UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

LAO PEOPLE'S DEMOCRATIC REPUBLIC

I. BACKGROUND INFORMATION

The Lao People's Democratic Republic ("Lao PDR") is not a State party to the *1951 Convention relating the Status of Refugees* and its *1967 Protocol (*collectively jointly referred hereafter as the *1951 Convention),* the *1954 Convention relating to the Status of Stateless Persons* (hereafter the *1954 Convention*) nor the *1961 Convention on the Reduction of Statelessness* (hereafter the*1961 Convention*). Lao PDR has, however, acceded to several international human rights treaties, including the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (*CAT*), the *Convention on the Elimination of All Forms of Discrimination against Women* (*CEDAW*), the *International Convention on the Elimination of All Forms of Racial Discrimination* (*CERD*) and the *Convention on the Rights of the Child* (*CRC*).

The Government of Lao PDR reports that there are no asylum-seekers, refugees or stateless persons in the country. Lao PDR occasionally receives asylum-seekers and UNHCR continues to assist the Government in processing such cases, but there are currently no active cases.

Lao PDR has participated in workshops which examined relevant issues relating to statelessness, birth registration and the right to a nationality held, respectively, by the ASEAN Intergovernmental Commission on Human Rights and UNHCR in November 2011[1] and the ASEAN Commission on the Promotion and Protection on the Rights of Women and Children in August 2013.[2]

II. ACHIEVEMENTS AND GOOD PRACTICES

1. Birth Registration

Birth registration can contribute to the realization of the right of every child to a nationality. Birth registration helps to prevent statelessness by establishing a permanent legal record of where and when a child was born and who his/her parents are. Birth registration and birth certificates can serve as a key form of proof of whether a person has acquired nationality by birth

[1] Regional Workshop on Statelessness and the Rights of Women and Children, Manila, 18-19 November 2011.
[2] Regional Workshop Promoting the Rights of ASEAN Women and Children through Effective Implementation of the Common Issues in CEDAW and CRC Concluding Observations with Focus on Girl Child, Da Nang, 20-22 August 2013.

or by descent. The Government of Lao PDR is working with development agencies including UNICEF, UNFPA, WHO and Plan International to improve its civil registration system.

2. Nationality Law and the prevention and reduction of statelessness

The *Law on Lao Nationality*[3] includes provisions that, if implemented, can prevent statelessness occurring amongst children born in the territory and can help to reduce statelessness. For example, the *Law on Lao Nationality* provides that foundlings should acquire Lao citizenship automatically.[4]

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection against *refoulement*

In May 2013, nine individuals, including five children, from the Democratic People's Republic of Korea (DPRK) were reportedly deported from Lao PDR to the People's Republic of China. According to media reports, the nine individuals were ultimately returned to DPRK. Such deportation would have disregarded the principle of *non-refoulement*, which is a rule of customary international law.

In addition, in December 2009, the Government of Thailand forcibly returned approximately 4,000 Lao Hmong, including 158 refugees registered with UNHCR, to Lao PDR. UNHCR has sought unrestricted access to the areas to which the Lao Hmong were returned, but to date the Government of Lao PDR has not provided such access. UNHCR and other agencies were allowed to participate in a government organized and escorted visit to one returnee site only. It is also worth noting that in April 2012, the Committee on the Elimination of Racial Discrimination urged Lao PDR to "*ensure that repatriation of persons or groups, considered as persons of concern to UNHCR, is conducted on a genuinely voluntary basis. The Committee also urges the State party to give international monitors unrestricted access to returnees*."[5] Consistent and concerted efforts may therefore be required in order to address this outstanding issue.

Recommendations:

UNHCR recommends that the Government of Lao PDR:

- Fully respect the principle of *non-refoulement* in accordance with customary international law; and
- Provide UNHCR unrestricted access to the areas to which Lao Hmong were returned from Thailand in December 2009.

[3] No.5/NA, 17 May 2004.

[4] The Law on Lao Nationality, Article 13 provides that "Children found in the territory of the Lao People's Democratic Republic and whose parents' identity is unknown will be considered Lao citizens"

[5] UN Committee on the Elimination of Racial Discrimination (CERD), *Consideration of reports submitted by States parties under article 9 of the Convention: concluding observations of the Committee on the Elimination of Racial Discrimination: Lao People's Democratic Republic*, 13 April 2012, CERD/C/LAO/CO/16-18, para. 12, available at: http://www.refworld.org/docid/50619ad92.html

Issue 2: <u>Accession to the *1951 Convention* and its *1967 Protocol*</u>

Accession to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* greatly facilitates UNHCR's task of mobilizing international support to address refugee situations that may arise in any country. UNHCR believes that it is necessary to broaden the base of State support for these international refugee instruments, ensuring that the protection provided to refugees is more universal in scope and the burdens and responsibilities of governments are equitably distributed and consistently applied.

Notwithstanding the fact that there are currently no asylum-seekers and refugees in the country, accession to the *1951 Convention* and its *1967 Protocol* as well as the establishment of a national legal framework would establish a clearer basis for the Government of Lao PDR to provide refugees with international protection should anyone seek asylum there in the future.

Recommendations:
UNHCR recommends that the Government of Lao PDR:

- Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol;*
- Enact a national refugee law to establish refugee status determination procedures and spell out the rights of refugees in the country.

Issue 3: <u>Accession to the 1954 and 1961 Conventions</u>

As already stated, Lao PDR is not a State party to the *1954 Convention* or to the *1961 Convention.* Accession to these *Conventions* would establish a stronger framework to prevent statelessness as well as to avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons, in the event that such persons are found to reside in Lao PDR.

The *1954 Convention* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. The *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to these two *Conventions* is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Recommendation:
UNHCR recommends that the Government of Lao PDR:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

Issue 4: <u>Reform of the nationality law to more effectively prevent and reduce statelessness</u>

The Law on Lao Nationality, Article 13 contains a provision that allows children born in Lao PDR to parents who are permanently residing in Lao PDR and who are unable to certify their nationality[6] but who are integrated into Lao society to acquire Lao citizenship upon request. [7] However, the law does not provide that children who are born on the territory and who would otherwise be stateless will acquire Lao PDR citizenship automatically.

In addition, the Law on Lao Nationality provides a mechanism for stateless persons to naturalise, however this is subject to a number of integration criteria which could be prohibitive.[8]

Recommendations:
UNHCR recommends that the Government of Lao PDR:

- Reforms the *Law on Lao Nationality* to provide a protection to ensure that all children born on the territory who are otherwise stateless acquire Lao citizenship; and
- Reforms the *Law on Lao Nationality* in order to facilitate the naturalization of stateless persons.

Issue 5: <u>Access to Birth Registration</u>

Birth registration helps to prevent statelessness by establishing a legal record of where a child was born and who his/her parents are. As such it serves as a key form of proof of whether a person has acquired nationality by birth or by descent. Failure to document a person's legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care. In 2012, the Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon *"States to ensure free birth registration, including free or low-free late birth*

[6] The Law on Lao Nationality, Article 7 provides that "An "apatrid" is an individual residing in the territory of the Lao People's Democratic Republic who is not a Lao citizen and who is unable to certify his nationality."
[7] The Law on Lao Nationality, Article 12 provides that "Children born in the territory of the Lao People's Democratic Republic to apatrid parents permanently residing in the Lao People's Democratic Republic and integrated into the Lao society and culture will acquire Lao citizenship if requested by their parents".
[8] The Law on Lao Nationality, Article 14 provides: "Foreign citizens or apatrid individuals may acquire Lao nationality upon request if:
1. They are eighteen years of age or more when requesting Lao nationality;
2. They respect the Constitution and the laws of the Lao People's Democratic Republic;
3. They speak, read and write fluently in Lao;
4. They possess evidence of their social and cultural integration [and their] knowledge of and respect for Lao traditions];
5. They are in good health, and are not suffering from any serious infectious disease or drug addiction;
6. They have not been sentenced by any court to imprisonment;
7. They participate in the protection and development of the country;
8. They have not caused harm to the national interest;
9. They agree to relinquish their previous nationality (unless they have no nationality);
10. They have [established] continuous permanent residence in the Lao People's Democratic Republic for ten years before requesting Lao nationality, although the time limit may be reduced for individuals whose professional qualifications are at an expert level; [and]
11. They have professions and qualifications in certain areas and have a stable economic status."

registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind."[9]

UNHCR notes that the Committee on the Rights of the Child (CRC) encouraged Lao PDR to consider the possibility of mobile birth registration and "*provide birth certificates free of charge for all children born on its territory*".[10] The CRC has also recommended that Lao PDR ensure that the best interests of the child and preservation of the child's identity are prioritized when requests to change a child's name are made and that civil status registries be established throughout all districts, including rural districts.[11]

Recommendation:
UNHCR recommends that the Government of Lao PDR:

- Continue its efforts to modernize its birth registration system and improve access to remote locations, and evaluate if more steps need to be taken to ensure access to universal birth registration.

Issue 6: <u>Review of reservations</u>

Lao PDR has made reservations that may go against the object and purpose of CAT, including that it "*does not recognize the competence of the Committee against Torture under Article 20*".

Recommendation:
UNHCR recommends that the Government of Lao PDR:

- Review its reservations to CAT, in order to improve its accountability towards international obligations.

Human Rights Liaison Unit
Division of International Protection
UNHCR
June 2014

[9] UN Human Rights Council Resolution A/HRC/RES/19/9, 3 April 2012, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/9. The Human Rights Council adopted another resolution on this issue at its 22nd session in March 2013; UN Human Rights Council Resolution A/HRC/RES/22/1.14/Rev.1, 19 March 2013, available at: http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G13/123/89/PDF/G1312389.pdf?OpenElement.
[10] *Supra* note 5.
[11] See the Committee on the Rights of the Child, CRC/C/LAO/CO/2, 56th session, 8 April 2011, paragraphs 34 and 35.

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

- Universal Periodic Review:

LAO PEOPLE'S DEMOCRATIC REPUBLIC

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Lao People's Democratic Republic.

I. Treaty Bodies

Committee on the Elimination of Racial Discrimination
CERD/C/LAO/CO/16-18, 80th Session
13 April 2012

Refugees
12. The Committee notes the information provided by the State party in its letter of 2 October 2009 and during the dialogue regarding the conditions of Hmong persons repatriated under an agreement with a neighboring country. Nevertheless, the Committee expresses concern that some persons, considered by the Office of the United Nations High Commissioner for Refugees (UNHCR) as persons of concern, did not voluntarily repatriate and that international monitors were not allowed access to them upon their arrival in the State party (art. 5 (b)).
The Committee calls upon the State party to ensure that repatriation of persons or groups, considered as persons of concern to UNHCR, is conducted on a genuinely voluntary basis. The Committee also urges the State party to give international monitors unrestricted access to returnees.

Trafficking
13. While noting the efforts of the State party to combat human trafficking including through regional cooperation, the Committee is concerned that human trafficking, which could affect the rural population and ethnic groups, remains a serious problem (art. 5 (b)).
In addition to the universal periodic review recommendations on measures to combat trafficking which the State party has voluntarily committed to follow, the Committee calls upon the State party to address the root causes of trafficking and to pay attention to any manifestation of vulnerability thereto due to ethnicity or subsequent to relocation.

Committee on the Rights of the Child
CRC/C/LAO/CO/2, 56th Session

8 April 2011

Birth Registration

34. The Committee notes with concern that parents adopting a child under the age of 10 can change the child's first name without the consent of the child. The Committee is also concerned that births in small isolated villages may not be registered due to communication difficulties or lack of knowledge of legal procedures on the part of parents and administrative authorities in villages or the absence of a civil status registry in small rural districts. The Committee also regrets that the issuance of birth certificates is not free and that parents from rural areas often have difficulty accessing the services that provide birth certificates.

35. The Committee recommends that the State party take appropriate legislative or other measures to ensure that the principles of the best interests of the child and preservation of the child's identity are given priority consideration with regard to all requests to have a child's name changed. The Committee also recommends that the

State party ensure that civil status registries exist in all districts, including small rural districts, that it raise awareness among parents and administrative authorities in small, isolated villages about the family registration law and birth registration procedures, as well as consider introducing mobile units for birth registration and issuance of birth certificates. The Committee encourages the State party to provide birth certificates free of charge for all children born on its territory, and to ensure that parents, whether from urban or rural areas, have equal access to birth registration and birth certificate services.

Detention

30. The Committee notes the State party's declaration that children and youth are represented in consultative meetings on their rights and interests organized at central, provincial, district or village levels. While also noting that some awareness-raising programmes on the right of the child to express his/her opinion have been conducted, the Committee regrets that no training sessions have been carried out to raise awareness of this issue among persons who work with or for children, including judges, police officers, detention center personnel and teachers. The Committee is also concerned that the views of the child are not respected before the courts, where children do not have the right to be a witness or to bring a complaint or seek reparation without the consent of their parents.

The Committee recommends that the State party ensure respect for the views of the child in all settings, including in the home. The Committee encourages the State party to take the necessary steps to raise awareness among persons working with or for children on the need to respect the views of the child. The Committee also encourages the State party to put in place measures to ensure that children are not denied their legitimate right to reparation or to bring a complaint before the court, solely because of the parental consent requirement. The Committee recommends that the State party take into account its General comment No. 12 (2009) on the right of the child to be heard (CRC/C/CG/12).

Trafficking

67. The Committee welcomes the explicit prohibition of child trafficking under the Law on the Protection of the Rights and Interests of Children, and the positive steps taken by the State party to combat trafficking and the sale of children, including the establishment in 2004 of a committee to combat trafficking in persons. However, the Committee is concerned that the State party remains a country of origin, transit and destination for victims of trafficking for the purposes of forced labour and sexual exploitation. The Committee is further concerned that return and reintegration programmes for trafficking victims may not be structured in such a way as to ensure that victims are not trafficked again.

The Committee recommends that the State party continue and increase efforts to prevent, protect children, and strengthen measures to prosecute the crimes of sale and trafficking, and in particular: (d) Address the root causes, in particular by giving special attention to families in its programmes to combat poverty, and prevent school dropouts; and (e) Conduct, in cooperation with the media, awareness-raising activities for the general public, including parents and children, on the dangers of the sale and trafficking of human beings and its impact on children.

II. Special Procedures

Report of the Special Rapporteur on freedom of religion or belief

Addendum: Mission to the Lao People's Democratic Republic
Human Rights Council, 13th Session
A/HRC/13/40/Add.4, 27 January 2010

Detention

52. The religious rights of persons deprived of their liberty must be fully respected and protected. The Special Rapporteur would like to emphasize that persons deprived of their liberty often require spiritual support and find themselves in a particularly vulnerable situation. There is a real risk that the circumstances of detention, as well as specific policies by prison authorities, may result in undue restrictions of the opportunity of detainees to practise their religion or belief in private or in public. The Human Rights Committee in its general comment No. 22 emphasized that prisoners continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the detention. Detainees should also be allowed access to qualified representatives of any religion, while they should not be obliged to consult a minister of religion if they do not wish to do so.

53. The State should provide personnel of detention facilities with adequate training, raising awareness of and enhancing their sensitivity as to their duty to promote and respect international human rights standards for the treatment of prisoners, including the right to freedom of religion

or belief. In order to prevent any potential abuse, States should also ensure that detention facilities are the object of intense public scrutiny and put in place effective complaints mechanisms.

61. The people of the Lao People's Democratic Republic are generally very tolerant and easy-going on religious matters. During the last twelve years, however, the current mandate holder and her predecessor have received a number of very serious allegations of human rights violations by the State. The Special Rapporteur has communicated with the State in this regard, for example concerning alleged arrests and detentions on the basis of religion or official campaigns aimed at forcing Christians to renounce their faith. The situation seems to have vastly improved recently, however the Special Rapporteur remains concerned with individual cases as well as with certain practices and policies that clearly violate freedom of religion or belief and are contrary to international norms, as well as guarantees provided under the Constitution.