Laos fails to recognise the Hmong as indigenous people and as such there currently exists no legislation which refers to them in particular or issues they may face (**Indicator 9.2**).

Access of Protected Groups

Indicator 9.4 relates to 'past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities, participation in decision making processes, security, expression of group identity or to perceptions about the targeted groups'. As previously mentioned in relation to **Risk Factor 2**, the Hmong and Laos government have been involved in violent conflict on a number of occasions. In 2006, Amnesty International reported that 26 people were 'massacred' by Laos government troops in the mountainous areas the Hmong inhabit¹⁶¹. Other reported incidents include soldiers physically harming and poisoning Hmong civilians¹⁶². While the conflict has its basis in political allegiances (the Hmong sided with the US during the Second Indochina War)¹⁶³, there also appears to be tension surrounding the Lao government's exploitation of Hmong indigenous land¹⁶⁴. Reports in April 2016 suggest that in recent times the LPRP, in partnership with Vietnam, have been conducting unsustainable activities such as hydro-power dam projects for commercial gain at the expense of the Hmong¹⁶⁵. The most recent incursions are said to have begun in late 2015 and involved the positioning of military personnel in the surrounding regions¹⁶⁶. As at June 2016, reports suggested further that soldiers had begun to operate within the region, including reports of attacks in the jungle regions the Hmong inhabit¹⁶⁷.

RISK FACTOR 9: INTERGROUP TENSIONS OR PATTERNS OF DISCRIMINATION AGAINST PROTECTED GROUPS

Ability to Address Conflict

Indicator 9.6 relates to a 'lack of national mechanisms or initiatives to deal with identity-based tensions or conflicts'. There is no apparent national mechanism to 'deal' with the Hmong situation. Instead, the government has resorted to incommunicado detention and intimidation tactics which encourage the movement of Hmong across the borders of neighbouring countries¹⁶⁸.

RISK FACTORS 10 - 14

Special Risk Factor 10 through 14 are not found to be currently applicable to the situation in Lao PDR. While the situation regarding the Hmong is cause for concern, it does not appear to have characteristics of an intent to destroy entirely, is not widespread or systematic, occurring under a plan or policy or indicative of a threat amounting under international law.

CONCLUSION AND RECOMMENDATIONS

An assessment of Lao's current situation is indicative of a civilian population severely repressed by a political regime. It is not currently indicative of a situation in which an atrocity crime is highly likely to be committed. The risk of an atrocity crime occurring in Laos People's Democratic Republic is assessed as low. Recent developments regarding an increase in violent treatment towards the Hmong people by the Laos government is nevertheless cause for considerable concern and could result in elevated risk if not addressed adequately (**Risk Factor 9**). Broadly the situation in Laos is demanding of increased attention in political and academic spheres. While not all Risk Factors need to be present for there to be a high risk of an atrocity crime occurring, a greater number of applicable Risk Factors is indicative of a greater risk of atrocity crimes occurring. In the case of Laos, a number of indicators were satisfied in relation to four Common Risk Factors and one Special Risk Factor.

An autocratic political regime and economic instability (**Risk Factor 1**) is not conducive to a society which protects the civil and political rights of its populous under international law (**Risk Factor 2**). The current weak state structure (**Risk Factor 3**), and an absence of mitigating factors (**Risk Factor 6**), in particular of any form of government accountability is of concern.

A number of recommendations are presented below which may assist in the overall prevention of atrocity crimes. Recommendations have been listed in the order of their perceived importance for each area.

	RECOMMENDATIONS FOR THE GOVERNMENT OF LAO DPR
1	As a member of ASEAN, the Lao government is a signatory to various agreements and declarations of the regional organisation on human rights protection and protection of ethnic minorities, including the ASEAN Declaration on Human Rights, which uphold the primary responsibility of member states to promote and protect human rights.
2	The Lao government should take seriously its primary responsibility to protect human rights of all people in the country. Careful attention should be paid towards the protection of ethnic minorities in Laos, including the Hmongs, and efforts taken to ensure that the government complies with relevant international law.
3	The government should also consider easing restrictions on the content and operation of national media and the operation of national and international NGOs.
4	The government should take active steps to tackle corruption by creating accountability mechanisms in both government and judicial sectors.
5	The government should continue its commitment to addressing issues which disproportionately affect women and children such as trafficking and family violence. The considerable progress which has already been made is a testament to the benefits of a strong partnership between the Laos government and the international community as facilitated by UNICEF.
6	Steps should be taken to implement a training program for state security forces on the purpose and content of International Humanitarian Law
7	The government should take steps to implement a national action plan for the improvement of basic human rights and look to collaborate more effectively with OHCHR on the implementation of the recommendations of the 2015 UPR.
8	The government should consider holding a national dialogue on the implementation of the Responsibility to Protect and appointing a National R2P Focal Point to coordinate action on atrocities prevention in the country.

	RECOMMENDATIONS FOR THE INTERNATIONAL COMMUNITY
1	ASEAN and its dialogue partners should provide capacity building assistance to Laos in the area of human rights protection and protection of minorities in the country. The government should be encouraged to seriously consider signing and ratifying the Rome Statute, the International Convention for the Protection of all Persons from Enforced Disappearances and Additional Protocols of International Human Rights treaties to demonstrate Laos' commitment to international human rights norms.
2	The United States and other concerned countries should significantly increase its commitment to clearing unexploded ordnance. Continued reliance on agriculture as a source of income for rural populations will only prove profitable if there is a marked increase in the rate of unexploded ordnance clearing. For some perspective, in 40 years less than 1% of UXOs have been cleared from Laos. This is necessary in order to aid food production, decrease poverty and empower rural communities. Greater attention, in the meantime, needs to be afforded to education pathways which allow for training in a variety of skills.

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