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JOINT SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS, THE EXTRA – TERRITORIAL OBLIGATION WATCH COALITION AND LAND WATCH THAI FOR THE PREPARATION BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF A LIST OF ISSUES FOR THE EXAMINATION OF LAO PEOPLE’S DEMOCRATIC REPUBLIC’S INITIAL REPORT UNDER THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Submitted on 7 August 2023

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists (ICJ) promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

The Extra-Territorial Obligation Watch Coalition (ETO Watch Coalition) is a network of NGOs that focuses on transboundary issues related to human rights, community rights, natural resources, and the environment. The coalition utilizes a monitoring method to track and monitor investments in large-scale development projects in sectors such as energy, mining, economic land concessions, and special economic zones. This monitoring extends to Thai investors and investors from other nations in Southeast Asia, with particular emphasis on the Mekong region or CLMV countries, namely Cambodia, Laos, Myanmar, and Vietnam.

Land Watch Thai (LWT) was established in 2014 by civil society groups that focused on land and environmental issues. LWT was created with the objective of supporting and promoting the efforts of land and environmental rights movements affected by regulations and policies related to land rights and forest management.

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I. Introduction

1. During its 73rd meeting, from 16 October 2023 to 20 October 2023, the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights (CESCR) will prepare and adopt a List of Issues (LOI) for its examination of Lao People's Democratic Republic (Lao PDR)'s implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), including in light of Lao PDR's initial report under the ICESCR.
2. The International Commission of Jurists (ICJ), the Extra-Territorial Obligation Watch Coalition (ETO Watch Coalition) and Land Watch Thai (LWT) welcome the opportunity to contribute to the Committee's preparation of its LOI on Lao PDR. In the present submission, the ICJ, ETO Watch Coalition and LWT wish to draw the CESCR's attention to its concerns about Lao PDR's implementation of and compliance with some of its obligations under the ICESCR. These concerns do not feature in the State initial report and pertain to:
 - a. Human rights violations and abuses of economic, social and cultural rights (ESCRs) resulting from the establishment and development of Special Economic Zones (SEZs) in Lao PDR (Articles 1, 6, 7 and 11);
 - b. Human rights violations and abuses of ESCRs of people living along the banks of the Lower Mekong River, which spans Lao PDR, Cambodia, Thailand and Vietnam, resulting from the construction of dam projects in Lao PDR (Articles 6, 11 and 15); and
 - c. Allegations that human rights defenders (HRDs) working on ESCRs have been subjected to enforced disappearances, killings, arbitrary arrests and detentions. Additionally, there are allegations regarding the misuse of judicial processes to silence HRDs, resulting in whole or in part from the enforcement of laws that do not comply with human rights. Furthermore, there are allegations regarding the failure of Lao PDR to ensure a safe and enabling environment for HRDs to carry out their work.

II. Special Economic Zones¹

3. The information presented in this section draws on a report researched by LWT and released in 2020,² and on interviews with independent researchers and desktop research.

Background

4. The development of SEZs³ in Lao PDR has been associated in many instances with a dilution of legal guarantees for the protection of human rights and with inadequate legal protection of human rights domestically. Reports of human rights violations and abuses of ESCRs are common in SEZs located in the country. These include labour rights abuses (Articles 6 and 7), violations of the rights to an adequate standard of living, as well as instances of failure to

¹ See also: ICJ, 'Mekong Region: Authorities must address the adverse impacts of economic activity in SEZs on the environment and human rights', 2022, available at: <https://www.icj.org/mekong-sezs-human-rights/>.

² Kuaycharoen, P., Longcharoen, L., Chotiwan, P., Sukin, K., Lao Independent Researchers, 'Special Economic Zones and Land Dispossession in the Mekong Region', at 16, 2020, ('2020 SEZ and Land Dispossession Report'), available at: <https://th.boell.org/sites/default/files/2021-05/SEZs%20%26%20Land%20Dispossession%20in%20the%20Mekong%20Region-Update.pdf>

³ Pursuant to the Decree on SEZ in Lao PDR, No. 188/PM, SEZs define as "the area that has specific administration and management mechanism to create favourable conditions to attract investments using high technology, innovation in the production of agricultural products, and clean production using less natural resources and energy for sustainable and environmentally friendly development."

ensure consultation with affected communities about project plans or their future livelihood and living arrangements (Articles 1 and 11).

5. SEZs were first introduced in 2003 with the establishment of the first SEZ of Savan-Seno. Since then, at least 14 SEZs have been established throughout the country, covering a total area of 29,238.69 hectares, with most zone developers being investors from countries such as China, Vietnam, Thailand, Japan and Malaysia.⁴

Relevant Legal Frameworks

6. Initially, SEZ development lacked an overarching legal framework and specific decrees, instead, governed the administration and management of individual SEZs. Later, the Law on Investment Promotion, No. 14/NA, dated 17 November 2016 (the 'Law on Investment Promotion'),⁵ and the Decree on SEZ in Lao PDR, No. 188/PM, dated 7 June 2018 (the 'SEZ Decree'),⁶ were enacted to provide a standardized approach to the rules and incentives offered to zone developers and investors, encompassing various provisions, including the creation of the Special Economic Zone Promotion and Management Office (SEZO) and the Special Economic Zone Authority (SEZA) to manage and oversee the SEZs, as well as the implementation of the One-Stop Investment Service. The SEZ Decree also endows the SEZA with the authority to monitor, inspect, and encourage zone developers⁷ and investors in protecting and preserving the "environment, society, national fine culture, and tradition."⁸
7. Noting some of the existing safeguards listed in both laws, such as the imposition of obligations on zone developers to provide compensation to affected persons for the land allocated for SEZs and to submit an Environmental and Social Impact Assessment (ESIA), the Law on Investment Promotion and the SEZ Decree still lack explicit and adequate provisions for securing the human rights of affected persons, including adequate legal safeguards to prevent forced evictions. They also fail to identify potential human rights risks or risk management strategies related to SEZ project implementation, focusing primarily on the benefits and privileges granted to investors. While additional provisions concerning land acquisition, resettlement, compensation and environmental protections are featured in other national laws, including those listed in the State's initial report submitted by Lao PDR,⁹ there is a lack of compliance with these legislative provisions in practice.¹⁰ For example, the ICJ and LWT are not aware that an ESIA has been conducted in certain zones of the Savan-Seno

⁴ Land Info Working Group, 'How many SEZs in Lao PDR,' 29 August 2019, available at: bit.ly/3Oh3hcs (in Laos)

⁵ Available at: https://policy.asiapacificenergy.org/sites/default/files/LAW%20ON%20INVESTMENT%20PROMOTION%20%28Amendment%29_2016%20%28EN%29.pdf

⁶ Available at: https://laosez.gov.la/pdf/Decree_188GOV_en.pdf

⁷ Given budget constraints, the Lao government encourages the private sector and public-private partnerships to invest in and develop SEZs. The Lao government relies on such entities to build infrastructure (such as roads, electricity, water supply, waste management and telecommunications) within SEZs and even in areas outside the zones, usually in exchange for land and other benefits.

⁸ Article 38, SEZ Decree

⁹ See also: Lao PDR, 'Initial report submitted by the Lao People's Democratic Republic under articles 16 and 17 of the Covenant, due in 2009,' E/C.12/LAO/1, 20 December 2022, e.g. para 10. ('Lao PDR's Initial Report')

¹⁰ Kuaycharoen, P., Longcharoen, L., Chotiwan, P., Sukin, K., Lao Independent Researchers, 'Special Economic Zones and Land Dispossession in the Mekong Region', at 21, 2020, ('2020 SEZ and Land Dispossession Report'), available at: <https://th.boell.org/sites/default/files/2021-05/SEZs%20%26%20Land%20Dispossession%20in%20the%20Mekong%20Region-Update.pdf>

SEZ despite it being a requirement under Lao law.¹¹ In the zones where an ESIA was carried out, affected communities alleged that genuine dialogue with relevant officials was not allowed.¹²

8. Furthermore, the SEZ management bodies, including the Ministry of Planning and Investment, SEZA and SEZO are composed solely of representatives of governmental institutions, without any representation of civil society organizations or the affected communities or SEZ employees.¹³ While several governmental bodies provide official complaint mechanisms for affected individuals to register their concerns, according to HRDs interviewed by ICJ and LWT, they are ineffective.¹⁴

Labour Rights Abuses

9. Reports indicate that in several SEZs, workers face an environment conducive to labour exploitation, with excessive working hours and inadequate working conditions. Instances of serious violations of labour rights, including human trafficking for the purposes of labour and sexual exploitation, have also been reported.
10. The government insists that SEZs will bring development to local communities through “modern jobs with higher incomes”. Indeed, pursuant to Articles 21 and 36 of the SEZ Decree, the developers shall have obligations to promote the employment of Lao labour force, the development of labour skills, and professional upgrading and transfer of technology benefitting Lao workers.
11. In several cases, SEZ companies have committed to providing employment opportunities for the local population within the zone. However, Lao employment in the SEZs is reportedly primarily limited to young women in the unskilled workforce, earning the minimum wage. Skilled and higher-paying jobs are often given to workers brought in from other countries. Reports also continue to surface regarding employers within SEZs disregarding labour law protections, including allegations of forced overtime, restricted holidays, wage deductions for sick leave, harsh working conditions and resort to violence.¹⁵ Casino workers, for example, reportedly have to endure long working hours in a smoke-filled environment.¹⁶
12. In SEZs like the Golden Triangle SEZ (GTSEZ), which serves as a gambling and tourism hub, significant concerns arise regarding criminal activities. These include sexual exploitation and abuse of women and girls, trafficking for forced labour in online scams, and drug trafficking. People from various countries were allegedly lured to the GTSEZ with promises of employment, but many were forced to work as online scammers, reportedly through beatings

¹¹ The Law on Investment Promotion and the SEZ Decree, which were later enacted, also required an ESIA to be submitted as part of the SEZ application (Articles 12, 18, 21, and 28, SEZ Decree; Articles 44 and 59, Law on Investment Promotion).

¹² 2020 SEZ and Land Dispossession Report, at 24.

¹³ See Article 31, SEZ Decree

¹⁴ According to HRDs interviewed by ICJ and LWT, once complaints are submitted, relevant authorities normally resort to negotiations. They have, in several instances, allegedly refused to assist victims in further proceeding with the case to trial, relying solely on negotiation.

¹⁵ For example, RFA, ‘Lao authorities order Golden Triangle SEZ to suspend hiring locals,’ 28 July 2022, available at: <https://www.rfa.org/english/news/laos/hiring-suspension-07282022170307.html>

¹⁶ 2020 SEZ and Land Dispossession Report, at 24-25; and Pinkaew Laungaramsria and Souksamone Sengchanh, ‘Negotiating post-resettlement livelihoods: the Chinese special economic zone and its impact in northwestern Laos,’ 2018, at 10, Canadian Journal of Development Studies, available at: https://data.laos.opendevelopmentmekong.net/en/library_record/negotiating-post-resettlement-livelihoods-the-chinese-special-economic-zone-and-its-impact-in-north (‘2018 Article on SEZs’ Post-resettlement Livelihoods’)

and torture.¹⁷ Reports have emerged of female workers being held against their will, who were forced to work overtime, and, in some cases, trafficked for sexual exploitation.¹⁸ Between the GTSEZ's establishment in 2007 and August 2022, it was reported that the Lao authorities rescued more than 1,680 victims of human trafficking, both Lao nationals and foreign nationals, from the GTSEZ.¹⁹ In 2018, the U.S. government sanctioned the Chinese Chairperson of the GTSEZ as head of a trafficking network for engaging in drug trafficking, human trafficking, money laundering, bribery, and wildlife trafficking, much of which had been facilitated through the Casino located within the GTSEZ.²⁰ Nevertheless, the zone developer has denied accusations of involvement in criminal activities in the zone. Lao SEZ officials did not deny reports of human trafficking, drug smuggling or wildlife smuggling. However, they blamed such abuses on tenants and not on the zone itself, which in itself is not an excuse.²¹ On 21 July 2023, in order to combat rising concerns over criminal activities, the SEZO issued a notice subjecting the GTSEZ to strict entry and exit restrictions during nighttime hours for a duration of 15 days, between 22 July to 5 August 2023.²²

13. It has also been reported that certain SEZs are heavily guarded by officers of the investing companies, limiting the power of the Lao government and law enforcement officers to supervise and monitor the zones. For instance, in the case of the GTSEZ, in June 2023, although Lao authorities were aware of a shooting incident, they were not granted the right to enter the zone to investigate it. An official from the Lao Ministry of Planning and Investment later confirmed this incident, stating that the Lao authorities were unable to participate in investigating crimes that occur within the zone,²³ and actually require permission from officials at the zone to enter.²⁴

Violations of the right to an adequate standard of living, including to adequate housing and adequate food, as well as of the right to work, and failure to ensure consultation

14. Reportedly, persons affected by the SEZs and eviction orders have not been given genuine opportunities to make or challenge decisions regarding project plans or future livelihood and living arrangements. Reports of violations of the right to free, prior and informed consent (FPIC) of indigenous peoples, contrary to the CESCR's jurisprudence,²⁵ as well as the UN

¹⁷ E.g. RFA, '700 Malaysian workers stranded, held for ransom in Lao SEZ', 3 October 2022, available at: <https://www.rfa.org/english/news/laos/ransom-10032022143444.html>

¹⁸ E.g. RFA, 'Lao officials propose new labor contract to protect workers in Chinese-run SEZ,' 25 February 2022, available at: <https://www.rfa.org/english/news/laos/labor-contracts-02252022160405.html>; and RFA, 'Lao authorities order Golden Triangle SEZ to suspend hiring locals,' 28 July 2022, available at: <https://www.rfa.org/english/news/laos/hiring-suspension-07282022170307.html>

¹⁹ RFA, 'Nearly 1,700 human-trafficking victims rescued from Lao SEZ since 2007,' 19 December 2022, available at: <https://www.rfa.org/english/news/laos/human-trafficking-12192022185054.html>

²⁰ U.S. Department of the Treasury, 'Treasury Sanctions the Zhao Wei Transnational Criminal Organization,' 30 January 2018, available at: <https://home.treasury.gov/news/press-releases/sm0272>

²¹ Thibault Serlet, 'Golden Triangle: The world's worst special economic zone,' Investment Monitor, 28 March 2022, available at: <https://www.investmentmonitor.ai/comment/golden-triangle-special-economic-zone-laos-worst/>

²² The Laotian Times, 'Golden Triangle Zone Imposes Nighttime Entry Ban to Combat 'Social Ills',' 24 July 2023, available at: <https://laotiantimes.com/2023/07/24/golden-triangle-zone-imposes-nighttime-entry-ban-to-combat-social-ills/>

²³ RFA, 'Laotian arrested after 2 Chinese nationals shot in Bokeo economic zone,' 30 June 2023, available at: <https://www.rfa.org/english/news/laos/bokeo-shooting-06302023150522.html>

²⁴ RFA, 'Lao authorities seem powerless to stop crime in Golden Triangle economic zone,' 25 November 2022, available at: <https://www.rfa.org/english/news/laos/golden-triangle-11252022131629.html>

²⁵ E.g., CESCR, 'General Comment No. 7: forced eviction,' 20 May 1997 ('General Comment No. 7') and CESCR, 'General Comment No. 26 on Land and Economic, Social and Cultural Rights,' 22 December 2022 (E/C.12/GC/26) ('General Comment No. 26').

Declaration on the Rights of Indigenous Peoples, further exacerbate these concerns. Such practice also undermines the right to participate in public affairs, including in the decisions of one's government.²⁶ Moreover, the granting of large-scale concessions to investors in SEZs also lacked adequate safeguards against forced eviction. Reports indicate instances where there was a lack of provision of legal remedies, failure to provide adequate compensation and alternative housing despite domestic law guarantees,²⁷ and a lack of protection for the legitimate tenure rights of smallholders. These instances are in contravention of international human rights law and standards, such as those set out in the CESCR's General Comment No. 4, 7 and 26, and the Basic Principles and Guidelines on Development-based Evictions and Displacement.

Failure to ensure consultation, FPIC and provision of legal remedies

15. According to interviews with HRDs, consultations conducted with affected communities primarily focused on disseminating positive information about the project. Many affected communities were not fully aware of the implications on their work, standard of living and cultural life when relocating to alternative lands.
16. Particularly in early years, limited consultation occurred, in part, due to the absence of adequate laws and policies. For example, in the case of the Savan-Seno SEZ, established in 2003, residents in and around the SEZ were reportedly not consulted before the resettlement and compensation process was approved and completed.²⁸ Concerns were also raised regarding the designation of industrial zones within the SEZs that included plots of land previously designated as protected forest areas.²⁹ Similarly, in the GTSEZ, established in 2007, inhabitants of a village hailing predominantly from ethnic Leu and Nyouan communities reportedly opposed the forced relocation and were denied their right to FPIC. They took action by sending a petition against the resettlement project to the government. However, their plea was rejected, based on the fact that the project had already received approval.³⁰

Failure to provide legal security of tenure, compensation and adequate housing

17. There have been instances where communities have been forcibly evicted from a site, through the granting of large-scale concessions to investors to enable the development of a SEZ, without adequate compensation and alternative housing.
18. As stated in the State's initial report, the land of Lao PDR is under the ownership of the national community, the State represents the ownership holder and manages the allocation of land through land allocation plans, land use planning and land development.³¹ The Land Law, No. 70 /NA, dated 21 June 2019, allows the State to reacquire land for public purposes

²⁶ See, e.g.: UDHR, art. 21; CEDAW, art. 7; and CRC, art. 13; see also UDHR, arts. 19, 20; ICCPR, art. 19; ICESCR, art.13. The requirement to ensure meaningful consultation is also guaranteed under a number of international environmental instruments and best practices; e.g., Principle 10 of the Rio Declaration on Environment and Development and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). While Lao PDR is not a party, the Aarhus Convention sets out international best practices for procedural obligations and public participation in environmental decision-making and calls for transparency and participation in decision-making.

²⁷ E.g. Decree on the Compensation and Resettlement of the Development Project, No 192/PM, 7 July 2005 ('2005 Decree on the Compensation')

²⁸ 2020 SEZ and Land Dispossession Report, at 23-24; China Dialogue, 'Who is Laos' first special economic zone benefitting?', 25 October 2019, available at: <https://chinadialogue.net/en/business/11609-who-is-laos-first-special-economic-zone-benefitting/>

²⁹ 2020 SEZ and Land Dispossession Report, at 24.

³⁰ 2018 Article on SEZs' Post-resettlement Livelihoods, at 8.

³¹ Lao PDR's Initial Report, para. 8.

or national development projects.³² However, such purposes can be very broadly interpreted to include economic development for private gain.³³

19. Concessions³⁴ became the main strategy in developing SEZs without sufficient safeguards against forced eviction and protection of local people's land tenure rights, access to, use of, and control over land. Policies to protect the legitimate tenure rights of smallholders from risks arising from large-scale tenure transactions, such as ceilings on permissible land transactions, were also absent.
20. SEZ-related laws impose an obligation on zone developers to provide "compensation"³⁵ if the allocation of land for establishing an SEZ includes land for which the State has granted land use rights to individuals or other entities/bodies, with the assistance of local authorities.³⁶ However, the compensation provided may not always be fair due to a lack of clear standards and transparency in determining compensation. To best of the authors' knowledge, in several cases, decisions regarding compensation depended on the discretion of Committees, typically comprising governmental officers,³⁷ and, in some cases, involved negotiation with the affected residents.
21. For example, in the Savan-Seno SEZ, it has been reported that at least 400 families received compensation for crops, trees and houses, but not for the land itself, allegedly due to the families' illegal occupation of conservation forest areas. However, the affected communities assert that they had been residing on the land for generations, predating the declaration of these areas as conservation forest areas.³⁸ Another example is the Vientiane-Long Thanh SEZ, established in 2008. Initially, the company and relevant government agencies informed local residents about the government's development plan, but later allegedly summoned villagers to collect inadequate compensation without reaching a clear agreement. Compensation was reportedly based solely on the value of their crops, excluding the value of the land for villagers not holding titles. Subsequently, some households refused to accept the compensation they were offered, considering it unacceptably low, and filed a complaint with the National Assembly. Ultimately, after a consultation meeting aimed at resolving the issue, a negotiated compensation was accepted.³⁹ In the GTSEZ, according to an article published in the Canadian Journal of Development Studies, residents of one village accepted the company's resettlement offer and compensation, while residents of another nearby village staged several protests against the forced relocation. These villagers rejected the

³² Article 147, Land Law

³³ 2020 SEZ and Land Dispossession Report, at 22. See also Article 19, Land Law.

³⁴ In Lao PDR, the exchange of land for development, through the granting of large-scale concessions to investors, became the dominant interpretation of the "Turning Land Into Capital" policy. See: 2020 SEZ and Land Dispossession Report, at 21. Further, subject to Articles 118 and 119 of the Land Law, a land concession is the authorization by the State for the concessionaires to use State allocated land in certain areas to conduct concession investment activities in accordance with the contract and the laws, including in SEZs. The lease or concession of State land shall go through an auction process and take place within land areas allocated by the State. After being granted with lease or concession of State land, such lessee or concessionaire will be given State land title.

³⁵ Article 109 of the Land Law outlined that the value of land for the purpose of compensation payment in each locality based on the "geographical specificities, infrastructure and the level of socioeconomic growth at each time period."

³⁶ Article 53, SEZ Decree

³⁷ Despite the safeguard set out in article 6.9 of the 2005 Decree on the Compensation, which provides that before the provision of compensation, project owners shall establish a joint committee, with representatives from all stakeholders, to assess the loss.

³⁸ 2020 SEZ and Land Dispossession Report, at 23-24; China Dialogue, 'Who is Laos' first special economic zone benefitting?', 25 October 2019, available at: <https://chinadialogue.net/en/business/11609-who-is-laos-first-special-economic-zone-benefitting/>

³⁹ 2020 SEZ and Land Dispossession Report, at 25.

compensation offered by the SEZ developer and demanded fair compensation reflecting market value and/or sufficient funds to acquire equivalent quality property nearby. In the end, despite threats allegedly made by authorities, the company agreed to allow the villagers who had refused the compensation to remain in their location, while the other villagers, those who had accepted the company's offer, were relocated to a new resettlement site.⁴⁰

22. In resettling the residents of the aforementioned village from GTSEZ, the resettlements arranged by the company were criticized by affected communities for being insufficient to ensure their livelihoods. The entire village was relocated far from the riverbank and the center of the SEZ. Although new roads were built, connecting the new resettlement site to the casino town, the villagers did not have access to water and farmland as they did in the old village. The houses were reportedly poorly built with low-quality materials. Additionally, some livelihood development projects to ensure the right to food and work failed due to inadequate support from authorities and investors. The resettlements did not meet the requirements for adequate housing, as set out in the CESCR's General Comment No. 4, including poor physical safety, restricted location, and limited means of food production. Additionally, they failed to meet the requirements for adequate food, as set out in the CESCR's General Comment No. 12, which includes provisions for the availability of food to feed oneself directly from productive land.⁴¹

III. The construction of dam projects

23. In its pursuit to become the "Battery of Asia," Lao PDR is developing hydropower dams, including those on the Mekong River, which is renowned for its aquatic biodiversity. Human rights and environmental organizations, including the ETO Watch Coalition, continue to receive reports of violations and abuses of ESCRs of local residents, including those living along the banks of the Lower Mekong River (which spans Lao PDR, Cambodia, Thailand and Vietnam), resulting from the construction of dams in the Lao PDR.
24. These reports include projects' detrimental impacts on the environment and ecosystems, and instances of forced eviction to make way for dams' construction. Forced evictions are often carried out without respect for the procedural protections required under international human rights law, such as those outlined in General Comment Nos. 7 and 26. Such protections include genuine consultation with those affected, fair compensation to locals for their loss of land and adequate resettlement packages. Additionally, there are concerns about the lack of meaningful participation of local communities, including those based abroad but who may still be impacted by the construction and operation of the dams, in environmental impact assessment processes. These reports disclose credible evidence of Lao PDR's violations of its legal obligations to respect ESCRs, as well as its obligation to effectively protect against infringements of ESCRs in the context of business activities, including extraterritorially, as outlined in CESCR's General Comment No. 24 and the Committee on the Rights of the Child's General Comment No. 16.

Violations of the Right to Adequate Housing

25. The development of dam projects typically requires displacing residents to make way for these projects. Regardless of the ownership and tenure status, land transfers from communities to business entities have often been carried out by the government and/or companies without adequate consultation. Furthermore, despite several domestic legal guarantees, in reality, compensation and rehabilitation provided to affected communities and individuals have often been inadequate, in breach of international law and standards, such as

⁴⁰ 2018 Article on SEZs' Post-resettlement Livelihoods, at 9-10.

⁴¹ 2018 Article on SEZs' Post-resettlement Livelihoods, at 9-10.

those outlined in the CESCR's General Comment No. 4 and the Basic Principles and Guidelines on Development-based Evictions and Displacement.

Xayaburi Hydropower Project

26. For example, in the Xayaburi Hydropower Project, the first dam on the lower Mekong mainstream that was completed and went into operation in October 2019, the Social Impact Assessment prepared by the dam developer in 2010 anticipated that 458 households would need to be relocated, while 3,582 households would experience land and income loss but would not require relocation.⁴²
27. However, a study conducted by International Rivers (IR) in September 2012 stated that the Xayaburi project's resettlement scheme did not comply with Lao laws and policies on involuntary resettlement and compensation. Their initial assessment revealed that the project violated at least 22 requirements stipulated in Laos' Decree #192 on Compensation and Resettlement of People Affected by Development Projects (2005) and its 2005 implementing regulations. For instance, the project failed to ensure that affected individuals would not be worse off than before the project (article 1) and did not allocate an adequate budget for resettlement and compensation (article 4c). Although the project's developers and the Lao government promised villagers displaced by the dam's construction new homes, allotments of land and allowances of food and financial support for three years, the displaced villagers are reportedly currently facing difficulties in their alternative locations, lacking sufficient land for farming and access to water resources to sustain their livelihoods. Furthermore, IR documented several cases where compensation was provided to those displaced, but it did not account for the value of business losses, decreased wages or income, such as losses in fisheries, gold panning and other uses of natural resources,⁴³ as required by international standards, such as the Basic Principles and Guidelines on Development-based Evictions and Displacement.

Luang Prabang Hydropower Project

28. In the case of Luang Prabang Hydropower Project, which is being constructed along a stretch of the Mekong River in Lao PDR, the ESIA report (concluded in May 2019) indicated that 26 villages would be affected by the project. Among these villages, six villages with a total population of approximately 2,885 people and 581 households would be fully affected by land acquisition.⁴⁴ The Luang Prabang Dam developer proposed the resettlement of affected people to different locations, as well as compensation for the assets concerned. The relocation process is expected to commence in either 2024 or 2025, according to the Radio Free Asia (RFA). Regarding compensation, the Governor of Luang Prabang Province issued a

⁴² Ch. Karnchang Public Company Limited, 'Social Impact Assessment: Xayaburi Hydroelectric Power Project,' August 2010, at 5-1, available at: <https://www.mrcmekong.org/assets/Consultations/2010-Xayaburi/Xayaburi-SIA-August-2010.pdf>. However, according to IR, at least 2,100 people would be resettled, and an estimated additional 200,000 people would experience flooded agricultural land and a reduction in fish catch. See: International Rivers (IR), 'The Xayaburi Dam: Threatening Food Security in the Mekong,' September 2012, available at: https://archive.internationalrivers.org/sites/default/files/attached-files/intl_rivers_xayaburi_food_security_report_sept_2012.pdf (IR's 2012 Report on Xayaburi Dam)

⁴³ IR's 2012 Report on Xayaburi Dam; RFA, 'Lao Villagers Displaced by Xayaburi Dam Still Lack Farmland, Water,' 29 September 2021, available at: <https://www.rfa.org/english/news/laos/displaced-09292021174252.html>

⁴⁴ Luang Prabang Power Company Limited, 'Environmental and Social Impact Assessment,' May 2019, at 16, available at: https://www.mrcmekong.org/assets/Consultations/LuangPrabang-Hydropower-Project/LPHPP_PNPCA-Report_Vol-4-Part-1-of-3Marked.pdf

decision,⁴⁵ specifying compensation for various types of land. Compensation is also provided for agricultural land, productive trees and crops. The compensation unit price is reportedly agreed upon between the affected residents and the developer, facilitated by the local administrative unit.⁴⁶

29. However, affected residents have alleged that the compensation for land is lower than the actual market price, while compensation for rubber trees and teak is deemed suitable and acceptable. Residents of villages in Oudomxay Province's Nga District reportedly lodged complaints with local officials, demanding compensation at a value five times higher for residential and farmland.⁴⁷ An official from the Lao Ministry of Energy and Mines informed RFA in early 2023 that the provincial people's council was reviewing their demands.⁴⁸

Violation of the right to a clean, healthy, and sustainable environment, and of the rights to food, work, cultural rights, as well as the failure to ensure the right to access to justice and effective remedies, including reparation

30. Civil society organizations continue to receive reports indicating that the construction of dam projects in Lao PDR may have detrimental impacts on the environment and ecosystems in several countries, including those along the banks of the Lower Mekong River, as well as on a certain cultural heritage site, if these projects are implemented as planned. In several instances, environmental impact assessments have been conducted reportedly haphazardly, with indications of fraudulent or negligent practices by the companies responsible, lack of transparency, access to information and public participation, as well as of non-compliance with scientific evidentiary standards and analysis. Moreover, several projects have caused and may lead to the deprivation of livelihoods, posing a threat to the affected communities' human rights, including the right to adequate food and the rights to work and to just and favourable conditions of work. In cases where the dam collapse has occurred, affected populations continue to face significant obstacles in securing access to justice and effective remedies, including reparation, as guaranteed under international law.

Sanakham Hydropower Project

31. For example, in the case of the Sanakham Hydropower Project, whose construction is expected to begin in 2023 and finish in 2028, Thailand has strongly objected on numerous occasions, raising serious concerns about its impact on the Mekong River's ecosystem, on the livelihoods of communities in riparian areas, who rely on the Mekong's biodiversity, and on the potential transboundary impacts in Thailand.⁴⁹ Environmental organizations have warned that the project may affect fisheries and cause the disruption of fish migration patterns. The dam could also remove sediment from the Mekong vital for the fisheries of Tonle Sap in

⁴⁵ Decision on Compensation Unit Price for People Affected by the Luang Prabang Dam (No. 365/LPBG), dated 16 August 2021.

⁴⁶ Sypha Chanthavong, 'Mekong River Hydropower Development, Compensation and the Resettlement Legal Framework in Lao PDR: The Case of Luang Prabang Dam,' Heinrich Boll Stiftung, 19 December 2022, available at: <https://th.boell.org/en/2022/12/19/mekong-compensation-resetlement>

⁴⁷ Ibid.

⁴⁸ RFA, 'Villagers to be displaced by Luang Prabang Dam want more compensation,' 17 February 2023, available at: <https://www.rfa.org/english/news/laos/laos-dam-02172023175843.html>

⁴⁹ E.g., Marwaan Macan-Markar, 'Thailand challenges Laos dam building spree on Mekong River', Nikkei Asia, 30 January 2021, available at: <https://asia.nikkei.com/Politics/International-relations/Thailand-challenges-Laos-dam-building-spreed-on-Mekong-River>.

Cambodia and for the banks of the delta in Vietnam.⁵⁰ Additionally, there are concerns about its potential impact on demarcation lines for Thailand and Lao PDR.⁵¹

32. Additionally, according to the Rapid Assessment of Transboundary Impacts Caused by Rapid Water Fluctuation Downstream of the Sanakham Hydropower Project, which was prepared by the Secretariat of the Mekong River Commission (MRC)⁵² and released in October 2021, if the dam undergoes rapid changes in discharge, it may result in significant water level changes, measured in meters per day, immediately downstream of the dam. These changes may have various adverse effects, including the loss of crucial habitats for key fish species, a catastrophic decline in critically endangered species' populations, and the loss of livelihoods, particularly for poorer riparian villagers.⁵³

33. In July 2020, the Joint Committee of the MRC also rejected documents submitted by the Lao government for prior consultation regarding the Sanakham project, as they found that the Transboundary Environmental and Social Impact Assessment and Cumulative Impact Assessment (TBESIA/CIA) contained "out of date information."⁵⁴ Save the Mekong Coalition further claimed that large sections of Sanakham's TBESIA/CIA are outdated and plagiarized⁵⁵ from the TBESIA/CIA of the dam project at Pak Lay.⁵⁶ In January 2021, the developer reportedly submitted a revised technical report to the MRC, which sought to address some concerns about the impact assessment, but the MRC did not accept the revisions, concluding that the information in the new report was still insufficient.⁵⁷

Pak Beng Hydropower Project

34. In the Pak Beng Hydropower Dam's case, Thai residents living along the banks of the Lower Mekong River raised concerns about the lack of an official study of the Dam's transboundary impact in Thailand despite the launch of the Guidelines for Transboundary Environmental Impact Assessment in the Lower Mekong River Basin (TbEIA) by the MRC Secretariat in February 2023.⁵⁸ Additionally, there are concerns about the Dam's backwater effects, posing

⁵⁰ E.g., Prachatai, 'Isaan Mekong basin network concerns the Sanakham hydropower push', 29 May 2020, available at: <https://prachataienglish.com/node/8553>

⁵¹ Transborder News, 'Pak Beng and Sanakham dams may impact demarcation lines for Thailand-Laos,' 18 September 2022, available at: <https://transbordernews.in.th/home/?p=32405>; and MRC, 'Executive Summary: The Rapid Assessment of Transboundary Impacts Caused by Rapid Water Fluctuation Downstream of the Sanakham Hydropower Project, 29 October 2021, at 13, available at: https://www.mrcmekong.org/assets/Consultations/Sanakham/EN_Rapid-assesment-for-SNHPP_2021.pdf (MRC's 2021 Report on Sanakham Project).

⁵² The MRC is an intergovernmental organization established in 1995 to boost regional dialogue and cooperation in the Lower Mekong River Basin. Based on the Mekong Agreement among Cambodia, Lao PDR, Thailand and Viet Nam, the MRC serves as both a regional platform for water diplomacy and a knowledge hub – to manage water resources and support sustainable development of the region.

⁵³ MRC's 2021 Report on Sanakham Project

⁵⁴ Bangkok Tribune, 'Formal Consultation for Sanakham, the Mekong's Sixth Proposed Dam, Kick-Started with Dam Documents Thrown Back For Improvement,' 30 July 2020, available at: <https://bkktribune.com/formal-consultation-for-sanakham-the-mekongs-sixth-proposed-dam-kick-started-with-dam-documents-thrown-back-for-improvement/>

⁵⁵ Save the Mekong Coalition, 'The Mekong doesn't need more destructive dams,' 5 June 2020, available at: <https://www.bangkokpost.com/opinion/opinion/1929692/the-mekong-doesnt-need-more-destructive-dams>.

⁵⁶ BHRRC, 'Laos: Villagers concerned over Pak Lay dam as relocation and compensation plans remain unclear,' 20 February 2023, available at: <https://www.business-humanrights.org/en/latest-news/laos-villagers-concerned-over-pak-lay-dam-as-relocation-and-compensation-plans-remain-unclear/>

⁵⁷ RFA, 'Thailand Rejects New Technical Report on Large-Scale Lao Mekong Mainstream Dam,' 22 January 2021, available at: <https://www.rfa.org/english/news/laos/dam-01222021205124.html>

⁵⁸ Transborder News, 'Thai ISOC and others worried about transboundary impacts in Pak Beng is built,' 3 May 2023, available at:

a flooding risk to certain communities and farmlands in Thailand, as well as the potential impact on demarcation lines for Thailand and Lao PDR.⁵⁹ As a result, people living along the river may be forced to relocate or resettle. Civil society organizations, including the ETO Watch Coalition and International Rivers, have also expressed concern that the construction of the Dam would block fish migration routes and disrupt the Mekong's biological conditions and ecosystem, resulting in income loss for many fishing families and the potential extinction of endangered species.⁶⁰

35. In 2017, IR also commissioned four experts to review project documents for the Pak Beng Hydropower Dam to better understand the quality of reports, including the Transboundary Environmental and Social Impact Assessment & Cumulative Impact Assessment's report; the Social Impact Assessment's report; the Resettlement Action Plan; and the Fish Passage Design's report, all prepared on behalf of the Dam developer. Overall, the review found that project documents were substantively inadequate, and provided an extremely limited picture of the Dam's expected environmental and social impacts, especially its transboundary and cumulative impacts. For example, the reviewers pointed out that data presented in the reports, including on fisheries, hydrology and sediment, was largely drawn from studies conducted in 2011 and earlier, with little consideration of more recent information and changes to the Mekong River, including the construction of the Xayaburi and Don Sahong Dams.⁶¹

36. In response to local residents' concerns, in 2018 a representative of the project developer, a representative from the Lao Energy and Mining Department, and representatives of the potentially affected Thai communities met. The meeting took note of the local residents' concerns and pledged to find appropriate solutions to address them.⁶² A subsequent follow-up meeting took place in August 2019 to discuss the methods of conducting a transboundary impact assessment with Thai academics. However, at the time of writing, the potentially affected communities have not received any updates about the actual transboundary impact assessment that the developer is to conduct, even after the developer entered into a Tariff Memorandum of Understanding with Thailand's Electricity Generating Authority of Thailand (EGAT) in April 2022.⁶³

Luang Prabang Hydropower Project

37. In the Luang Prabang Hydropower Project, which is planned to be located approximately 25 kilometers upstream from Luang Prabang, a designated UNESCO World Heritage Site, concerns have been raised regarding its security and safety standards, as well as the potential violation of the State's obligation to respect and protect cultural heritage in all its forms (see, CESCR's General Comment No. 21), despite the guarantees provided in domestic

https://transbordernews.in.th/home/?p=33813&fbclid=IwAR3dxqgeXqUkNO03tLiHq-rOe5JLlfE5TjwOmt6Kkl6DrSmragNZ_h42tpQ (in Thai).

⁵⁹ The Mekong Butterfly, 'The Changing of Mekong's Water Level Due to the Pak Beng Dam,' 5 April 2023, available at: bit.ly/3DIV5N5 (in Thai)

⁶⁰ E.g., the Mekong Butterfly, 'Circumventing State's Responsibility in Transboundary Investment: the case of Pak Beng Hydropower Project in Laos PDR,' 22 December 2017, available at: <https://themekongbutterfly.wordpress.com/2017/12/22/circumventing-states-responsibility-in-transboundary-investment-the-case-of-pak-beng-hydropower-project-in-laos-pdr/>

⁶¹ IR, 'Independent Expert Review of the Pak Beng Dam EIA,' 2017, available at: <https://archive.internationalrivers.org/resources/independent-expert-review-of-the-pak-beng-dam-eia-16488>

⁶² Thai Rath, 'Datang Corp and the Lao Energy and Mining Department discussed transboundary impact in building the Pak Beng Dam,' 15 January 2018, available at: <https://www.thairath.co.th/news/local/north/1178087> (in Thai)

⁶³ Kaohoon International, 'GULF Signs Tariff MOU for Pak Beng Hydroelectric Power Project in Lao PDR,' 25 April 2022, available at: <https://www.kaohooninternational.com/markets/510980>

legal frameworks and the commitments made as listed in the State’s initial report.⁶⁴ While the developer has already completed a Social Impact Assessment (SIA), UNESCO was calling for a more detailed assessment, including conducting the Heritage Impact Assessment (HIA), which was submitted by Lao authorities in November 2021. However, in January 2022, the technical review conducted by the International Council on Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature (IUCN) concluded that the HIA was insufficient to demonstrate the absence of negative impacts on the Outstanding Universal Value. They requested the government of Lao PDR to address these shortcomings and provide additional information. Following a monitoring mission to the dam site in April 2022, both the UNESCO World Heritage Centre and ICOMOS International recommended that Lao PDR reconsider the project and relocate it, along with any future similar projects, to areas that do not pose a threat to the World Heritage properties, their associated values, or their environmental setting.⁶⁵

Xe Pian-Xe Namnoy Hydropower Project

38. Dam collapses have occurred in Lao PDR, but affected populations continue to face significant obstacles in securing their right to access to justice and effective remedies, including reparation, as guaranteed under international law. A disaster occurred in 2018 when the auxiliary dam ‘Saddle D’ of the Xe Pian-Xe Namnoy Hydropower Dam in Attapeu province collapsed, allegedly due to potential substandard construction and design of the dam.⁶⁶ This catastrophic event resulted in the release of five billion cubic meters of water, severely impacting 19 villages. Official figures from the government reported 43 people killed and 28 people missing, although concerns were raised about the accuracy of the casualty count due to an alleged lack of transparent surveying.⁶⁷ Approximately 7,000 people were displaced and placed in temporary accommodations with the promise of resettlement and financial support.
39. Concerns were raised by various actors, including UN experts, about lengthy delays in providing survivors with long-term accommodation, leaving them stranded in unsuitable and unsanitary temporary shelters, with serious negative impacts on their rights to adequate housing and to health. The irregularities in providing allowances, compensation money and rice, along with the reported suspension by the dam’s developer of the payment of living allowances, thereby affecting survivors’ rights to food and an adequate standard of living, were also noted. Additionally, the protracted displacement of survivors of the dam collapse, the lack of durable solutions to their displacement, and their lack of participation in the planning and management of their return, resettlement, or reintegration were highlighted. Concerns were also raised by UN experts about the lack of support for immediate evacuation and monitoring mechanisms for dams in the country⁶⁸
40. In response to the concerns raised, the operator of the dam insisted it had provided a total of USD 91.2 million for compensation payments and the construction of four new villages with

⁶⁴ Lao PDR’s Initial Report, paras 174-175

⁶⁵ Nao Hayashi (UNESCO World Heritage Centre) and Laurence Loh (ICOMOS), ‘Report on the Joint World Heritage Centre/ICOMOS Mission to the “Town of Luang Prabang”,’ April 2022.

⁶⁶ The company in charge of operating the dam argued that the collapse was not caused by faulty construction but by a natural disaster (force majeure).

⁶⁷ According to the joint statement of NGOs, the collapse killed 71 people and displaced thousands. KTNC Watch et al., ‘Lao Dam Disaster: NGOs Decry Lack of Effective Remedy for Survivors Five Years on,’ 4 July 2023, available at: <https://www.manushyafoundation.org/post/lao-dam-disaster-ngos-decry-lack-of-effective-remedy-for-survivors-five-years-on> (‘KTNC Watch’s 2023 Joint Statement’).

⁶⁸ E.g., ‘AL OTH 50/2022,’ 18 July 2022, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27375> and ‘AL LAO 1/2020,’ 17 April 2020, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25088>

better housing and public infrastructure.⁶⁹ However, NGOs expressed concern that, according to the company's internal records, the majority of the compensation (USD 64.87 million) was paid to the Lao government for the designated "Master Plan," not directly to the affected people. Noting the lack of public information on how the money was spent or the specifics of the "Master Plan," they observed that the compensation process might "prioritize the development needs of the Lao government over the effective remedy of the survivors." Additionally, according to the Korean Transnational Corporations (KTNC) Watch's interviews with the survivors, the survivors were relocated to unfamiliar lands and were not provided with sustainable livelihoods. The lands provided to them were allegedly not suitable for rice cultivation, on which they traditionally relied for a living.⁷⁰

IV. Human Rights Defenders (HRDs)

41. The authors are also concerned about reports of alleged killings and enforced disappearances of HRDs advocating for ESCRs, as well as instances of arbitrary detentions, prosecutions, and convictions under laws that are not compliant with human rights standards, thereby violating, among other things, the right to liberty and security of person and the right to a fair trial.
42. For example, S.S., a development worker and HRD, was abducted from a busy street in Vientiane on 15 December 2012. Footage from a CCTV camera showed that police stopped his vehicle at the checkpoint and that, within minutes, unknown individuals forced him into another vehicle and drove him away in the presence of police officers. CCTV footage also showed an unknown individual later arriving and driving S.S.'s vehicle away from the city center. Numerous UN Member States, human rights monitoring mechanisms and NGOs have repeatedly expressed concern over the lack of progress in the investigation of his enforced disappearance, and urged the Lao government to conduct a prompt, thorough, effective, independent and impartial investigation into this grave human rights violation, amounting to a crime under international law.⁷¹
43. In September 2019, H.X., a HRD, was arrested under article 117 of the Criminal Code following a post she had made on Facebook of a live video in which she had been critical of the Lao government's response to severe floods in the southern provinces of Lao PDR. After approximately five days in detention, following police investigation and interrogation and no reported assistance of a lawyer, she "confessed" to committing an illegal activity and for "having connections with 'bad elements' both in the country and abroad." In November 2019, H.X. was sentenced to five years in prison and fined 20 million Kip (approx. USD 1,040).⁷²
44. Several human rights activists and members of the Thailand-based Free Laos group, a network of Lao migrant workers and HRDs, participated in activities, including peaceful protests at the Lao Embassy in Bangkok, and advocated on topics such as human rights, environmental rights, anti-corruption, and democracy, have reportedly faced arbitrary arrest, detention, killings, and alleged enforced disappearance, either in Lao PDR or Thailand.

⁶⁹ Xe Pian-Xe Namnoy Power Company Limited, 'Response to Joint Communications from Special Procedures,' 30 August 2022, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?qId=37134>

⁷⁰ KTNC Watch's 2023 Joint Statement

⁷¹ ICJ, 'Laos: After 10 years, civil society worldwide is still asking: "Where is Sombath?,"' 13 December 2022, available at: <https://www.icj.org/laos-after-10-years-civil-society-worldwide-is-still-asking-where-is-sombath/>; OHCHR, 'Lao Government must shed light on whereabouts of activist Sombath Somphone: UN experts,' 13 December 2022, available at: <https://www.ohchr.org/en/press-releases/2022/12/lao-government-must-shed-light-whereabouts-activist-sombath-somphone-un>

⁷² ICJ, 'Dictating the Internet: Curtailing Free Expression, Opinion and Information Online in Southeast Asia,' December 2019, at 88, available at: <https://www.icj.org/wp-content/uploads/2019/12/Southeast-Asia-Dictating-the-Internet-Publications-Reports-Thematic-reports-2019-ENG.pdf> ('ICJ 2019 Report')

45. For example, in March 2016, S.P., L.T. and S.C. were arrested upon returning to Lao PDR from Thailand, where they had made posts on their Facebook accounts reportedly criticizing the Lao government alleging corruption, deforestation and human rights violations. After being held incommunicado, in May 2016, media reports indicated that they had been arrested for "threatening national security by using social media to tarnish the government's reputation" and had been charged under articles 56 (treason to the nation), 65 (propaganda against the Lao PDR), and 72 (gatherings aimed at causing social disorder) under the Criminal Code. In a secret trial, which reportedly took place in April 2017, S.P. was sentenced to 20 years' imprisonment and fined 210 million kip (approx. USD 11,000), S.C. was sentenced to 16 years' imprisonment and fined 106 million kip (approx. USD 5,500), and L.T. was sentenced to 12 years' imprisonment and fined 110 million kip (approx. USD 5,700).⁷³ Later, on 26 August 2019, prominent HRD O.S. "disappeared" from his home in Bangkok after he and his fellow Free Lao members, including P.P., met with the then-UN Special Rapporteur on Extreme Poverty and Human Rights. O.S. also played an active role in leading a demonstration in Bangkok in July 2019, calling for the release of other Free Lao members imprisoned in Lao PDR and the protection of environmental and land rights in the country. Three months later, P.P., another member of Free Lao, who was also a housemate of O.S., went missing after leaving Bangkok to visit family in Vientiane. His fate and whereabouts remain unknown to date. On 20 April 2023, S.P.H., another Free Lao member, visited his home in Lao PDR, where he was arrested by police authorities from an unidentified unit. He was reportedly released in June 2023.⁷⁴ According to information obtained by civil society organizations, upon the arrest, the police did not inform his relatives of the charges against him, nor allowed any family visits. On 17 May 2023, Thai authorities found the body of B.K., another member of Free Lao, in Ubon Ratchathani Province in northeastern Thailand bordering Lao PDR. According to media reports, he had been shot three times while riding a motorcycle.⁷⁵
46. HRDs, with whom the ICJ and LWT talked, also expressed concern about the challenges they encountered in carrying out their work, including while documenting the human rights consequences of the SEZs in Lao PDR. The lack of sufficient support and collaboration from local authorities hindered their efforts to access relevant information and receive answers to their queries. Furthermore, HRDs faced potential risks, such as their work being disclosed without their permission to SEZ developers, and to others who may harm them, in an atmosphere characterized by general distrust between the authorities and HRDs. This situation puts them at risk of reprisals, contrary to the UN HRDs Declaration adopted by consensus by the UN General Assembly.

V. Recommendations

47. In light of the above, the ICJ, ETO Watch Coalition and LWT recommend that the following questions be included in the LOI for the examination of Lao PDR:
- In light of reports of land concessions being granted for commercial purposes, leading to forced evictions, including in the context of SEZs and hydropower dam constructions, please describe the progress made in developing and implementing a legal framework to prevent forced evictions. Additionally, please describe how procedural protections

⁷³ ICJ 2019 Report, at 87.

⁷⁴ Benar News, 'Laos releases Thailand-based Lao democracy activist,' 26 July 2023, available at: <https://www.benarnews.org/english/news/thai/lao-activist-savang-phaleuth-freed-07262023163441.html>

⁷⁵ ICJ et al, 'Thailand/Laos: Investigate the killing of Lao refugee and put an end to transnational repression of human rights defenders,' 26 May 2023, available at: <https://www.icj.org/thailand-laos-investigate-the-killing-of-lao-refugee-and-put-an-end-to-transnational-repression-of-human-rights-defenders/>

required under international human rights law are being put in place and effectively implemented in practice before any evictions are carried out. Explain the measures taken to ensure the provision of effective legal remedies, fair compensation, adequate alternative housing, and protection of the right to adequate food and right to work of the displaced communities. Further, please explain the policies in place to protect the legitimate tenure rights of smallholders from risks arising from large-scale tenure transactions;

- Please provide information on measures taken to ensure that peoples are not forcibly evicted from the lands, territories and natural resources they have customarily occupied and used, regardless of their legal title, and respond to reports of the construction of hydropower dams and the SEZs in those areas;
- Please describe the mechanisms in place, and their implementation, to ensure adequate and meaningful consultations with peoples, including the free, prior and informed consent of indigenous peoples, in relation to decisions about the establishment and management of their lands, territories and natural resources, including in the context of the SEZs and hydropower dam constructions;
- Please provide information on measures taken to ensure that relevant authorities and business entities carry out impact assessments prior to the initiation of any project that could result in forced evictions, or other negative impacts on human rights, as well as their transboundary impacts, including on the right to a clean, healthy and sustainable environment, or impacts on cultural heritage, with genuine participation of the public, in compliance with the requirements under international law and standards;
- Please provide information on the plans to respond and to prevent the occurrence of disasters, such as dam collapses, in the future. This includes details on evacuation plans and monitoring systems for dams;
- Please provide information on legislative or other measures taken to ensure that business entities, whether national or transnational, respect the ESCRs of all persons and groups, and apply the principle of due diligence throughout their operations, especially in relation to hydropower dam constructions and the SEZs;
- Please describe efforts undertaken to hold business entities accountable for abuses of ESCRs and to provide victims with access to judicial or non-judicial remedies;
- Please respond to reports of and describe the efforts undertaken to address serious violations of labour rights, including human trafficking for labour and sexual exploitation in the SEZs, including in the GTSEZ;
- Please provide information on the steps taken to ensure that HRDs are not prosecuted, let alone convicted, solely for exercising their rights to free expression and information in relation to ESCRs, through laws that are not human rights compliant;
- Please respond to reports of enforced disappearances, killings, arbitrary arrest and detentions, and the misuse of judicial processes to silence HRDs, particularly those working on ESCRs, including those listed above, and indicate the number of such cases that have been investigated, the number of prosecutions of alleged perpetrators, if any, the remedial measures available to victims and the penalties imposed on perpetrators; and

- Please provide information on legislative or other measures taken to ensure the respect, support and protection for the activities of HRDs, and the promotion of a safe and enabling environment, online and offline, for HRDs to carry out their works.