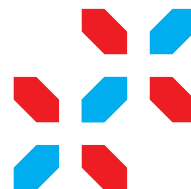


Lao People's Democratic Republic

LUXEMBOURG
AID & DEVELOPMENT



GUIDELINES FOR MAINSTREAMING HUMAN AND FUNDAMENTAL RIGHTS IN ICP V





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Rationale and approach

Rationale

At the national level, Luxembourg Development Cooperation adopts the approach of seeking alignment with the priorities specified in the Constitution of Lao People's Democratic Republic (PDR) (as revised in 2015), as well as the 9th five-year National Socio-Economic Development Plan (NSED 2021-2025), particularly its Outcome 6, "Efficient public administration, and an equal, just, and safe society by following an effective rule of law".

The main objective of Luxembourg Development Cooperation is to contribute to the eradication of extreme poverty and the promotion of economic, social and environmental sustainability. Luxembourg aims to guarantee a minimum level of livelihoods in a rights-based environment, and to create equal opportunities for all, particularly for the most vulnerable groups, so everyone can actively determine the course of their own lives. Its interventions address the needs of all segments of the population, including those marginalised and most at risk. Inclusive governance is one of the four main pillars and human rights a cross-cutting of the strategy, directed towards the achievement of Sustainable Development Goals (SDGs) 10, 16 and 17. The general strategy of Luxembourg Cooperation is shifting from a sectoral prioritisation to a more inclusive approach, now focused on priority themes, to facilitate coordinated approaches between sectors, partners, and instruments, in accordance with the 2030 Agenda. Luxembourg thus aims to provide a minimum level of subsistence for all, especially the most vulnerable and disadvantaged, in a rights-based, equal-opportunity and "leaving no one behind" environment.¹



The 3rd National Plan for Sustainable Development is Luxembourg's main instrument for implementing the seventeen SDGs of the United Nations (UN) 2030 Agenda for sustainable development.² The 10 priorities of the plan will serve as the government's roadmap to act and contribute concretely to the achievement of the objectives of Agenda 2030 and ensure sustainable development in Luxembourg.

This is furthermore in accordance with the draft "European Joint Programming Strategy 2021-2025" which serves as a common reference framework for European Partners' bilateral and/or regional strategies benefitting the Lao PDR. Its third priority area, good governance, includes local governance; public finance management; citizens engagement; justice, rule of law and human rights and is therefore of particular relevance to these guidelines. In addition, it is in accordance with the EU Action Plan on Human Rights and Democracy 2020-2024; the "EU Gender Strategy 2020 – 2025"³; and the "Lesbian, Gay, Bisexual, Transgender, Intersex, and Questioning (LGBTIQ) Equality Strategy 2020-2025"⁴. See Annex 2 for details.

Approach

Luxembourg Development Cooperation intends to adopt a rights-based approach to the life cycle and all areas of programmatic engagement in Lao PDR under the Indicative Cooperation Programme (ICP V 2022-2026).

As described below, many of these aspects are already reflected in the programming of Luxembourg Development Cooperation. Under ICP IV, this has included a number of programmes, including Lao-Luxembourg health sector support programme phase II (project LAO/027); Skills for tourism (project LAO/029); Local development (programme LAO/030); and Strengthening the Rule of Law (project LAO/031).

The engagements have been implemented most particularly through the governance for development approach⁵, which is reflected in the government of Luxembourg's Inclusive Governance Strategy (IGS 2009). Governance is understood here as the process and institutions by which authority in a country is exercised. This includes three main aspects: the process by which government at all levels is selected, held accountable, monitored, and replaced; the capacity of government to manage resources efficiently, and to formulate, implement, and enforce sound policies and regulations; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

These are reflected through eight dimensions:

- respect for human rights and fundamental freedoms;
- democratic system for citizen participation in the selection and control of those who govern;
- respect of the rule of law and access for all to an independent justice system;
- a government that provides effective management and is accountable to the appropriate institutions and voters;
- effective institutions providing quality public services, including access to basic social services;
- sustainable management of natural resources;
- the fight against corruption;
- promotion of sustainable economic growth and cohesion in a social climate conducive to private investment.⁶

As can be seen, these two approaches reflect many parallel elements. However, they should be viewed as complementary rather than overlapping. The IGS provides a framework for effective implementation of the elements of the rights-based approach by providing a more detailed and targeted framework of specific elements to be addressed, but only so within a governance or governance-related context. The rights-based approach, on the other hand, through its simpler and more generic structure, has wider applicability and can be utilised in any form of development engagement, where it brings in many of the essential aspects also found in the IGS.

Jointly, they may be described as a “rights-based governance strengthening approach”, the term that will be applied in the sections below.

However, articulating the rights-based approach as central to ICP V marks a further step towards a more explicit recognition that rights – human and fundamental – are essential to a successful development process. Given the global and regional long-term “positioning” in relation to the rights dimension and its application in a more politicised context, Luxembourg Development Cooperation can only hope to gain the support from the partners at all levels in the Lao PDR by engaging in a very dialogue-oriented process. The application of the approach shall be based on the understanding that the outset, as indicated below, is the normative framework already well developed by Lao PDR. This is a composite of the provisions of international treaties ratified by Lao PDR, the national Constitution, relevant legislation and, not least, policy and political directions. Luxembourg Development Cooperation recognises this as central, and through the assistance provided across the areas of engagement will support the government at all levels to strengthen their capacity to fulfil these obligations effectively for the improvement of life of its citizens as well as for the overall stability and development of the country along its chosen path. The long-term trust between the two governments should pave the way for this new approach to reflect itself constructively and effectively, providing added value to the existing and future engagements.

In recent years, the Lao PDR has indeed moved along this path, as will be illustrated below in each of the areas. The vision for the next 5-year period, and beyond, is that gradually the value of a rights-based approach, along with the IGS, will reflect itself as valuable and central to the development process of the Lao PDR. Stakeholders at all levels recognise the aspects embodied under the approach, particularly in terms of ensuring that also the most at-risk and disadvantaged members of society can benefit from the development process. At the domestic level, this includes its mainstreaming in terms of strengthening of law and policy initiatives at all levels which reflect the approach and its core elements and target their effective implementation. As the “de-sensitisation” and increasing familiarity with the rights dimension asserts itself as constructive and beneficial and, importantly, in accordance with the political direction of the Lao PDR in its development effort, the dialogue with Luxembourg Development Cooperation and other development partners on the rights aspects will be a natural and mutually recognised constructive outset for the design and implementation of support through various modalities. Furthermore, in terms of meeting international obligations including at the UN for the 4th cycle of the Universal Periodic Review and reporting and review cycles under treaty bodies, Lao PDR will achieve recognition for, within its limited resources, undertaking a significant effort in terms of achieving compliance with its recognised human and fundamental rights standards.

This is in line with the Council of the EU conclusions on a rights-based approach to development (2014) which “underlines that respect for and protection and fulfilment of human rights is a prerequisite for achieving sustainable development”.⁷ This document also stresses adherence to the principle of indivisibility of human rights as stipulated in the Vienna Declaration and Programme of Action, deriving from the 1948 Universal Declaration of Human Rights that “All human rights are universal, indivisible and interdependent and interrelated”.⁸ The EU Joint Programming Strategy as mentioned above reflects similar directions.

At the UN level, similar directions are reflected in the “Lao PDR - United Nations Partnership Framework 2017-2021- A Partnership for sustainable development”, where pillar 3, governance, has aimed to “contribute to improving

the functions, financing and capacities of national and sub-national institutions as well as facilitating access to justice and a stronger rule of law, and more effective participation in national decision-making. The shortcomings in the areas of social development, poverty reduction, labour markets, health and education reflect the need for institutional capacity building, enhanced service delivery and a more accountable and responsive government.”⁹

The principle of placing a rights-based approach at the heart of ICP V includes addressing root causes of inequalities and discrimination, strengthening capacities and opportunities for active and meaningful participation of also the most marginalised in society¹⁰. It is based on the rationale that strengthening rule of law, respect for rights and access to essential services and security – human and basic – ensures the foundation for sustainable and inclusive development. In both aspects, the focus is on ensuring that “no one is left behind”, i.e. that all people in Lao PDR benefit from these processes. In other words, supporting efforts for social well-being and justice, participation, good governance and rule of law, and ensuring that the most vulnerable in society are not left behind in the development of the country.

By adopting a rights-based approach, the principle of participation, equality and non-discrimination on any grounds, as well as accountability, becomes central. This means integrating the principle of intersectionality, which refers to the situation of people who experience several forms of discrimination based on sex, age, ethnic origin, disability, sexual orientation, gender identity and expression, migrant/refugee status, urban-rural and socio-economic disparities or other determining factors. Applying a rights-based approach to development thus brings the two dimensions of rights and gender together in one coherent framework and ensures promotion of inclusion of all relevant stakeholders.

The rationale for mainstreaming the rights-based approach across ICP V can be summarised as follows:

IF implementing partners apply a deliberate policy and effort into ensuring that all projects developed under ICP V include mainstreaming of the rights-based approach through all the stages of the cycle (analysis, design, execution and Monitoring, Evaluation, Accountability and Learning (MEAL))	THEN the engagements will meaningfully reflect rights dimensions and apply them as constructive tools for overall strengthening of capacity engagements, including their measurement against the ability to ensure that rights remain key and visible factors	AND right-holders and duty-bearers with whom Luxembourg Development Cooperation engages will experience direct positive impact in terms of improving their life situations, and are sensitised and develop their capacity in relation to the aspects under this approaches they apply within their sphere of engagement	THIS WILL LEAD to strengthened governance at all levels as well as an overall increase in the human and fundamental rights status in Lao PDR, visible through tracking and ongoing evaluation and leading to marked improvement against rights indicators in the country;	AND this will ensure that Lao PDR is in a strengthened position to deliver on international (UN including Universal Periodic Review (UPR), and the Association of Southeast Asian Nations (ASEAN)) and domestic (constitution, legislation, and policy) commitments	EVENTUALLY contributing to the achievement of the target values under NSEDP 2021 – 2025, particularly Outcomes 6
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Implementing the rights-based approach

The operationalisation of the rights-based approach¹¹ takes outset in the rights regime laid down through the framework of applicable norms and standards; and with a focus on a multi-stakeholder approach including capacity strengthening of duty bearers and empowerment of rights holders. Furthermore, a number of core elements are reflected in the rights-based approach under ICP V, including the principles of participation, accountability and rule of law; and non-discrimination and inclusion of marginalised groups. To fully achieve the latter, in the context of the Lao PDR it is relevant to add the dimension of accessibility as well.

Furthermore, increasingly the rights-based approach in the context of development has been related to change and development processes including capacity enhancement.¹²

Normative framework¹³

International

Luxembourg Cooperation intends to support the government of the Lao PDR in fulfilling its declaration of regional and international commitments in this field. A key vehicle for this is the harmonisation of national legislative and policy frameworks with the (implementation of) provisions under international agreements and processes as illustrated below.

At the Association of Southeast Asian Nations (ASEAN) level, in terms of rule of law and human rights, as a member of ASEAN, Lao PDR actively participates in the ASEAN Intergovernmental Commission on Human Rights, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children and has contributed to the drafting of the ASEAN Human Rights Declaration, and the ASEAN Declaration on the Elimination of Violence Against Women.

At the UN level, the Lao PDR is a party to several human rights treaties, which in several aspects address the key areas of Luxembourg Cooperation's engagement, as well as the various aspects under the different elements of the rights-based approach. They include the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the International Convention on All Forms of Racial Discrimination, the Convention on the Rights of the Child (CRC) and its two Optional Protocols on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-AC and -SC), the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination Against Women.

Specifically in terms of the Universal Periodic Review (UPR) recommendations, of particular importance will be the follow-up mid-term reporting scheduled for November 2022, as well as the 4th cycle commencement with a national consultation scheduled for November 2023, a drafting period until July 2024 followed by civil society submissions by October 2024, and finally the Review in January 2025.¹⁴

Furthermore, a number of treaty body reviews are upcoming during the same period, where the Lao PDR will be asked to provide information on efforts to implement the international conventions, and where the projects under ICP V may be able to provide important assistance to e.g. data collection and analysis. To date, this includes the CRPD scheduled for March 2022. In addition, the Lao PDR is supposed to report to the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and, possibly, the International Convention on All Forms of Racial Discrimination during the ICP V period.

Lao PDR

The Constitution (2015) is the supreme foundation of Lao society and expresses the framework of values and principles that all other law and policy must adhere to. See Annex 2 for details of relevant sections.

A number of laws address the aspects addressed below, see under each section, and Annex 2 for details.

For the period 2021 – 2025, the tentative plan for the 9th Legislature of the National Assembly is to achieve the drafting of 38 laws and the amendment of 58 laws. These will include, for instance, newly drafted bills on a Law on Governance and on State Compensation as well as amendments to e.g. the Law on Oversight of the National Assembly and the Provincial People's Assemblies (PPA); on State Inspection and on Anti-Corruption; the Law on Civil procedures; the Petition Law; the Law on the Judiciary and on Managing the Implementation of Courts' Decisions; and the Laws on Child Prosecution, and on Child's Rights and Child Protection as well as the drafting of a new Law on Youth, as well as amendments to the Law on the Development and Protection of Women and on Law Women's Union.¹⁵

This should be viewed on the principle that, overall, the Government of Laos has made significant steps forward in terms of law reform, with 90 new laws drafted and amended within the period 2016 – 2020, a total increase of 37 new laws, all in all coming close to achieving the original target of 38 new and 52 amended laws and bringing the total number up to 156.

Lastly, at the level of policy, a number of instruments are particularly relevant.

The 9th NSEDP approved by the inaugural session of the 9th National Assembly in March 2021¹⁶ will guide policymaking to advance sustainable and inclusive growth, human capital investment, infrastructure development and progress towards the smooth transition from least developed country status. It contains three outcomes of particular relevance to ICP V:

Outcome 2

“Improved qualities of human resources with enhanced research capacities and abilities to meet development needs, use science and technology to improve efficiencies and add value to production and services”, in particular Output 2.1 “More inclusive and better-quality healthcare services and nutrition”, most notably measured by maternal and child mortality rates, proportion of children above 15 years of age within minimum reading and writing proficiency and proportion of total government expenditure on social sectors.

Outcome 3

“People’s material and mental well-being, income and food security enhanced”, in particular Output 3.3 “The rights of women, children and people with disability are promoted to achieve gender equality and enhance their contribution to socio-economic development”, most notably measured by the proportion of women in leadership positions and the proportion of girls 15-19 years old who are married.

Outcome 6

“Efficient public administration, and equal, just and protected society following the direction of effective and strict rule of law”, most notably measured by the proportion of the population who have access to the justice system and public services.

Duty bearers and rights holders

Development cooperation contributes to the development of the capacities of duty-bearers to meet their obligations and/or of rights-holders to claim their rights.

Duty-bearers encompasses any of those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. In principle this includes any public institution from the central to the local levels. Furthermore, it can also include non-state actors who de facto exercise similar mandates or functions, or through delegation from these.

In terms of the rights-holders, these are similarly and in principle individuals or communities over whose rights and life conditions the duty-bearers exercise their authority. However, for effective representation social organisations in any form will often play an essential role. In the Lao PDR, the Decree on Associations No. 238 of 2017 regulates activity of NGOs/ Civil Society Organisation (CSOs)/Non-Profit Associations, replacing the Decree of 2009. Under the new decree a number of administrative requirements, including annual renewals, are outlined.¹⁷ The 2010 Decree on International Non-Governmental Organisations (INGOs) regulates the activity of these.¹⁸ A recent thesis addresses these aspects.¹⁹ For further information see also the Lao Civil Society Website.²⁰

In preparation for the drafting of the 2021-2025 Roadmap for European Engagement with Civil Society in Lao PDR, the EU delegation under the Joint Programming initiative undertook a survey process, which mapped the roles of CSOs in the three main areas of EU engagement in Lao PDR, i.e. green deals; sustainable growth and jobs; and governance. By the end of June 2020 25 INGOs and 36 Lao CSOs had responded. In the governance area 32% of the respondents were active, especially on the implementation and/or monitoring the effective implementation of laws and respect of Rule of Law; promoting women’s rights and gender equality; and providing information to the public on government policies and actions. A number of positive examples include influencing government policy on disability and gender, community initiatives to prevent and fight child abuse, and the legal aid clinics and village mediation committees.²¹

In some cases, the link to reaching the rights holders is through those who represent in one form or another the interests of the rights-holders and serve in an enabling capacity, e.g. in terms of providing effective access to justice.²² Taking an example from LAO/031, in addition to the public and justice sector institutions, e.g., the Lao Bar Association among others plays an important role in providing access to justice and legal representation. Furthermore, several universities, including the Faculty of Law and Political Science, of the National University in Vientiane and the Faculty of Law of Champasak University, run clinical legal aid programmes which provide access for members of the public to legal counselling and advice. In this light, strengthening the capacity of the legal profession becomes essential, so that the required expertise in relation to laws, legal concepts and judicial processes is consolidated and strengthened from the base, even from the outset of legal education in the country. The number of lawyers in Lao PDR has increased in recent years, from 137 in 2017 to 317 as of March 2021, 72 (or 22.7%) of whom are female²³ and with adequate expertise. Opportunities for further professional training among legal professionals are not systematically provided, and the environment for providing quality basic and advanced legal education and training needs continuous improvement.²⁴

In the context of the Luxembourg Development Cooperation engagements, these include as duty bearers and rights holders under each of the four programmes:

- the Ministry of Health, provincial health departments and hospitals, district health offices and, by extension, private sector service providers; while the immediate rights holders are the targeted beneficiaries, i.e. women of reproductive age and children of less than five years old²⁵;
- the Ministry of Education and Sport, Ministry of Labor and Social Welfare, Ministry of Information, Culture and

Tourism, and the implementing institutions of Vocational Education Development Institute and Lao National Institute of Tourism and Hospitality, and private sector Enterprises; with immediate rights-holders being the main beneficiaries, i.e. women and men, mainly young people between 15 and 35 years, many from disadvantaged backgrounds due to e.g. a poor family background or household, living in a rural and/or remote area; who did not complete basic education (The London School of Economics and Political Science); from an ethnic minority; other (e.g. orphaned, abandoned, a survivor of human trafficking, sexual crime or violence, living with a disability or chronic illness, or recovering from addiction)²⁶;

- the Department of Planning and Investment in target provinces, line departments as relevant to the technical intervention, and 229 communities via their respective village development committees. The rights-holder/beneficiaries include the same 229 poorest and not likewise serviced villages in 14 districts, and individuals living in these, with a priority for non-Lao-Tai ethnic group, and special consideration given to the poorest households as well as to women of all ages²⁷;
- the Ministry of Justice and its related departments, the Ministry of Education and Sports, the People's Supreme Court, the Office of the Supreme People's Procuratorate, The National University, Faculty of Law and Political Science, and Champasak University, Faculty of Law and Administration. The rights-holders are less clearly defined under this project but would, ultimately, be the entire population of Lao PDR seeking justice, or at least in targeted provinces where legal aid centers are established, as well as law students at the involved faculties.

Accountability and Rule of Law

Crucial to the realisation of rule of law and good governance as the foundation of a rights-based approach, is to address the diverse challenges related to the further development of the legal sector in Lao PDR, which are quite diverse. As the country seeks to build a rule of law state, the most fundamental need is a continuous “upgrading” of the legal system through a holistic approach including procedural and institutional reform and capacity development for strengthened enforcement and implementation.

In terms of human rights, justice and rule of law, the core document is the Legal Sector Master Plan (“Master plan on development of the Rule of Law in the Lao P.D.R toward the year 2020”)²⁸. It states that the “main objective of the development of the Rule of Law State is to secure the extension of ownership of Lao and Ethnic People, rights of citizens, rights and interests of children, equality between men – women, ethnic groups, as well as for ensuring the implementation of obligations under international treaties to which Lao is a party”.²⁹

Barriers to accessing justice in Lao PDR include a generally low level of knowledge of law and rights in society as well as access to redress, counselling and aid in the justice system. In addition, poverty and remoteness of target populations are aggravating factors preventing access to the justice system. As a consequence of this, for the majority of the population, the formal legal framework remains remote, and operates alongside customary and traditional mechanisms.

A public survey conducted in 2015 reflected that the knowledge on the functions of the formal and semi-formal justice institutions is low. People had clearly better understanding about the police and the Village Mediation Units (VMU), but less of courts, lawyers and prosecutors. Concerning the knowledge on location, the best-known institution is the police (84% knew their location), which was even higher than the Village Mediation Unit (VMU) (73%). More than half of respondents knew where to find the court, but only one-third knew where to locate a prosecutor and only one-fourth were able to locate a lawyer. The majority of respondents said they knew how to submit a grievance to both the VMU (65%) and the police (67%). Only a minority of respondents know how to approach lawyers (22%), prosecutors (28%), and courts (43%). Urban and peri-urban respondents tended to have similar knowledge, somewhat higher than remote respondents. A large percentage of respondents did not have enough experience with different justice institutions to give an opinion on their level of satisfaction. Out of those people who have experience with justice institutions, around 90% said they were “very satisfied” or “satisfied” with their services. Ratings tended to be slightly higher for the VMU as compared to the other justice Institutions.³⁰

While progress has been made in expanding the legal and policy framework for rule of law and justice – as well as in other fields –, challenges remain particularly with regard to its effective implementation and enforcement. This implies the need to strengthen institutional and administrative capacities at all levels (central, provincial, district and village) to provide responsive, quality and accessible/affordable legal and related public services, including to improve access to justice and strengthening the rule of law. Local justice and related public sector administrations still face significant human and financial resource challenges to fully achieve the objectives and the wide-range public administration reform envisaged in the national decentralisation “Sam-Sang” policy.³¹ Furthermore, access to reliable data from the field that enables duty bearers, e.g. a Ministry, to ensure a fact-base for situational analysis and thus enable relevant strategic initiatives, remains a challenge in Lao PDR.³²

Another intrinsic aspect of transparency and accountability is that of corruption. In spite of efforts by the Lao government, and supported by Luxembourg Development Cooperation, especially LAO/030 and LAO/031, Lao PDR, with a score of 29 out of 100 is ranked 134th out of 179 in the 2020 Corruptions Perception Index.³³

Participation

Participation is an extremely broad concept, and in the context of the rights-based approach it means that people, rights-holders, are recognised as key actors in their own development, rather than passive recipients of commodities and services. Participation is viewed both a means and a goal; and strategies are empowering, not disempowering.³⁴

One key and illustrative example is the governance component of LAO/030, which focuses on capacity development in managing the NSEDP related to local and rural development, knowledge and information management, and monitoring and evaluation of national and local programmes. The community-led development component is managed by the target villages and includes capacity development in village development planning and management, economic development through land-use extension, credit schemes, and farmer organisation, as well as social development in education, health and skills development. The rural infrastructure component supports the construction of basic infrastructure, especially education facilities and clean water supplies, combined with capacity development in managing construction processes and maintenance systems. For further details and illustrations also across the other programmes, see Annex 1.

Non-discrimination, inclusion and accessibility

The European Union in the Fundamental Rights Charter prohibits “discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation”.³⁵ Similar aspects are reflected already in both the Constitution of Lao PDR and the ratified international conventions as outlined above.

Inclusion is discussed above within the framework of the Inclusive Governance Strategy, and is related to equality in terms of e.g. participation and benefit from service and support, reflecting the catch phrase of “leaving no one behind” as the “central, transformative promise of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals”, focusing on “reducing the inequalities and vulnerabilities that leave people behind and undermine the potential of individuals and of humanity as a whole” and in this way addressing root causes and structural barriers which cause this.³⁶

Lastly, accessibility is a term usually associated with web technology; but is a much broader concept, stipulated in the CRPD to which Lao PDR is a party since 2009. In article 9 it is outlined as the obligation for the duty bearer to contribute to “enable persons with disabilities to live independently and participate fully in all aspects of life - ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas – (and) include the identification and elimination of obstacles and barriers to accessibility”.³⁷ In this manner it addresses a number of aspects across the 9th NSEDP for LAO PDR as outlined above, and by adopting this criteria Luxembourg Development Cooperation throughout the programming take on the obligation to ensure that activities contribute towards this – for instance in terms of access to health and medical treatment, education, and to public facilities.

Gender

With a total population of 7,3 million³⁸, of whom 3,6 million (49.87%) are women in 2021, Lao PDR has a Gender Inequality Index (GII) value³⁹ of 0.459, ranking it 113 out of 162 countries.⁴⁰ 27.5%⁴¹ of parliamentary seats are held by women. Political representation of women in the National Assembly has grown by nearly 20% since 1990. which is among the highest in the region. However, women continue to struggle to participate in equal numbers and are still under-represented in senior government positions⁴² (share of women ministers: 7.4% in 2018)⁴³. Gender inequality manifest across all ages in the Lao PDR, with the highest gaps in adolescence and adulthood, where gender roles become more permanent. 1 in 5 girls drop out of school (upper secondary), which is strongly related to child labour, early marriage (1 in 5 girls aged 15-19 are married) and adolescent pregnancies (83 births per 1,000 girls aged 15-19).⁴⁴ 35.1% of adult women have reached at least a secondary level of education compared to 46.2% of their male counterparts. For further details, also on how to ensure that the gender dimension is sufficient reflected across the engagements under ICP, see the Guidelines for Mainstreaming Gender in ICP V.

Youth

One major group whose empowerment and inclusion will be central to the development of Lao PDR in the coming years is youth. According to the International Labour Organization, “youth” means anyone 15-24 years of age, whereas Lao PDR defines it as anyone 15-35 years of age. Even so, with the median age being 23, Lao PDR is unmistakably one of the youngest countries in Asia, and with its economic growth on the decline due to COVID-19, such a young country is also one of the most economically vulnerable. While the national unemployment rate in 2020 was 9.4%, the youth unemployment rate was much higher, at 18.2%. This figure, before COVID-19, had already raised concerns, but the pandemic has worsened the situation due to the detrimental impact on e.g. service and manufacturing industries.⁴⁵

One major group whose empowerment and inclusion will be central to the development of Lao PDR in the coming years is youth. The economy is projected to benefit from a demographic dividend in the medium-term, but only if young men and women are equipped with the appropriate skills and competencies and employment creation keeps pace with the growth of the working-age population. A study on “Adolescent and Youth Situation Analysis, Lao People’s Democratic Republic - Investing in young people is investing in the future”, prepared by Lao People’s Revolutionary Youth Union, LYU, and Lao PDR United Nations Population Fund, UNFPA, Lao PDR provides a good overview.⁴⁶

Disability

In terms of prevalence of disability in Lao PDR, the number in Lao PDR constitutes 2.8% of the total population according to the national census of 2015. The population-weighted prevalence for the Asia-Pacific region is around 4.6%, making a stark contrast to the global prevalence of 15.3 % as estimated by the World Health Organization. However, the prevalence of disability amongst the population could be much higher if data were collected based on the definition of a person with disability according to article (1) of the CRPD.⁴⁷

As mentioned above, the government of Lao PDR has ratified the United Nations Convention on the Rights of Persons with Disabilities, which outlines the human rights of persons with disabilities in all sectors. Several initiatives, programmes, and action plans aimed at people with disabilities - one of the most disadvantaged groups - have been implemented in Lao PDR in recent years. Inclusion efforts will continue through ICP V which will suggest targeted recommendations in the field of disability-inclusive services, Technical and Vocational Education and Training (TVET), health, local governance and the rule of law to ensure persons with disabilities benefit from social, economic and environmental development on an equal basis, in Lao PDR.

The National Committee for People with Disabilities and Elderly submitted a report under the UPR process in 2014, calling *inter alia* for prioritised dissemination of the Prime Ministerial Decree on organisation of the National Committee for Disabled and Elderly People, No 232/PM and Disability Decree, No 137/PM.⁴⁸ Furthermore, the Ministry of Planning and Investment and the Lao Statistics Bureau in 2020 published a Disability Monograph of Lao PDR based on the 2015 census.⁴⁹ It should be noted that the Lao PDR building code draft of 2016 requires facilities for restrooms to be accessible, as well as including provisions for the blind as well as for disability related to hearing.⁵⁰

As mentioned above, under the UN CRPD Laos will be up for a review in March 2022. This presents an opportunity for the development partners including Luxembourg Development Cooperation to provide closely coordinated support, e.g. through the provision of data drawn from the projects implemented under the focus areas, e.g. reflecting disability in health, local development, vocational training, higher education and in the administration of justice.

LGBTIQ

Among key actions by the European Commission is to “implement actions supporting LGBTIQ rights in line with the 2020-2024 Action Plan on human rights and democracy and with the EU Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons”.⁵¹

Laos does not recognise same-sex marriages, nor any other form of same-sex unions, and households headed by same-sex couples are not eligible for any of the rights that opposite-sex married couples enjoy.⁵² Also, non-discrimination in the context of Lao PDR does not include LGBTI as a legitimate basis.

The International Day Against Homophobia and Transphobia (IDAHOT) celebration on 17 May was first celebrated as a public event in 2019, and sponsored by a number of development partners and other international actors, including Luxembourg.⁵³ Also, a study on “Being LGBT At Work (A Study Of LGBTI Persons In Their Workplace In Lao PDR)” conducted by Faculty of Law and Political Science National University of Laos, Law and Development Partnership, and PTBUL was a contribution included as part of the Annual Legal Research Forum 2019 “Law and

Development From the Lao PDR's perspective" at the Faculty of Law and Political Science National University of Laos 19th December 2019.⁵⁴

Ethnicity

Under ICP V, "Particular focus will be given to enable the large population of ethnic groups to maximise vocational training opportunities, obtain full access to health and reproductive care, and to obtain meaningful access to justice".⁵⁵

Furthermore, all of the aspects addressed above show variance between the 50 different ethnic groups officially recognised by the government of Lao PDR. They are divided into four ethno-linguistic families. Lao, Lue, Phoutay, and other lowland ethnicities comprise the Lao-Thai family, which accounts for 67 % of the population.⁵⁶ The Mon-Khmer family is comprised of ethnic groups like the Khmu, Khuan, and Samtao, who constitute approximately 23% of the population. The Hmong, Yao, and other Hmong-Tien groups account for 7%, and the Sino-Tibetan groups account for 3% of the national population.⁵⁷ As in the Greater Mekong Subregion, the full inclusion of ethnic groups in the national economic development has proven to be challenging. One of the main reasons is that establishing infrastructure in isolated and highland places is far more expensive, leading in boom town development along valley floors contrasted to minimal change in highland locations.⁵⁸ Ethnic minorities make up the poorest communities. Due to remoteness, difficulty traveling, and a lack of resources, most ethnic groups are disadvantaged in terms of access to education and healthcare. Low levels of literacy and awareness frequently stem from a lack of education paired with geographic remoteness. Women from minority groups are much more disadvantaged, as they are often constrained by tradition and societal mores and behaviors.⁵⁹

Intersectionality and the impact of COVID-19

In terms of all these aspects, the intersectionality aspect comes into play, in the sense that individual, already vulnerable because of e.g. their gender or in other ways at-risk, become even more so when simultaneously affected by disability. As an example, data from the 4th Population and Housing Census 2015 published in 2020 showed that more than 160,000 (2.77%) people live with a disability among the population aged over five years. Disability prevalence in Lao PDR is higher in remote geographical areas (3.33% in rural areas without roads, 2.86% in rural areas with roads, 2.48% in urban areas), Persons with disabilities aged 10 and over had significantly lower labour participation and higher unemployment compared to persons without disabilities, in both rural and urban areas. Lastly, youth and women with disability were particularly excluded from education, vocational training and the workforce.⁶⁰

Mainstreaming the human and fundamental rights dimensions throughout ICP V has become particularly important since the start of the COVID-19 pandemic in 2020. Until April 2021, COVID-19 had mainly had a socioeconomic effect in Lao PDR, as domestic and regional supply chains crashed, along with markets and, with them, household incomes and market demand. With a significant rise in COVID-19 positive cases across all of Lao PDR from end of April 2021, leading to a comprehensive lockdown of most functions in society, the impact of the pandemic is at this stage unforeseeable but may turn out to have significant ramifications. Because of already precarious financial conditions, disadvantaged groups (marginalised urban women, remote ethnic minority women, returning migrant workers, etc.) are most affected by the economic downturn. Almost half a million people are predicted to lose their employment, and 383,000 people are projected to return to poverty, exacerbating pre-existing disparities⁶¹. COVID-19 jeopardises Lao PDR's hard-won growth gains over the last decade, obstructing progress toward the SDGs and its goal of becoming a middle-income nation. It will be important to ensure that no one is left behind in overcoming these hurdles. There will be no effective response to COVID-19 if gender, age, disability and other diversity specific impacts are not analysed and addressed with affected people acting as agents of their own fate. While the health impacts of COVID-19 are yet to be determined, the economic and social impacts, as shown in the increase of GBV and other harmful practices, disruption of education and public service delivery (with differentiated impacts based on sex and people's vulnerabilities), have proven to be significant and will continue to unfold throughout the life of ICP V.⁶² Therefore, mainstreaming rights is crucial under ICP V to help challenge/reverse the current situation. As a result, a comprehensive programme response to reduce economic and social impacts, as well as other potential health-related impacts, would be required to help support national efforts in that sense.

ICP V strategies and guidelines for mainstreaming human and fundamental rights

Approach

The technical focus of ICP V will continue to concentrate on health, local development, skills development and employability (TVET), inclusive governance and the rule of law, while better integrating crosscutting issues and paying a particular interest to human capital development as an overall thread.

This should result in the achievement of:

- enhanced national capacities and governance structures for the provision of and access to strengthened social protection and quality public health coverage, including sexual and reproductive health and nutrition information and services for all, particularly the most vulnerable populations;
- strengthened skills and employability aligned with labor market needs and development of opportunities for diversified and sustainable socio-economic and financial inclusion, particularly for women and young people, with a particular focus on the most vulnerable;
- strengthened capacities for inclusive and accountable governance, rule of law and justice systems, including improving quality and use of disaggregated data for improved policy planning, implementation and monitoring, the sustainable management of natural resources and empowerment of women and girls for improved livelihoods and fulfilment of human rights, particularly the most vulnerable populations;
- improved provision and access to community-based social services, sustainable livelihoods and socio-economic opportunities, and enhanced public administration capacities for effective decentralisation reform implementation and participatory planning at national and local levels.

By overcoming discriminatory obstacles of any kind, enablers include e.g. access to education, good health, jobs, decent housing, freedom from violence and harmful practices, and autonomy over household capital. All these elements can be linked to improved growth outcomes, such as better family health, educational levels, nutritional status and food security, and overall welfare, especially for children.

Encouraging those at risk of being left behind to engage fairly and meaningfully in participatory processes including municipal and urban administration, local and national political life, humanitarian aid, and peacebuilding will result in better policy decisions, more representative governmental structures, more stable and egalitarian communities, and vibrant community growth.

Similarly, by strengthening the capacity of citizens and community members (as rights-holders) to engage with the government (as duty-bearers), these will increasingly be able to contribute towards policy planning, implementation and evaluation of efforts (national as well as supported by development partners). This contributes towards increased local ownership and, ultimately, increases the likely sustainability and impact.

To successfully achieve any form of mainstreaming during programming, a systematic approach is essential, which means ensuring multi-stakeholder inclusion at every step of the process – i.e., in the formulation, implementation and monitoring and evaluation stages.

Locally adapted implementation guidelines and tools

The expected impact is greater equality in Lao society as a whole between and a tangible effort to empower, those at risk of being left behind and marginalised for whatever reason. The practical needs and strategic interests of individuals and groups of society are different and require different approaches and solutions in which the target audience need to be actively involved. A “One size fits all” approach therefore cannot be applied. However, at the same time there are generic aspects to mainstreaming through the various stages of the programming cycle, which can serve to ensure that the effort pays off.

As outlined above, the rights-based governance strengthening approach is geared for direct reflection under each of the specific engagements, technical and financial documents (TFD), designed and implemented under ICP V. This should ensure that the aspects are concretised and within each of the fields appear as specific and contextual reflections of the generic concepts and approach. Furthermore, taking outset in these grounded approaches, a solid and fact-based outset for policy dialogue can be established.

A fundamental challenge throughout the stages of the cycle as described below will be to access and systematically harvest and utilise the relevant data essential for e.g. context analysis and monitoring.

Furthermore, lack of technical capacity among core stakeholders both on the rights-holder and duty-bearer side, including familiarity with the project cycle approach, as well as linguistic challenges, may require focused efforts aimed at strengthening the capacity of the key implementing partners to engage in this.

Project management cycle

These guidelines aim to improve the quality of interventions within ICP V through a rights-based approach, which can be summarised as follows:

STAGE 1: FORMULATION⁶³

All new interventions are based on a targeted human and fundamental rights analysis addressing the specific area/sector in question. This will include collecting evidence of context and results from summative assessments and formative programme research. At the formulation stage this will be reflected through the formulation of the sectoral/outcome area Theory of Change, and highlighting areas of the overall strategic engagements where the rights dimensions as outlined above must be kept in focus.

Further elements include:

- mainstream the rights aspects as outlined above across problem and stakeholder analysis – including preliminary assessments to determine rights sensitivity within target sectors (diagnostics, screening or analysis before the design of interventions). Tools must be adapted according to local context and capacity;
- include human and fundamental rights as part of the overall terms of reference for formulation, including definition of gender and rights ToR/guiding questions for the formulation mission;
- ensure donor harmonisation across the specific areas of engagement;
- integrate specific questions on human and fundamental rights into existing tools that the cross-disciplinary team will address; and have the team review the questions and discuss how they relate to the specific country context and adapt as needed;
- ensure integration of human and fundamental rights targets in the overall ICP V monitoring dashboard and identification of OVIs, at a principal level with details to be defined during the inception phase;
- mainstream rights performance targets or indicators in ToR/job descriptions of international and national technical assistants;
- ensure that each team member identifies, understands and is accountable for human and fundamental rights questions related to the level or analysis table that the team member handles;
- discuss human and fundamental rights in the appropriate context between implementing partner institutions' professionals and team member experts and ensure that this is done in an integrated manner other than seen or handled as an "add on" or parallel exercise.

STAGE 2: INCEPTION AND EXECUTION

LuxDev will ensure that the rights dimension is included through the development of a dedicated analysis both at an overall level and reflected within the relevant areas of engagement. As discussed below in relation to financial resources, this will have to be considered during the programme budget design process.

The findings and recommendations of these analyses inform the project/programme design, including outcome/output and activity tailoring. This includes the selection of priority issues, target groups and coverage, and their integration in terms of programme results, indicators and intervention modalities:

- mapping of existing human and fundamental rights initiatives within target sectors and geographic areas by domestic as well as external stakeholders. Determine the relevant type of assessment that needs to be carried out prior to project execution and if applicable, include a summary of the assessment in the inception report or TFD; See Annex 3 for suggested framework.
- relevant capacity development approaches, materials and tools are developed to support project staff and implementing partners.

To ensure that the implementation reflects the principles to be mainstreamed, implementation modalities including budgeting and partner engagement as well as capacity development of these must be ensured:

- a systematic rights analysis which maps the status of the key aspects outlined above in relation to the specific engagement, both with respect to a background and current outset as a baseline; and forward-looking through the programme formulation instrument including the results framework in all its dimensions;⁶⁴
- systematic integration of rights actions within the Annual Operational Plan (AOP), both as single-standing dedicated activities and mainstreamed throughout programmatic activity;
- capacity development of project staff and implementing partners on human and fundamental rights in the form of dedicated activities (e.g., modules in trainings dedicated to rights aspects);

- design and/or adaptation of tools and methodologies for practical implementation of gender and human and fundamental rights tasks and activities, e.g., including gender-reflective budgeting as well as increased transparency in use of financial resources allocated for these dimensions;
- when setting up implementation modalities including hiring of staff (local as well as international) insert standard clauses as regards gender and human rights in selection processes, at least as an additional optional qualification, and include recruitment of relevant gender and rights expertise, national and international.

During the inception phase, these aspects are given further definition in the development of implementation plans at the output and activity levels, allowing for a first level of adjustment e.g. through initial lessons learned and a consolidated Monitoring, Evaluation, Accountability and Learning (MEAL) framework (see below). On this basis the full roll-out in the implementation phase is enabled.

Resources

Mainstreaming has often been more successful in producing effective policy outcomes than in translating them into concrete initiatives on the ground. This implementation gap is primarily due to a lack of effective human, technical and financial resources. Under ICP V, the following resource allocation should be considered:

Human resources

Two parallel efforts will be required to facilitate full implementation of the mainstreaming of rights and gender approaches:

- internally for LuxDev, recruitment of dedicated rights/inclusive governance/justice senior expertise at country/regional office level.

The mandate would include e.g.

- facilitating Luxembourg Development Cooperation's policy dialogue with key stakeholders at the national/regional, including liaison with other development partners rights focal points at the national, regional and international levels,
- supporting the Embassy in defining rights policy, the latter with a view to ensuring alignment with Lao interpretation and positions on human and fundamental rights,
- spearheading technical support and capacity development of project staff and implementing partners,
- liaising with other development partners human rights experts,
- participating in relevant working groups,
- participating in project design.

The expert will work in close collaboration with HQ's gender and human rights expert and will also make use of nationally recruited specialists for improved contextual relevance and facilitating engagement with local networks and communities of practice. Furthermore, he/she would be able to assess and ensure a relevant organisational response to staff and external experts' needs for capacity development in the relevant areas.

- for implementing project partners, a strategically designed and implemented capacity development effort.

The lack of sufficient capacity among implementing partners may pose obstacles to LuxDev's effort to ensure a full and equally inclusive and participatory partnership. A capacity development programme for dedicated focal points across the programmes and stakeholder groupings within these can help to ensure this, as well as pave the way for a more sustainable impact of LuxDev's rights efforts. This should be based on assessment of specific individual and institutional needs for capacity development of implementing partners both in the substantial areas, and in terms of programming and, in particular, MEAL. This is necessary to ensure that these aspects become "a way of life" within the partner institutions rather than a "box ticking" exercise.

Technical resources

Technical resources implemented primarily at the inception stage should include, but not be limited to:

- implementation of a robust monitoring and evaluation database to improve data collection and dissemination and build the evidence base for mainstreaming of human and fundamental rights;
- explicit integration of rights issues in programme documentation, AOP, annual reports, mid- and final term evaluations, etc.;
- a toolbox designed and contextually tailored to coach and facilitate processes of exploration and learning in gender and rights areas with local partners at all levels to ensure participation and strengthen local ownership;

- thematic papers linking rights to the different thematic areas that are relevant for the policy dialogue and awareness raising efforts of the particular Lao context, in line with the key thematic areas defined in the new ICP V Laos (rights and D4D/ rights and health/ rights and local development/ rights and governance/ rule of law, and rights and education/ skills development).

Financial resources

Financial resource allocation for mainstreaming rights will be determined based on identified needs during the inception and execution phases by the regional office in consultation with the project implementation team.

Monitoring, Evaluation, Accountability and Learning

For each project's relevant framework for MEAL⁶⁵, the successful realisation of the rights dimensions means that all of these will be screened against the criteria of the rights-based approach as outlined above. This includes:

- a sound methodology and performance measurement framework (included in inception report/revised TFD) for measuring the selected relevant indicators/sub-indicators at output and outcome levels;
- defining baseline and target values and sources which are coherent in relation to project design, and realistically applicable;
- ongoing tracking and adjustment e.g., relative to data access and outcomes harvested, and scheduled assessments of "lessons learned" with implementing partners;
- regular reporting, e.g., annually to PSC, with focus on results achieved, added value and outcomes on such gender and rights indicators.

Monitoring, evaluation, accountability and learning are important dimensions of programming, because they enable assessment on progress against mainstreaming targets and objectives.

LuxDev aims to foster accountable communities by improving evaluation and reporting on outcomes, encouraging citizen participation in decision-making, and supporting the production and use of transparent and comprehensive data and information for programme design, and implementation. This involves interventions such as using metrics that are disaggregated by sex, ethnicity, age, disability, and other diversities, as well as gender-specific indicators, engaging women's rights organisations in reporting and decision-making, promoting national human rights monitoring frameworks.

Within the rights field, the generic toolbox is less well developed. However, core approaches could include justice perception surveying and progress against UPR recommendations as well as treaty body recommendations. Furthermore, context and stakeholder analysis and needs assessments, institutional SWOTs, and indicator frameworks under partner institutions own planning base including strategic frameworks etc. undertaken by other development partners should be circulated and exchanged as a prerequisite for strong alignment.

Throughout the project cycle rights mainstreaming should be included in the ToR of programme staff, as well as throughout the preparation of contractual documents; and be explicitly taken into account in mid-term and final evaluations. All annual project/programme reports must report progress against rights-based indicators.

Monitoring of rights mainstreaming within projects and programmes is the responsibility of the technical advisors and CTAs. It is a responsibility specific to projects and programmes and preferably managed by a rights expert who is part of the ICP V technical assistance team.

A "rights review" assesses the extent to which a project or programme has contributed to the improvement of human and fundamental rights aspects in the sector concerned. It also provides recommendations on the issue for future projects and programmes. It will assess rights mainstreaming at the level of programme design, actual implementation and propose elements for further action. Mid-term evaluations will present lessons learned, and final evaluations will make general recommendations. The terms of reference of the evaluations on the one hand, and the draft reports on the other, are systematically shared with the rights expert for critical reading. As discussed above in relation to the inception phase, such expertise will need to be sourced and financed.

Capitalisation

A capitalisation strategy on mainstreaming cross-cutting issues will be developed to create a learning culture based on documented practice. Consistent (quality) monitoring and the implementation of feedback loops cutting across different levels (e.g., from Lao and Luxembourg strategic/policy priorities, through ICP V mainstreaming guidelines, through to programme operations, implementing partners and beneficiaries) will enable the capturing of good practices and generate valuable lessons as well as provide innovative examples that are potentially relevant for future forms of dissemination and transferability within other country offices.

Endnotes

- 1 Luxembourg's general development cooperation strategy entitled "The Road to 2030", <https://cooperation.gouvernement.lu/dam-assets/politique-cooperation-action-humanitaire/documents-de-reference/strat%C3%A9gie/Strat%C3%A9gie-MAEE-EN.pdf>
- 2 <https://chronicle.lu/category/environment/35387-luxembourg-unveils-3rd-national-plan-for-sustainable-development>
- 3 https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en
- 4 https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/lesbian-gay-bi-trans-and-intersex-equality/lgbtiq-equality-strategy-2020-2025_en
- 5 Applied in particular by LAO/030, *ibid*.
- 6 <https://cooperation.gouvernement.lu/en/publications/brochure-livre/minist-affaires-etrangees-europeennes/dir-cooperation-action-humanitaire/strategies-et-orientation/gouvernance.html>.
- 7 https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/142682.pdf
- 8 <https://www.ohchr.org/Documents/ProfessionalInterest/vienna.pdf>
- 9 https://laopdr.un.org/sites/default/files/2019-08/2016%20UNPF_2017-2021_English.pdf
- 10 To be transformative, the commitment to gender equality should be universal; address the structural foundations of gender-based inequality, including in the three dimensions of sustainable development— social, economic and environmental; and ensure accountability.
- 11 The rights-based approach to development has over the years been expressed with some variation and emphasis of the core elements. In the following particular guidance has been drawn from two sources: Berman, Gabrielle, *Undertaking a Human Rights-Based Approach: Lessons for Policy, Planning and Programming – Documenting Lessons Learned for the Human Rights-Based Approach to Programming: An Asia-Pacific Perspective – Implications for Policy, Planning and Programming*. Bangkok: UNESCO Bangkok, 2008, https://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hrba-policy-planning-programming.html. For a more directly practical approach, see also *Indicators for Human Rights Based Approaches to Development in UNDP Programming: A Users' Guide* (March 2006), <http://www.undp-aciac.org/publications/other/undp/hr/humanrights-indicators-06e.pdf>; Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19, UNDP (July 2020), <https://www.undp.org/publications/checklist-human-rights-based-approach-socio-economic-country-responses-covid-19>, which provides a highly practical tool for a mapping exercise, particularly relevant to ICP V as it addresses the need to focus on those most at risk of being left behind, in relation to the dimensions of e.g. health, social protection and basic services, social cohesion and community resilience, economic recovery through jobs and occupation, and through application of the normative rights framework as well as a multi-stakeholder approach.
- 12 Wouter Vandenhoe & Paul Greedy (2014) *Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective*, *Nordic Journal of Human Rights*, 32:4, 291-311, <https://doi.org/10.1080/18918131.2015.957458>; Hannah Miller & Robin Redhead (2019) *Beyond 'rights-based approaches'? Employing a process and outcomes framework*, *The International Journal of Human Rights*, 23:5, 699-718, DOI: 10.1080/13642987.2019.1607210, <https://doi.org/10.1080/13642987.2019.1607210>; and *A Human Rights-Based Approach to Development and Development Programming Based On Capacity Development*, Jonsson (2010), <https://hd-ca.org>. Lastly, another relevant document, bearing in mind the objective of Luxembourg Development Cooperation, is *Principles And Guidelines For A Human Rights Approach To Poverty Reduction Strategies*, OHCHR (2006), <https://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf>
- 13 As mentioned above, for the formulation process a separate document is added as Annex 1 to the final version of the Guidelines, elaborating on the details of these documents
- 14 <https://www.upr-info.org/en/review/Lao-People%27s-Democratic-Republic>
- 15 Internal note from International Cooperation and Project Management Secretariat (ICPMS), National Assembly, Lao PDR
- 16 Prime Minister's Order on to Formulated the 9th NSDEP 2021- 2025, numbered 05/PM, dated 21st Mar 2019. • Minister of Planning and Investment's Guideline to Prepare 9th NSEDP 2021-2025, numbered 1610/MPI, dated 26 July 2019. 9th NSEDP was adopted by the National Assembly in March 2021 (opening session 22nd to 26th March).
- 17 When it was introduced it was criticised by international human rights organisations for reflecting a more restrictive approach, <https://www.omct.org/en/resources/statements/9-ngos-call-for-the-repeal-of-decree-on-associations-no-238-of-2017>. See also a recent thesis on the subject, outlining that to date more than 150 of such organisations operate at the national and subnational levels <https://flex.flinders.edu.au/file/a538d6e3-06ea-4a8a-9629-508b08f02fd8/1/Final%20version%20for%20submission%20to%20Library%20K%20Chanthaphouvong%20Research%20thesis%20ID%202194646.pdf>.
- 18 https://www.jica.go.jp/laos/english/office/about/ngodesk/pdf/decree_e.pdf
- 19 <https://flex.flinders.edu.au/file/a538d6e3-06ea-4a8a-9629-508b08f02fd8/1/Final%20version%20for%20submission%20to%20Library%20K%20Chanthaphouvong%20Research%20thesis%20ID%202194646.pdf>
- 20 <https://www.laocivilsociety.org/en/>
- 21 Internal documents.
- 22 *Human Rights Based Approach to Access to Justice*, Asia-Pacific Human Rights Information Center (2010), <https://www.hurights.or.jp/archives/focus/section2/2010/06/human-rights-based-approach-to-access-to-justice.html>
- 23 Lao Bar Association Extraordinary Assembly 28-29 March 2021
- 24 *Country Analysis Report: Lao PDR. Analysis to inform the Lao People's Democratic Republic–United Nations Partnership Framework (2017-2021)*, <https://laopdr.un.org/en/13290-lao-pdr-united-nations-partnership-framework-sustainable-development-2017-2021-2015-country>
- 25 TFD, LAO/027
- 26 TFD, LAO/029.
- 27 TFD, LAO/030
- 28 https://www.la.undp.org/content/dam/laopdr/docs/Project%20Documents/Governance/UNDP_LA_SPLSMP_%20Prodoc.pdf
- 29 A new Master Plan has not yet been adopted, and key stakeholders indicate that there is no clear timeline for this.
- 30 The survey included 1,443 respondents in Oudomxay, Xiengkhuang and Champasak provinces, *Public Justice Survey Report*, UNDP 2015.
- 31 *European Partners' Joint Programming Strategy with the Lao PDR, 2021-2025 (draft)*

- 32 See e.g. https://www.unescap.org/sites/default/files/Developing_the_statistics_law_of_the_Lao_PDR_2020.pdf
- 33 By comparison, Vietnam and Thailand are both ranked as no. 104 with scores of 36, whereas Myanmar is ranked lower at 137 (28) and Cambodia at 160 (21). Transparency International, <https://www.transparency.org/en/cpi/2020/index>.
- 34 <https://www.unfpa.org/human-rights-based-approach>
- 35 Fundamental Rights Charter, art. 21, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>
- 36 <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>
- 37 <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-9-accessibility.html>
- 38 Worldometers info
- 39 The Gender Inequality Index (GII) reflects gender-based inequalities in three dimensions – reproductive health (RH), empowerment, and the labor market, as data of reasonable quality allow. RH is measured by maternal mortality and adolescent birth rates; empowerment is measured by the share of parliamentary seats held by women and attainment in secondary and higher education by each gender; and economic activity is measured by the labor market participation rate for women and men. It shows the loss in potential human development due to inequality between female and male achievements in these dimensions. It ranges from 0, where women and men fare equally, to 1, where one gender fares as poorly as possible in all measured dimensions.
- 40 In the 2019 index - human development report 2020 for Lao PDR. Cf. Annex-3 on the 2019 list of GII for ASEAN
- 41 <https://data.unwomen.org/country/lao-peoples-democratic-republic>
- 42 <https://www.worldbank.org/en/news/feature/2013/03/01/key-findings-country-gender-assessment-for-lao-pdr>
- 43 <https://www.oecd.org/gov/gov-at-a-glance-sea-country-factsheet-laos.pdf>
- 44 Lao Social Indicator Survey II, 2017
- 45 ILO. (2020). Global employment trends for youth 2020: Technology and the future of jobs; <https://worldpopulationreview.com/countries/laos-population>; and Lao Labour Force Survey 2017, Ministry of Labour and Social Welfare. All quoted in UNDP report “Youth Unemployment Issues in Lao PDR” (July 2021), <https://bit.ly/3hY3W3t>
- 46 <https://lao.unfpa.org>
- 47 https://www.la.undp.org/content/lao_pdr/en/home/blog/2021/including-persons-with-disabilities-in-the-national-socio-econom.html
- 48 (UPR 18) A Stakeholders report prepared by Lao Disability...<https://uprdoc.ohchr.org>
- 49 <https://lao.unfpa.org/en/publications/disability-monograph-lao-pdr-2015-population-and-housing-census>
- 50 http://www.iibh.org/kijun/pdf/Laos_08_Draft_Lao_BC_as_of_Aug_2016.pdf
- 51 https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/lesbian-gay-bi-trans-and-intersex-equality/lgbtiq-equality-strategy-2020-2025_en, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0698&from=EN>
- 52 https://en.wikipedia.org/wiki/LGBT_rights_in_Laos#Recognition_of_same-sex_relationships
- 53 <https://bangkok.unesco.org/content/being-lgbti-laos-increasing-visibility-and-support-growing-movement>
- 54 <https://www.facebook.com/proudtobeuslaos/posts/2625152754238116/>.
- 55 ICP V main document, signed Vientiane 8 July 2021.
- 56 <https://www.adb.org/sites/default/files/linked-documents/47137-003-ippfab.pdf>
- 57 <https://www.adb.org/sites/default/files/linked-documents/47137-003-ippfab.pdf>
- 58 <https://www.adb.org/sites/default/files/linked-documents/47137-003-ippfab.pdf>
- 59 Lao Social Indicator Survey (LSIS) 2012
- 60 <https://lao.unfpa.org/en/news/towards-better-inclusion-people-disability-rights-lao-pdr>
- 61 UN Lao PDR Socio-Economic Response Framework to COVID-19 Proposed offers prepared by the UN Country Team in Lao PDR, 2020
- 62 COVID-19 to Impact Lao PDR Growth, Debt in 2020: New World Bank Report. See also a recent global study on the impact of COVID-19 on National Human Rights Institutions, which provides an insight into some of the challenges to rights, <https://www.undp.org/publications/covid-19-and-national-human-rights-institutions>.
- 63 The formulation team will be supported during this phase by a dedicated gender and rights working group piloted by Luxembourg Development Cooperation's gender expert and including the human rights expert CTA of LAO/031 The working group will provide technical guidance to the formulation team on gender and rights mainstreaming, particularly in terms of i) increasing the sensitivity of sectoral assessment tools and ii) providing quality assurance on the deliverables produced by the formulation team (*aide-mémoire*, technical annexes, preliminary TFD, final TFD) to ensure that gender and rights issues have been adequately addressed and resources clearly defined for continued mainstreaming during the ICP V implementation phase (i.e., inception and execution), in line with the key indicators defined in the GAP III.
- 64 A useful tool in this respect would e.g. be the Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19 developed by UNDP (July 2020), <https://www.undp.org/publications/checklist-human-rights-based-approach-socio-economic-country-responses-covid-19#modal-publication-download>
- 65 Including relevant indicators underpinned by relevant baselines, and including Risks and Assumptions, must be designed and actively implemented through the entire cycle, including regular feedback and reflection scheduled into project planning and, when necessary, including capacity strengthening of key involved stakeholders.

LIST OF ANNEXES (available upon request)

Annex 1 – Mainstreaming gender and rights (experiences from ICP IV; orientations for ICP V)

Annex 2 – Legal Policy and Framework (detailed)

Annex 3 – Tool for rights-based mapping – under development, not included





THE GOVERNMENT
OF THE GRAND DUCHY OF LUXEMBOURG
Ministry of Foreign and European Affairs

Directorate for Development Cooperation
and Humanitarian Affairs

**Directorate for Development Cooperation
and Humanitarian Affairs**

6, rue de la Congrégation
L-1352 Luxembourg
T (+352) 246-82351

www.cooperation.gouvernement.lu



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