

Combating Child Sexual Exploitation In Travel and Tourism

Legislative framework: Summary of Recommendations

Lao PDR

Project Childhood (Protection Pillar)

2013

Summary and recommendations

A legal reform program for Lao PDR should aim to build on existing laws to develop a strong legal response to child sexual exploitation, using the international standards as a benchmark. It is recommended that targeted activities to support legal reforms in Lao PDR seek to:

Criminalisation: child prostitution

- clarify interaction between Penal Law offences relating to child prostitution and the Child Protection Law (particularly Article 89)
- develop comprehensive offences for child prostitution with robust penalties, to include a wide range of conduct (including offering, obtaining, procuring or providing a child for prostitution) and to clarify that these acts are criminalised whether the child victim is male or female
- provide a definition of remuneration to ensure that child prostitution offences encompass a wide range of conduct—including where either remuneration or other consideration is provided in exchange for sexual activities, and regardless of whether that remuneration or consideration is provided directly to the child or to another person
- provide harsher penalties for existing offences relating to sexual relations with children between the ages of 12 and 18 in exchange for paying or giving any type of benefit
- develop ancillary offences for child prostitution (particularly conduct relating to attempt, complicity, and participation) and clearly identify that child prostitution offences apply to individuals and those acting in a group

Criminalisation: sexual abuse

- develop robust penalties for offences relating to sexual abuse, including rape, against children of all ages and genders (in particular, strengthen the penalties applicable to offences committed against male and female children between 12 and 18 years of age)
- ensure grooming conduct is criminalised, and if necessary, develop legislative provisions
- clarify how offences relating to sexual assault and rape under the Penal Law and Child Protection Law interact and in particular, which provisions are superseded

Criminalisation: child pornography

- develop a comprehensive offence of child pornography which criminalises producing, distributing, disseminating, importing, exporting, offering, selling or possessing—plus offences of attempt, complicity and participation
- strengthen penalties available for child pornography offences

- ensure child pornography offences can be interpreted to apply to all forms of material, including new technologies—and, if necessary, develop new provisions to address this

Criminalisation: trafficking

- clarify how the Penal Law, LDPW and Child Protection Law interact in relation to child trafficking offences, to identify whether any clarification is required in the legislation

Legislative interpretation

- clarify interpretation of repealing provisions under legislation, to understand how the laws are implemented in practice and identify whether any clarification is required in the legislation

Child protection measures

- clarify intention of the Amended Law on Criminal Procedure relating to children's status before the courts, and how this interacts with the LDPW and Child Protection Law provisions on the welfare and protection of children in the criminal justice process
- identify opportunities to strengthen measures to ensure children are informed of rights and provided information on legal proceedings, and to avoid unnecessary delay in legal proceedings affecting the child (these measures may be legislative or policy)

International cooperation

- confirm whether there are existing frameworks that would allow Lao PDR to extradite a person for offences relating to child sex tourism, including whether a treaty would be required, and if Lao PDR policy would prevent extradition of a Lao PDR citizen
- identify whether offences under the Child Protection Law and Law on the Development and Protection of Women (2004) could be widened to apply extraterritorial jurisdiction [*note: progress on this point will be affected by the outcome of other enquiries relating to the interaction of laws, as outlined above*]
- confirm whether there are existing frameworks that would allow Lao PDR to provide mutual legal assistance in criminal matters for offences relating to child sex tourism, and
- if a need is identified for formal extradition or mutual legal assistance frameworks—develop legislation to facilitate these forms of cooperation.

Regional cooperation

- identify whether existing treaty relationships—under multilateral, regional and bilateral frameworks—provide a sufficient basis for cooperation between the project countries (through extradition and mutual legal assistance) and, if required, propose development of additional treaty frameworks

- provide a platform for the development of a regional instrument (non-binding, for example, an MOU) to underpin regional cross border cooperation in criminal justice responses to child sex tourism
- explore opportunities for bilateral instruments (non-binding, for example, MOUs) to underpin bilateral cooperation in child sex tourism cases
- provide opportunities to discuss shared priorities for legal reform and to maximise potential for harmonisation of criminal offences targeting child sex tourism, and
- facilitate information sharing between project countries on cross border cooperation in child sex tourism cases—including opportunities to build officer level networks to strengthen working relationships and maximise case outcomes.