

Laos, Law and Education

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Introduction

Can the legal perspective in education play a role in development in Laos – which is the poorest country in South-east Asia, a dictatorship where respect for human rights is low, where education statistics are depressing reading, where the judicial system is seriously underdeveloped and the courts not independent – or are international conventions on human rights and national education law only cosmetics?

Lao law states that ‘Every Lao citizen, without discrimination for their national ethnicity, origin, religion, gender, age and social status have the right to education.’ Additionally, the law states that ‘[A]ll pupils and students have equal right to education. Schools, educational institutions and administration organizations at all levels guarantee the equal right among gender and ethnic groups to learning access.’¹ These are nice statements but what does reality look like? In this article I will give a brief description of the law and education in Laos, analyze some aspects of the right to education and reflect upon the role of international as well as national law for education in Laos.

About Laos

Laos is the poorest country in South-east Asia with about 5,4 million inhabitants. About 44% of the population is below the age of 15. Laos has a rich ethnic diversity with about 230 different ethnic groups belonging to four different ethno-linguistic families.² Officially, 47 ethnic groups are recognised. The majority culture is Lao even though only 30% of the population belong to this ethnic group.

During the war between 1966 and 1975, in which Laos experienced some of the heaviest, most sustained bombing in history, much of the country’s infrastructure was destroyed and a substantial part of the country became heavily affected by unexploded ordinances. Many qualified and educated people fled the country during and after the war and many people were internally displaced. This still affects the human resource base in the country, for example in education where there is a lack of trained teachers.

Poverty is more a rural than urban problem and in rural areas poverty is more prevalent in the uplands than the lowlands. Since the uplands largely are populated by ethno-linguistic minorities, poverty has a distinct ethnic dimension. Data indicate a correlation between illiteracy and poverty. Households with illiterate heads are disproportionately poorer. The government has identified four areas as particularly important for poverty alleviation of which education is one.

Lao PDR is a dictatorship run by the Lao People’s Revolutionary Party which has been in power since 1975. No opposition is allowed and the government structure is controlled by the Party. The Party maintains a presence

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¹ Education Law, Articles 3 and 22, adopted by the National Assembly 8 April 2000. There is no official, English translation of the education law. The translation used in this article is one used by English speakers working in Laos.

² Tai-Kadai 66,5% (30% Lao), 23,5% Mon-Khmer, 7,5% Hmong-Mien and 2,5% Tibeto-Burman. Participatory Poverty Assessment, June 2001, Asian Development Bank, State Planning Committee, National Statistics Center.

at all levels of society down to the village level. The political system is very stable and there are no indications at present that the political regime will change fundamentally in the near future.

For many years after the war Laos was a closed country, but for the last 15 years or so it has opened up gradually. This has led to successively increased development aid and the establishment of a number of development agencies in Laos. Of total government expenditure 34% comes from foreign aid. For education aid makes up about 26% of total expenditure, but 45% of this is investment expenditure, where aid makes up 80% of the total.³

The Lao judicial system and the human rights framework

The concept of rule of law is a relatively new phenomenon in Laos. The Constitution entered into force in 1991 and the country has only about 50 laws, most of them developed since 1991. The education law, which was adopted in 2000, is one of them but other sectors of society are still unregulated. The Constitution guarantees a series of human rights even though many of the guarantees are vague. The right to education is one of them.⁴ Most rights are conditional and can be restricted in law without special procedures.

The laws are often of low quality and at times contradictory. The judiciary is not independent from the party and government and it functions badly. The judiciary suffers from lack of human and financial resources. Many professionals working in the legal system have no or only very basic legal training. In many cases the local courts do not even have access to all the laws of the country. Enforcement of laws remain a problem and fair trial cannot be guaranteed.

Laos has ratified some human rights conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. All three instruments contain articles on the right to education and non-discrimination.⁵

For many people in the country the formal legal system is a distant reality. Awareness of the legal system varies widely in the country. Traditionally conflicts are solved on the village level through mediation. People see a value in settling local problems on the village level and not in the district court.⁶ Knowledge of human rights or the concept of rights is very low in the country. The results from a recent study show that knowledge of the concept of child rights is low, both with teachers and government officials. 34% of government officials and 48% of teachers have 'never heard of rights' or 'don't know what rights mean'.⁷

Education in Laos

Primary school is compulsory and lasts for five years, starting at the age of six. No fees shall be charged according to the law. Lower secondary school is three years and non-compulsory. Upper secondary education can be general education for three years or vocational education. After upper secondary education students can go to secondary professional school or high school education.⁸

Even though the general picture of education in Laos is quite bleak there are some positive developments. There has been progress in the expansion of primary education and improved enrolments. Improvements have been experienced both in rural and urban areas and across different ethnic groups. In addition, gender parity in enrolments has improved somewhat. Laos has also seen expansion of secondary education over the last decade.

³ Progress on Education for All (EFA) in Lao PDR, Background Paper for EFA Monitoring Report, Amanda Seel, May 2003, p. 2 (hereinafter Seel (2003)).
⁴ Art. 25 of the Lao Constitution states that all Lao citizens have the right to receive education.

⁵ International Convention on the Elimination of All Forms of Racial Discrimination was ratified by Laos in 1974, the Convention on the Elimination of All Forms of Discrimination against Women in 1981 and the Convention on the Rights of the Child in 1991. Laos signed the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights in 2000. The Lao Ministry of Foreign Affairs plans for the National Assembly to ratify the two covenants in 2005. *Mänskliga rättigheter i Laos 2003* (Human Rights in Laos 2003), Swedish Ministry for Foreign Affairs, available at www.manskligarattigheter.gov.se.

⁶ Chagnon, Jacquelyn, Van Gansbergh, Dirk, Vongphasouk, Binh, Rumpf, Roger, *Looking Back to See Forward, Consultations about Good Governance and Participatory Development in the Lao PDR*, Vientiane, December 2002, p. 39.

⁷ Knowledge, Attitude and Practices Study, Convention on the Rights of the Child, Kate Medicott, for UNICEF Lao PDR, with National Commission for Mothers and Children, Ministry of Justice and Ministry of Education, December 2002.

⁸ Art. 8 Education Law.

However, significant disparities in enrolment remain between the 18 provinces in the country and between districts in provinces.⁹ However, enrolment is a limited measure. In reality access to education is a problem. Only 35% of primary schools offer all five grades of primary school, while another 35% offer only grades 1-3. Many primary schools in rural areas are incomplete.¹⁰ Drop-out rates are high, especially in grade one and two, resulting in only 56% of students surviving to grade five. Drop-out rates are higher for girls than boys.¹¹ Despite improvements, children living in provinces with high proportions of ethnic minority populations tend to have less access to complete schools and to qualified teachers than children living in provinces with low proportions of ethnic minority populations.¹² Reasons for the lower participation rates among ethnic minority children include remoteness and access, poverty and opportunity costs, relevance and language of instruction.¹³

Quality of education is sub-standard on all levels. As a result Lao students perform poorly in an international perspective and students must undergo 1-2 years of foundation studies before gaining admission to foreign universities. One factor behind the low quality may be the shortage of qualified teachers. It is difficult to live on a teacher's salary and payments are several months in arrears chronically in rural areas.¹⁴ There are difficulties in getting direct measures of learning outcomes in Laos due to lack of systematic processes for monitoring outcomes. However, the finding in a national literacy survey¹⁵ was that almost half of grade five 'graduates' were unable to pass a simple literacy test. Many rural and ethnic minority children, especially girls, are not yet completing a five year cycle of meaningful education leading to minimum outcome.¹⁶

Even though school is supposed to be free of charge, poverty is an important factor determining enrolment and/or attendance. It can be difficult for families to pay for pens, notebooks and basic clothing and in addition the family loses a worker who can help sustain the family when sending one of their children to school.¹⁷

An overriding problem with education in Laos lies in the financing. The education sector is by most accounts – and compared with other countries, even those in the region – underfinanced. In addition, it is overly dependent on external partners for financial and technical support.¹⁸

Education and language

Lao society is based on the culture and language of the Lao-Tai groups, especially the Lao ethnic group. This exacerbates the exclusion of ethnic minorities from all segments of society. The use of minority languages is regulated and officially all education in public schools is in Lao, which in practice restricts the right to education of non-Lao speaking ethnic minorities.

Article 21 of the Education Law states that the Lao language and Lao script are the official language and script for the learning and teaching in all schools and education institutions. Regarding ethnic minority languages the same article states that 'for the various ethnic languages, it is possible to study it for the purpose of teaching according to the real situation and with the government's authorization'.

The meaning of studying ethnic minority languages for the purpose of teaching according to the real situation is not clear. The draft decree on implementation of the education law is usually interpreted as indicating that there is tacit government approval for research and pilot testing of the use of minority languages as a means of instruction.¹⁹ However, there is no legal basis for taking pilot studies to scale. Nor are there provisions for the government to finance the development of teaching materials in minority languages. Anecdotal evidence indicates that ethnic minority teachers who teach primary school in their own ethnic minority communities

⁹ Seel (2003), pp. 3-4.

¹⁰ Country Analysis, Laos PDR, Embassy of Sweden, Vientiane, published by Swedish International Development Cooperation Agency (Sida), 2004, p. 39 (hereinafter Sida (2004)).

¹¹ Seel (2003), pp. 4-5.

¹² Proposal for: International Symposium on Achieving Millennium Development Goals in a Multi-Ethnic Society, Informal Consultations on Ethnic Minority Language Issues, Vientiane 31 October 2003, Richard Noonan, September 2003, p. 8 (hereinafter Noonan (2003)).

¹³ Noonan (2003), p. 31.

¹⁴ Sida (2004), p. 39.

¹⁵ Ministry of Education, UNICEF, UNESCO, Lao National Literacy Survey, 2000, Vientiane 2002.

¹⁶ Seel (2003), p. 5.

¹⁷ Seel (2003), p. 5.

¹⁸ Sida (2004), p. 41.

¹⁹ Noonan (2003), p. 28.

often use the local language for instruction in the early grades as this is the natural language of communication. Even if this is the practice it is widely interpreted as being against the law. In addition, as there is no support in the law for this practice, there are no instructional materials and there is no systematic support for making the transition from the local language to Lao.²⁰

For almost 40% of children (some estimate that this figure is higher) the language of the school is not the language of the home. The pattern of high drop-out rates in areas where language of instruction cannot be understood by the children is clear. The government's rigidity in looking at the issue of language of instruction in school has had a negative effect. The curriculum and text books do not take account of the needs of students with Lao as a second language and only to some degree consider minority cultures and life styles.²¹

The issue of language of instruction in schools and the use of minority languages is a sensitive issue for the Lao government. It seemed for a while that the discussion on ethnic minority language of instruction was developing. A seminar on the use of ethnic minority languages in education was supposed to be held in Laos in 2003. However, right before the seminar was to take place, the government changed their mind and the seminar was cancelled. While the government are pondering on how to deal with the issue of ethnic minority languages in education, ethnic minority children's right to education is de facto restricted.

Ethnic Boarding Schools

Children belonging to ethnic minorities have generally lower enrolment rates than other children. Most minority children join local schools if they are available. To cater for the minority children's education needs, the government has established special Ethnic Boarding Schools. The purpose is to provide basic education to ethnic minority children from poor families. Graduates are recruited to become untrained, contract teachers in their own villages.²²

The curriculum is similar to the curriculum in other schools. Lao is the medium of instruction. Hence these schools are decidedly Lao in their character. The consequence is that children attending these schools are alienated from their own cultures. It is difficult to know if these schools and the methods used in these schools are part of a deliberate strategy by the Lao government to assimilate ethnic minorities or a consequence of generally ill-judged government policies.

Education and indoctrination

Article 1 of the Lao Education Law states that the Education Law has the function to develop good citizens to be aware of the policy of the party, to have good moral attitude, to love the nation and democracy and to love and preserve the culture and good customs that have national character. The Education Law also states that one of the duties of the state's schools and educational institutes is to implement the policy of the party and state and pay attention to improve the political system in the school, including the Lao revolutionary youth union which is connected to the ruling party.²³ The law also states that each subject in the schooling system shall be consistent with the policy of the party and students have the duty to implement the party policy.²⁴

The mere fact that the education law states that the law has the function to develop good citizens to be aware of the policy of the party and that it is the duty of the school to implement the party policy – and only one party exists in Laos – is a sign of the Lao People's Revolutionary Party's influence over education. In the Convention on the Rights of the Child, which is ratified by Laos, it is stipulated that the child shall have the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds.²⁵ It is safe to say that freedom of expression is not fully respected in Laos, whether it concerns children in school or any other situation. To express ideas that question the present rule in the country is very risky and may result in long prison

²⁰ Noonan (2003), p. 31.

²¹ Seel (2003), p. 7.

²² Sida (2004), p. 39.

²³ Art. 15 Education Law.

²⁴ Art. 17 and 27 Education Law.

²⁵ Art. 13 Convention on the Rights of the Child.

sentences. This of course influences the education system and teachers and students have to be careful with what they express.

Law, education and development

International law in conjunction with national law creates a framework for actors within the education sector. But how important is the law as a tool in a country like Laos today? As mentioned above many government officials and teachers have not even heard of human rights or do not know what rights mean. Many people prefer to solve their conflicts in a traditional manner on village level and not through the formal legal system. That anyone would go to court to claim their rights is a distant reality. Both because the reluctance of people to use the formal legal system but also because the legal system is not able to fulfil even minimum guarantees. The national legal framework is not a comprehensive one even if an education law exists. In addition, as rule of law is not prevailing there is a risk in using the court system. The Lao legal system has a long way to go before it works as a guarantee for people's rights, whether it concerns the right to education or other rights.

So what use is the legal framework if it is not a guarantee for individuals' rights? The legal system is fairly new but even so it is a beginning of something which in time, hopefully, will develop into a system which is strong enough to protect people from abuse and discrimination and to ensure people's rights.

Laos is striving to build a country based on the rule of law and move away from the time when the country was run with political decrees. Laos has ratified international human rights conventions which they have taken upon themselves to implement. In this context, law can be a useful tool when it comes to political dialogue between Laos and its development partners as the country is fairly dependent on development cooperation. However, without true political will to change, the process will be slow and without development towards a democratic society based on the rule of law with respect for human rights, the right to education in all its dimensions will not be fully respected and implemented.