

Information Sheet - Lao PDR

I General Information

1 Number of stakeholders in the Country

1-1-1 Population

Laos has approximately 6,400,000 people.

1-1-2 Number of lawyers/attorneys-at-law

Laos has 144 lawyers (members of the Lao Bar Association) as at 11 November 2011, with 17 interns lawyers that soon to become lawyers. There are also approximately 30 or so legal consultants who are not members of the Lao Bar Association that provide advice on Lao law, but do not appear in court.

1-1-3 Number of judges

According to statistic of Supreme Court as updated in 2011, there are; one Supreme People's Court, 3 Appeal Courts, 16 Provincial, one Capital City Courts, and 39 Area Courts. There are also Military courts: One High Military Court and 3 Regional Military Courts. Throughout the country, there are totally 375 judges and 29 military judges.

1-1-4 Number of prosecutors

According to the statistic of Supreme Prosecutor Office, throughout country, there are 348 prosecutors. There are also 1,070 officials working in prosecutor offices throughout country.

2 Number of court cases handled by first instance courts

1-2-1 Number of civil cases

According to statistic of Supreme Court in 2011, there are totally 1,888 civil cases was filed at the first instant courts.

1-2-2 Number of commercial cases

According to statistic of Supreme Court in 2011, there are totally 290 commercial cases was filed at the first instant courts.

1-2-3 Number of family cases

According to statistic of Supreme Court in 2011, there are totally 951 family cases was filed at the first instant courts.

1-2-4 Number of criminal cases

According to statistic of Supreme Court in 2011, there are totally 3,017 criminal cases was filed at the first instant court.

3 Attorneys for Defendants in Criminal Procedures

Please explain in what kinds of criminal cases attorneys must be appointed for suspects or defendants in your country. Please also explain who appoints and bears the costs for the attorneys appointed.

In the case that the accused or defendant is a minor (*children*) who have yet to reach the age of 18, a deaf or mute person, someone not in control of their mental facilities, or someone who does not know the Lao language, or is someone who receive death penalty by the law, that person must have a defender. If an accused or a defendant has no any defenders, the court will appoint a lawyer for the accused or defendant.

The court shall appoint the lawyer. The court shall pay a small fee for lawyer.

4 Profile of the Bar Association/ Organization and Attorney System

1-4-1 Location and contact information

Head Office: 4th Floor, Vientiane Capital Court Building, Km 3 Thadeua Road, Beungkahyong Village, Sisattanak District.

Vientiane Capital

Lao People's Democratic Republic

TEL: +856 21 990 446

FAX: +856 21 990 445

Email: contact@laobar.org

1-4-2 History of Organization

In 1991, further to Decree No.24/PCM (1989), the Minister of Justice appointed four lawyers as founders to set up “The Group of Lawyers in Vientiane Municipality.” The Minister subsequently appointed an additional six lawyers and 11 auxiliary lawyers, pursuant to Decision Nos. 166/MJ and No.165/MJ (both 1991). In 1996, following the Government of Lao PDR’s Development of Social-Economic Plan, the Prime Minister issued Decree No.64/PM (1996) which created the Bar Association of Lao PDR (also known as the Lao Bar Association – LBA).

Pursuant to Decree 64 the Minister of Justice appointed 29 lawyers as the members of the Lao Bar Association. This group was given the title “The Lawyers of the Lao PDR,” further to Decision Nos. 355/MJ (1996) and 153/MJ (1997). The Lao Bar Association thus replaced the former Group of Lawyers of Vientiane Municipality.

New draft Law on Lawyer is currently waiting to be passed at the National Assembly Session in December 2011

1-4-3 Governmental Supervision of the Organization and Registration of Members (Please explain whether or not, and if so how, your organization is supervised by the government.)

The LBA was established under the Ministry of Justice and is supervised by the Ministry of Justice.

Members of the LBA are appointed by the Minister of Justice on the recommendation of the Executive Committee of the LBA.

1-4-4 Main Activities of the Organization

- Intern Lawyer Training (once a years);
- Continue Legal Training for Lawyers (several times a year);
- Legal Aid Programs (there are 3 Legal Aid Clinics: in Vientiane, in Oudomxay Province (Northern part), and in Champasak Province (Southern part));
- Law Dissemination (several times a year);
- Paralegal Training (several times a year).

1-4-5 Categories of Membership

There are two categories of membership: Regular/Full members and Intern/Candidate members (lawyers who are undergoing training to become

regular members).

1-4-6 Number of Members (as of November, 2011)

- Regular/Full: 109 (Male: 93, Female: 16)
- Intern/Candidate: 35 (Male: 24, Female: 11)

1-4-7 Membership (voluntary or compulsory, please also explain where such registration should be filed)

Compulsory. All members are required to registered in a unit or regional office of the LBA.

There are presently eight unit offices in Vientiane Capital and six regional offices throughout the provinces of Lao PDR.

1-4-8 Executives and Officers, Number of Positions

- President (1)
- Vice President (2)
- Members (6)
- Inspectors (5)

1-4-9 Finances and membership fees (Please provide the yearly budget amount of your organization and also the yearly membership fees in USD)

LBA only has income from its membership fees. Annual budget is around 10,000 USD. The yearly membership fee is around 125 USD.

1-4-10 Journal, Newsletter, Website

No journal, No newsletter.

Website: www.laobar.org

1-4-11 Other Bar Associations (including the provincial associations) in the Country and the Number of Members of such Other Organizations

The Lao Bar Association is the sole organization of legal professionals in Lao PDR. There are no provincial bar associations.

1-4-12 Qualifications To Become an Attorney

To become qualified to practice as an attorney in Laos, one must complete a law school curriculum that gained bachelor of law of equality degree, pass the bar training, and complete a one-year apprenticeship at the Lao Bar Association. After the one-year apprenticeship, LBA will reconsider if one is qualified for a

lawyer or not. If one is qualified for a lawyer, Lao Bar Association shall send name of one to Ministry of Justice in order to issue lawyer license. Once qualified, candidates must register with the Lao Bar Association in order to practice as attorneys.

1-4-13 Laws, Decrees or Regulations on Attorneys (Please explain if there are any laws, decrees or regulations on attorneys in your country. Please provide the JFBA an English translation if they are available.)

Decree No. 64 dated 21 February 1996. The Law on Lawyer is currently waiting to be passed at the National Assembly Session in December 2011.

1-4-14 Code of Ethics and/or Rules of Professional Conduct (Please provide the JFBA an English translation if an English translation of these is available.)

Drafting process is currently completed and waiting for signature of the Minister of Justice.

1-4-15 Disciplinary Functions (Please explain who has the power to take disciplinary action against members.)

The Ministry of Justice is responsible for the discipline of lawyers in Lao PDR.

1-4-16 Continuous Legal Education for Members (Please explain about the program, if any)

Depending on supports from donors, LBA shall organize a one day or two days CLE training for lawyers in various topics that related to the practice of lawyers.

1-4-17 Challenges the Organization is Facing (Please briefly explain the problems and challenges your organization is currently facing.)

The ultimate challenge of LBA is annual budget. LBA has only less than 10,000 USD per year from its membership fees. This budget does not enough for its administrative cost. Other challenges are (1) lack of experiences of executive board to operate and manage the bar; (2) LBA does not have its own office. Currently, the office is at the same building of the Vientiane Capital Court and it belongs to the Government; and (3) other Government sectors do not understand the roles of lawyers so lawyers could not practice law under the “rule of law”.

II Legal Aid

2-1 Please describe briefly the history of legal aid in your country.

Legal aid is only a recent phenomenon in Laos. Through the UNDP Project “Enhancing Access to Justice Through the Lao Bar Association” (a project which commenced in 2003) a legal aid clinic was opened in the capital, Vientiane, in 2007. Due to further funding from The Asia Foundation, the Lao Bar Association has been able to open a clinic in Southern Laos (in Pakse) and one in Northern Laos (in Oudomxai). Development of a mobile legal aid clinic is also underway (again, through the funding of The Asia Foundation).

2-2 Please outline the legal aid organization and its programs.

Legal aid is currently run by the Lao Bar Association, and the Project staff of the UNDP/TAF Projects. It provides free consultations on legal issues, free representation to eligible clients (and, in some cases, reimbursement for their travel costs etc) and legal dissemination activities.

It also runs a legal aid hotline from Monday to Friday, and then for one hour on Saturday (which coincides with a television program educating on legal issues and to promote legal aid services).

Some units (which operate a little like private law firms with some very important differences) also have recently began to provide legal aid. We have no data about how much those services are being utilized yet.

2-2-1 Name of the legal aid organization/head office location

Lao Bar Association.

4th Floor, Vientiane Capital Court Building. Km 3. Tha Deua Road Beungkhanhong Tai Village, Siattanak Village, Vientiane, Lao PDR.

2-2-2 When was the above organization established?

As set out above, legal aid was only established in 2007. The Lao Bar Association itself was established in 1996.

2-2-3 Please describe briefly the organization structure such as branches and other offices.

One pilot legal aid clinic in Vientiane (staffed by three administrative staff, plus a roster of lawyers who are paid a nominal sum to work in the clinic). One clinic in Pakse (with one manager and one permanent, salaried lawyer, and one clinic in Oudomxai (with one manager/lawyer and two permanent salaried lawyers).

2-2-4 Please explain about the organization's service delivery model such as salaried legal professional (staff attorney) and/or private legal professional (judicare).

Please see our answer to the question above. The legal aid clinic in Vientiane relies on "volunteer" lawyers who receive payment of, on average, \$US10 per day for their work.

2-2-5 Please explain about the budget for the legal aid system.

Currently the funding comes from donors - the UNDP and The Asia Foundation. These donors have committed funding until 2011.

2-2-6 How many recipients have received the legal aid assistance in main legal aid programs in recent years?

The legal aid clinic in Vientiane has given advice to 254 people this year (up to the end of November). In 2010, the number of clients was 189.

Over that time, 74 clients were provided with actual legal representation services (as opposed to just simply legal advice).

The hotline has provided advice to 425 people this year (to November).

2-2-7 Please explain about the main activities of the legal aid organization, including entitlement to legal aid and reimbursement of the assisted legal aid costs

The Legal Aid clinic provides legal dissemination in villages in Vientiane for free. It also provides its hotline for free. Further, any person can come and receive free legal advice at the legal aid clinic.

To receive legal representation however, clients must be eligible. Eligibility is based partly on income, and partly on if the client falls within the target group of

vulnerable people (broadly speaking, women, children, disabled people and ethnic minorities). Eligible people are eligible to not only have their representation provided for free, but also to have their travel to the courts and other expenses covered.

2-3 What are the future issues or challenges with respect to the legal aid system in your country?

There are many issues facing legal aid in Laos. These include:

1. There is a very low number of lawyers comparative to the population.
2. Being a lawyer is not a lucrative profession in Laos. Thus it is hard to get lawyers to volunteer their time (as it takes them away from earning money from clients).
3. There is not a tradition of using lawyers in disputes, or on legal issues in Laos and a low awareness of what lawyers are and what they do. In fact, there is a lack of understanding of lawyers roles - both in the public and within Government and the justice sector itself.
4. As legal aid grows, and more people are exposed to the legal system, the legal system itself needs to provide those people with just outcomes otherwise people will not develop faith in legal aid and/or the legal system. This is an area for development within Laos.
5. Lack of infrastructure such as roads and telephone access can make going to legal aid clinics, or lawyers visiting remote villages difficult.
6. Currently legal aid is funded by donors (The Asia Foundation). When those donor-funded projects end, the LBA and/or the Government will have to fund legal aid itself. It may not have the financial resources to do that.

2-4 Please let me know if the legal aid organization have an English language website.

The Lao Bar Association does have an English language website: www.laobar.org. It is in the process of being updated.

III Legal consultation (other than that covered by the Legal Aid system explained in above II.)

3-1 Legal Consultation Programs (Please explain if there are legal consultation programs managed by your organization (or other institutions) other than those covered under the Legal Aid system in your country.)

N/A

3-2 Fees for Legal Consultation (Please explain the fee structure for such legal consultation programs.)

N/A

3-2 Management of the Legal Consultation Program (Please explain how such program is run by the organization.)

N/A

3-3 Appointment of an Attorney for Legal Consultation (Please explain how an attorney (consultant) is appointed.)

N/A

3-4 Flow to the legal representation (Please explain how such legal consultation may lead to legal representation by an attorney)

N/A

3-5 Number of Consultations (Please provide statistics on how many legal consultations have been carried out per year.)

N/A

IV Shortages of Lawyers in Local Areas

4-1 Is there any figure of lawyers who work in local areas in your country?

The number is very small. Outside of the capital, there are a total of 16 members of the Lao Bar Association. Even then, these are in relatively sizeable regional towns. More rural areas have no private legal presence (any legal personnel in those regions work for the government).

4-2 Do you think that there are a sufficient number of qualified lawyers working for citizens in local areas in your country?

Definitely not.

4-3 If the answer of Question 3-2 is negative, what have caused such shortage of lawyers?

As set out above, there is a very low number of lawyers comparative to the population in general. There is not enough lawyers even in Vientiane.

Also, as set out above, being a lawyer is not a lucrative profession in Laos. It would be even less so in the provinces. Thus it is hard for the provinces to attract lawyers to work there.

4-4 Does the legal aid organization or the bar association/law society has any programs in dealing with legal services in local areas in your country?

Yes.

4-5 If the answer of Question 3-4 is affirmative, please describe briefly such programs.

There are public legal education outreach programs that visit the provinces, providing information about the role of lawyers, the legal aid services of the LBA, and about people's rights under law generally. The LBA (through the UNDP) intends to conduct an access to justice survey which will cover local areas.

Two provincial legal aid clinics have recently been opened.

4-6 What are the future issues or challenges with respect to the shortage of legal services in local areas in your country?

As set out in our response to question 2-3:

1. There is a very low number of lawyers comparative to the population.
2. Being a lawyer is not a lucrative profession in Laos. Thus it is hard to get lawyers to volunteer their time (as it takes them away from earning money from clients).
3. There is not a tradition of using lawyers in disputes, or on legal issues in Laos and a low awareness of what lawyers are and what they do. In fact, there is a lack of understanding of lawyers roles - both in the public and within Government and the justice sector itself.
4. As legal aid grows, and more people are exposed to the legal system, the legal system itself needs to provide those people with just outcomes otherwise people will not develop faith in legal aid and/or the legal system. This is an area for development within Laos.
5. Currently legal aid is funded by donors (The Asia Foundation). When those donor-funded projects end, the LBA and/or the Government will have to fund legal aid itself. It may not have the financial resources to do that.

In addition to these, the following are challenges specific to rural areas:

1. Many of the people in rural areas speak languages other than Lao. Currently there are many languages which are used in Laos by ethnic minorities, for which there is not a single Lao lawyer who speaks that language.
2. Literacy levels in rural areas are low, making dissemination by written materials less helpful.
3. Rural infrastructure is poor, thus traveling times from villages to legal offices can be long even if the distance is relatively short. Also, telecommunications infrastructure can be poor and can make communications difficult.

V Other Obstacles to Hinder Access to Justice

5-1 Are there any obstacles to hinder access to justice other than the problems with the legal aid system and the shortage of lawyers in local areas?

Yes.

5-2 If the answer of Question 4-1 is affirmative, please describe briefly such obstacles.

As in many developing countries where public sector pay is low, corruption is a big issue affecting access to justice.

Also, the general lack of understanding on the part of the populace and, crucially, many Government officials, about rights, and the role of lawyers, hinders access to justice.

Judges and local officials are often not well trained in legal issues (students straight out of law school can become judges for instance - and not all judges have formal legal training).

5-3 Please explain briefly the educational system to produce qualified lawyers in your country.

Lawyers complete a bachelor degree at one of the Law Faculties in the country. They then undertake the LBA intern training course (a six week training course).

However, there are many lawyers (particularly older lawyers) who have not received such formal training. Many former judges and prosecutors (bearing in mind that a law degree is not necessary to be a judge) become members of the LBA (and therefore lawyers) on the basis of their legal experience as a judge or prosecutor. The LBA is working on a draft Law on Lawyers which may change that for future members.

5-4 Do you think that your country has enough lawyers to substantiate the access to justice?

No.

5-5 Do you think that your country produces newly qualified lawyers every

year to substantiate the access to justice?

No. While there is a large number of law graduates each year (some 3000 or so), not many go on to become lawyers.

5-6 If the answer of Question 4-4 or 4-5 is negative, please describe briefly the reason for such shortage and your thoughts on how to solve such problems.

Low payment for the profession is a factor as is the fact that, because the role of lawyers is not particularly understood, there is no prestige attached to being a lawyer as there is in some other countries.

VI Cooperation with Foreign Organizations

6-1 Please explain the details of recent and future projects relating to any of the above discussed issues in your country, in regard to which any foreign (governmental or non-governmental) organizations are providing assistance.

Name of the foreign organization: The Asia Foundation

Name of the program: Enhancing Access to Justice through Lao Bar Association

Program details: Legal Aid Programs, Mobile Legal Aid Clinic, Paralegal Training.

Website in English: <http://asiafoundation.org/country/overview/laos>

VII Others

7-1 Recent Judicial Movement

Please describe briefly the recent movements or topics in the legal community, including the bar association/law society in relation to the topics above.

There a number of new laws in Laos that, over time, will have a significant impact on business - including a new law on Intellectual Property, and the implementation of a Law on Enterprises. As yet, though, Lao lawyers are not so involved in business-related legal matters (with some exceptions). This will increase as Laos moves towards WTO membership (the current goal is 2012 or soon after)

The big change on the horizon is the potential new Law on Lawyers. This is currently being drafted by the LBA. If approved by the Government and passed by the National Assembly, it will provide for more definite regulation of the profession, and entrance into the profession. It will also remove some of the ambiguities of the current system (such as the lack of regulation of foreign legal firms and prevention of LBA members setting up firms), and provide for formal disciplinary procedures.

7-2 Comments

Please fill in any comments or your thoughts to way to achieve the well-organized access to justice in your country.

The project which is supported by the UNDP and other donors (The Asia Foundation, the European Community, and the Australian Government) is working on the above mentioned issues. It's aims are to:

1. Improve the functioning of the LBA as a Professional, Self-Regulatory Organization
2. Improve the Legal Knowledge, Skills and Professionalism of Members of the LBA
3. Improve the Awareness of the Role and Functioning of the Lao Bar Association.
4. Increase the number of practicing Lawyers in Lao PDR and the LBA Membership.
5. Improve Access to Justice for the Poor and Vulnerable, Particularly Women,

Elderly, Ethnic Groups, Disabled and Children.

6. Formulation of Long Term Strategy of Sustainable Activities.

All of these aims go towards increasing access to justice. However, the key activities are:

- improving the awareness of the public of the role of lawyers;
- increasing the number of lawyers;
- improving the skills of lawyers;
- establishment of a legal aid clinic in Vientiane;
- establishment of a legal aid clinic in the north and the south of the country;
- public legal education outreach and dissemination activities about legal aid and legal rights; and
- mobile legal aid clinics (which as yet are not set up).

One of the key challenges for Laos, and the project, is that, if one of the outcomes proceeds quicker than the others, this could in itself cause problems. For example, if we increase the numbers of lawyers quickly, but do not improve the public's knowledge of the role of lawyers, those lawyers may find they have no business, and thus may leave the profession. Conversely, if we get more people going to lawyers when they have problems, but those people then have a negative experience either because the lawyer does not have appropriate training, or due to embedded problems in the legal sector (such as corruption, lack of training of officials etc) then they will be disillusioned.

Ultimately, there are some issues with access to justice in Laos that are out of the control of the LBA - such as training for judicial officers, low public sector pay leading to corruption, poor infrastructure, lack of court technology facilities leading to delays etc. These need to be tackled by the Government as well as the project running through the LBA.