

LAO PEOPLE'S DEMOCRATIC REPUBLIC: A BRIEF ON THE
IMPLEMENTATION OF CEDAW COMMITMENTS FROM
ARTICLES 2, 5, 11, AND 16

*Information for the Committee on the Elimination of Discrimination Against Women
88th Pre-Sessional Working Group, October 2023*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 88th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following areas:

1. Child Marriage (Articles 2, 16)
2. Paid Maternity and Paternity Leave (Articles 5, 11)
3. Non-discrimination in Work and Employment (Article 11)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask the Lao People's Democratic Republic (Laos) and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Laos address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Laos for having provisions in place, we hope the Committee will recommend that Laos work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. Child Marriage (Articles 2, 16)

Based on our review, **Lao’s Family Law sets a minimum age of marriage of 18 for both girls and boys, but this age can be lowered to 15 in “special and necessary cases”**. While Laos claims in the State Party Report that its Penal code prohibits marriage under 18, the text merely prohibits marriage under the legal age, and therefore does not contradict the exception for “special and necessary cases” described above. Laos’s last recorded child marriage rates, from 2017, were high: 33% of girls married before age 18 and 7% married before age 15.¹

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATION

We hope the Committee will:

- In its list of issues, ask Laos: Can Laos outline any concrete, near-term plans to pass legislation that removes all existing exceptions to a minimum age of marriage of 18 years for both boys and girls?
 - If Laos does not have concrete near-term plans in place, recommend in its concluding observations that Laos develop a concrete plan to pass and implement legislation that protects children under the age of 18 from early marriage without exceptions.

2. Paid Maternity and Paternity Leave (Articles 5, 11)

While Laos provides 15 weeks of paid leave to new mothers, our review of available legislation found that fathers in Laos have no specific entitlement to paid paternity leave, although their employer may, upon request, approve up to three days of paid leave for the birth of a child.

¹ UNICEF. UNICEF Data Warehouse – Child Marriage. Retrieved July 20, 2023 from https://data.unicef.org/resources/data_explorer/unicef_f/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_F_20-24_MRD_U15+PT_M_20-24_MRD_U18+PT_F_20-24_MRD_U18+PT_M_15-19_MRD+PT_F_15-19_MRD.&startPeriod=2016&endPeriod=2022



RECOMMENDED QUESTION FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATION

We hope the Committee will:

- In its list of issues, ask Laos: Can Laos outline any concrete, near-term plans to pass legislation that provides paid leave that is specifically reserved to fathers upon the birth of their child?
 - If Laos does not have concrete, near-term plans to provide paid paternity leave to fathers, recommend in its concluding observations that Laos pass and implement legislation that does so.

3. Non-Discrimination in Work and Employment (Article 11)

Laos's laws generally prohibit discrimination against women at work, and contain specific provisions on hiring, terminations, and equal pay for equal work; we found no specific protections against discrimination on the basis of sex in promotion and in vocational training. Laos prohibits indirect discrimination generally, but not on the basis of sex.

When determining whether Laos extends these protections against discrimination towards all women, regardless of marital, pregnancy or family status, our research shows that the provisions above protect against discrimination on the basis of marital status and pregnancy, but in relatively narrow aspects – hiring, promotion and termination in the case of marital status, and promotion and termination in the case of pregnancy.

We did not find any protections against discrimination on the basis of family status.



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Laos: Can Laos outline any concrete, near-term plans to pass legislation that explicitly prohibits **sex-based discrimination** in training and promotions and demotions?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Laos pass and implement legislation that explicitly prohibits sex-based discrimination in training and promotions and terminations.
- In its list of issues, ask Laos: Can Laos demonstrate whether the labor code's **general prohibition of indirect discrimination** in employment has been interpreted, through case law or otherwise, to specifically apply to women?
 - If Laos cannot, recommend in its concluding observations that Laos pass and implement legislation specifically prohibiting indirect discrimination on the basis of sex.
- In its list of issues, ask Laos: can Laos outline any concrete, near-term plans to pass legislation that **comprehensively prohibits discrimination at work** -- in hiring, training, promotions and demotions, remuneration, and terminations – **on the basis of family status, marital status, and pregnancy**?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Laos pass and implement legislation that enacts protections against discrimination in hiring, training, promotions and demotions, remuneration, and terminations on the basis of family status, marital status, and pregnancy.



DETAIL OF LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. Child Marriage (Articles 2, 16)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.

LAOS’S LEGISLATIVE PROVISIONS: Underage marriage prohibited in principle, but still widely practiced

Based on our review, Laotian law does not generally allow marriages before age 18 for boys nor girls, although this age can be lowered to fifteen in “special and necessary cases”.

Family Law, 1990

Article 9. Conditions for Marriage

Men and women have the right to marry at eighteen years of age. In special and necessary cases, this limit may be lowered to less than eighteen years of age but not less than fifteen years of age. Marriage must be based on mutual consent from both sides without coercion from any side or individual.

While Laos claims in paragraph 107 of the State Party Report that article 269 of its Penal Code prohibits “any individual [from getting] married with under-aged (under 18 years of age)”, the text of the code merely prohibits marriage “with a child who is under the legal age of marriage”; this provision does not explicitly contradict the clause in the family law that allows for marriage at age 15 in certain cases.



In the last year for which there is available data in Laos, child marriage rates were exceedingly high: 33% of women aged 20-24 at the time of survey had been married before age 18, and 7% had been married before age 15,² so this remains a matter of concern.

2. Paid Maternity and Paternity Leave (Articles 5, 11)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

² 2017 data taken from UNICEF. UNICEF Data Warehouse – Child Marriage. Retrieved July 20, 2023 from https://data.unicef.org/resources/data_explorer/unicef_f/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_F_20-24_MRD_U15+PT_M_20-24_MRD_U18+PT_F_20-24_MRD_U18+PT_M_15-19_MRD+PT_F_15-19_MRD..&startPeriod=2016&endPeriod=2022



LAOS'S LEGISLATIVE PROVISIONS: No specific leave for fathers

Our research shows that Laos provides 15 weeks of leave after birth to mothers only. Fathers have no specific statutory entitlement to paid paternity leave, although they may request up to three days of paid personal leave to be approved by their employer.

Labor Law (amended), 2014

Article 58 (New) Personal Leave

Employees have the right to take personal leave of not less than three days while maintaining wages or salary in the following cases:

- 1. The employee's own father, mother, husband or wife and children are injured and hospitalized and there is nobody to take care of them;*
- 2. The employee's father, mother, husband or wife and children pass away;*
- 3. The employee gets married;*
- 4. The employee's wife gives birth or miscarries;*
- 5. The employee is affected by natural disasters.*

Employees who request personal leave for personal reasons must apply for personal leave with the employer, to be confirmed by the trade union or employee representative or a head of the labor unit.

Article 98 (Revised) Maternity Leave Before and After Giving Birth

Before and after giving birth, women workers shall be entitled to at least one hundred and five days of maternity leave; however, at least forty-two days of such leave shall be taken after giving birth. In cases of giving birth to twins, maternity leave shall be at least one hundred and twenty days. During such a period, the employee shall receive full payment at the normal salary or wages.

In the event that as a result of giving birth, a woman worker requires leave beyond the set amount of days due to treatment and rehabilitation after giving birth, the employee has the right to receive subsidies as determined in the Law on Social Security.

After giving birth, for a period of up to one year, female employees have the right to rest for one hour per day, or care for their child or have the right to leave to take their child for vaccinations according to regulations.

Female employees who miscarry will receive leave for a certain period as per the directions of a physician and will receive salary or wages as normal.

3. Non-Discrimination in Work and Employment (Article 11)

Article 11 of the Convention states that:



[p]arties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(...)

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(...)

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment in five areas covered by CEDAW:

- employment opportunities or hiring (art. 11.1.b)
- equal pay for work of equal value (art. 11.1.d)
- training (art. 11.1.c)
- promotions or demotions (art. 11.1.c)
- job security or terminations (art. 11.1.c)

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination.

We also examined whether there were explicit protections from discrimination on the grounds of pregnancy, marital status, and family status in line with Article 11.2.a) of the Convention, which prohibits “dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status”. Although the Convention focuses only on protecting from dismissal on these additional grounds, we nevertheless further examined whether discrimination on the grounds of pregnancy, marital status, or family status was prohibited in other stages of employment, consistent with CEDAW’s spirit of prohibiting discrimination against all women, regardless of their circumstances.

LAOS’S LEGISLATIVE PROVISIONS: Protections Exist, but Important Gaps Remain

Laos’s labor code prohibits discrimination against women in hiring, terminations and remuneration. Moreover, Laos’s law on violence against women and children has a section dedicated to economic rights; in this section on economic rights, the country broadly prohibits discrimination and also mandates equal pay for equal work. Our review of legislation found no



specific protections against discrimination on the basis of sex in promotion and in vocational training.

The provisions below also protect against discrimination on the basis of marital status and pregnancy, but in relatively narrow aspects – hiring, promotion and termination in the case of marital status, and promotion and termination in the case of pregnancy.

Law on Preventing and Combatting Violence against Women and Children, N. 56, 2014

Article 15. Equal Economic Rights

The State promotes the right of women to engage in production, business, and services in accordance with the laws. Women have the rights to choose their professions, to be employed, to be remunerated and to receive other benefits from their work.

Women who have the same position, task, work, and responsibility as men shall have the right to remuneration and benefits on an equal basis with men.

Society and family should create conditions for women to exercise the economic rights and to receive the economic benefits mentioned above.

Labor Law (amended), 2014

Article 141 Prohibitions for Employers

The employer is prohibited from the following actions:

(...)

Obstructing employment or using direct or indirect force to make an employee stop work due to marital status, gender discrimination, or infection of HIV;

(...)

Article 96 (New) Gender Equality in the Workplace

Female employees have the right to employment and professions in every sector that do not conflict with the law, including production, business and management, and may participate in training, labor skills improvement and providing expertise. Female employees shall receive a salary or wages equal to that of male employees, excepting some forms of work that has negative effects upon the reproductive health of women, which must be protected in every case.



Article 100 (New) Prohibited Actions against Female Employees

Employers may not take the following actions against female employees:

(...)

2. Create conditions that block or deny female employees who are married or pregnant;

(...)

Laos's Labor Law further protects against retaliation for filing complaints in relation with the above provisions.

Labor Law (Amended), 2014

Article 87 (New) Unauthorized Termination of Employment Contracts

Cases wherein an employment contract may not be terminated are as follows:

(...)

8. Employees in the process of making a claim against, or taking legal action against the employer, or who are cooperating with government officials in relation to the Labor Law, and in relation to labor disputes within the labor unit of the employee.

(...)

Our review of Laotian legislation did not find any protections against discrimination on the basis of family status; we found a broad prohibition of indirect discrimination that is not specific to women.

Labor Law (Amended), 2014

Article 141 Prohibitions for Employers

The employer is prohibited from the following actions:

(...)

9. Direct or indirect discrimination toward employees within the labor unit;

(...)

A summary of these findings is presented in Table 1.



Table 1: Does Laos have legislative provisions in place explicitly guaranteeing non-discrimination for women in the following key areas of employment?

Employment opportunities and hiring	Yes
Equal pay for work of equal value	Guarantee of equal pay for equal work only
Training	No specific provision, broad protection only
Promotions and/or demotions	No specific provision, broad protection only
Terminations	Yes
Discrimination on the basis of marital status, family status, and pregnancy	Some provisions on marital status and pregnancy only
Indirect discrimination	No provisions found
Retaliatory action	Yes

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