

COMPLAINT TO THE UNITED NATIONS ON
THE HUMAN RIGHTS VIOLATIONS FACED BY
MS. HOUAYHEUANG XAYABOULY (MUAY),
LAO WOMAN HUMAN RIGHTS DEFENDER



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SUBMISSION REGARDING HUMAN RIGHTS VIOLATIONS FACED BY WOMAN HUMAN RIGHTS DEFENDER, MS. HOUAYHEUANG XAYABOULY, IMPRISONED IN CHAMPASAK PROVINCIAL JAIL, LAO PDR CALLING FOR URGENT ACTION FOR HER PROTECTION

Submitted by
**Manushya Foundation
&
Humanity Beyond Borders**

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Submission to the UN Special Rapporteurs and other relevant Special Procedures Mandates

Mr. Aslan Abashidze, Mr. Asraf Ally Caunhye, Ms. Heisoo Shin, Ms. Karla Vanessa Lemus de Vásquez, Ms. Laura-Maria Craciuneantatu, Ms. Lydia Carmelita Ravenberg, Mr. Michael Windfuhr, Mr. Mikel Mancisidor, Mr. Mohamed Ezzeldin Abdelmoneim, Mr. Olivie de Schutter, Mr. Peters Sunday Omologbe Emuze, Ms. Preeti Saran, Mr. Renato Zerbini Ribeiro Leão, Mr. Rodrigo Uprimny, Ms. Sandra Liebenberg, Mr. Shiqiu Chen, Mr. Zdzislaw Kedzia, 18 Expert Members of the Committee on Economic, Social and Cultural Rights (CESCR)

Mr. Saad Alfaragi

UN Special Rapporteur on the Right to Development

Mr. David R. Boyd

UN Special Rapporteur on Human Rights and the Environment

Mr. Philip Alston

UN Special Rapporteur on Extreme Poverty and Human Rights

Mr. Clément Nyaletsossi Voule

UN Special Rapporteur on Freedom of Peaceful Assembly and Association

Mr. David Kaye

UN Special Rapporteur on Freedom of Opinion and Expression

Mr. Michel Forst

UN Special Rapporteur on the situation of Human Rights Defenders

Mr. Diego Garcia-Sayan

UN Special Rapporteur on the Independence of Judges and Lawyers

Ms. Elina Steinerte, Mr. José Guervara Bermúdez, Ms. Leigh Toomey, Mr. Seong-Phil Hong, Mr. Sètondji Adjovi

UN Working Group on Arbitrary detention

Ms. Anita Ramasastry, Mr. Dante Pesce, Ms. Elżbieta Karska, Mr. Githu Muigai, Mr. Surya Deva

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#FREEMUAY
FREE HOUAYHEUANG XAYABOURY





**SUBJECT: SUBMISSION REGARDING HUMAN RIGHTS VIOLATIONS FACED BY WOMAN HUMAN RIGHTS DEFENDER
MS. HOUAYHEUANG XAYABOULY IMPRISONED IN CHAMPASAK PROVINCIAL JAIL, LAO PDR
CALLING FOR URGENT ACTION FOR HER PROTECTION**

Bangkok, 30 March 2020

Dear Esteemed Experts,

This joint submission is respectfully submitted for consideration under your mandates, requesting urgent action to stop the ongoing human rights violations committed against prominent environmental activist and human rights defender, Ms. Houayheuung Xayabouly also known as Ms. "Muay" who is currently imprisoned, facing a prison sentence of 5-years and a fine of 20 million Kip, after a pre-trial detention and a summary trial where due process and fair trial standards were not complied with at all. Ms. Muay was made an example of by the government of Lao PDR and faces the maximum sentence under Article 117 of the Criminal Code on charges of criminal defamation and propaganda against Lao People's Democratic Republic. These charges were filed against Ms. Muay solely because of her contribution to ensure the protection and respect for the rights of the Lao people, by highlighting the harm caused to them as a result of development projects, business activities and corruption while calling for redressal against the harm caused.

Ms. Muay's brave human rights work portraying her as an 'enemy of the State' in the eyes of the Lao government

Ms. Muay was targeted for the legitimate human rights work that she carried out in support of the rights of the grassroots communities in Lao PDR. The first effort made by Ms. Muay to raise awareness was in response to an excessive toll being charged for 20 years, merely for the crossing of a bridge on the border between Lao PDR and Thailand by an international business called Duangdee, that had also received a concession from the government for the construction of the bridge. Ms. Muay also used the toll bridge to travel between her home and her workplace, thus paying an amount that was the same value as several meals. In response, she created a video in 2017 highlighting the heavy financial burden on the common tradespeople who used the bridge on a daily basis. This resonated with the Lao people, who also agreed with the beneficial relationship that existed between these international enterprises and government authorities. While no change resulted from these efforts, Ms. Muay realised the importance of giving a voice to the challenges of the Lao people. In May 2018, Ms. Muay took up the challenge of addressing corruption in the country by talking about the buying and selling of government positions, using the example of her brother who also fell victim to this scheme while being cheated out of the money and the position. She was critical not just of this corrupt practice, but also of the poor education system in Lao PDR that encouraged this practice through the buying and selling of degrees. To address this systemic corruption, Ms. Muay decided to raise money to build a school by selling T-shirts that declared 'I don't want to buy government positions'. She also organised a concert with famous internet personalities on 15 October 2018 in Savannakhet to raise more funds for the school. Unfortunately, the concert was shut down by the inebriated police officers, who also arrested those wearing the T-shirts supporting the anti-corruption efforts.

In response to Ms. Muay's criticism of the corruption that existed in Lao PDR, the government pressured her employer to fire her in June 2018 which led to her losing her job as a tour guide. Nevertheless, she took this opportunity to create Facebook videos that brought attention to the problems she witnessed as a tour guide that resulted from the activities of international enterprises and investments. An example of an issue Ms. Muay raised was the unfair competition created by Chinese investments and businesses that took over the tourism industry, forcing Lao businesses to close down or forcibly sell their company to Chinese investors. Casinos were also built by Chinese companies and investments, which Lao people were prohibited from. However, bribes were paid to the police in order to allow and encourage Lao people to use the casinos, driving them into poverty and crime, while destroying families. Land that belonged to the Lao people was also forcibly taken away from them and given in land concessions to Chinese companies for mines, dams, railways, infrastructure projects and special economic zones. This resulted in a loss of land, livelihood and food security for the 72% of the population in Lao PDR that depends on agriculture as their source of income as well as the remaining population that depends on the crops as a food source, which now has to be imported at a high cost. The final aspect that she highlighted was the unfair practices in the Chinese-owned and operated banana plantations. The indigenous groups 'Khmu' and 'Hmong' that lost their land to the plantations were forced to work there, suffering negative health impacts, due to the use of chemicals that contaminated their land, rivers and groundwater resulting in water that was not potable, land that was not arable, and contaminated crops as well as dead fish depriving them of food, water and any other means of income. These indigenous workers were also employed only for 3 years in the plantations because if they were to die



from the negative health or environmental impacts, their employers did not want this to happen while they were still employed at the plantation.

Providing a further insight into the negative impact of business activities, following the collapse of a saddle dam that was part of the South Korean, Thai and Lao owned Xe-Pian Xe-Namnoy hydropower project on 23 July 2018, Ms. Muay decided to address the consequence of the collapse on the affected communities in the South of Lao PDR. With the government response being to clamp down on information, discrediting the coverage of the incident on all forms of media except state-run media, and with access to the affected villages and provinces being restricted, the Facebook videos created by Ms. Muay after her visits to the camps housing displaced villagers to bring them money, food and clothes were one of the few sources of information to the reality of the situation on the ground. She highlighted the poor assistance provided by the government authorities and their inaction in supporting communities including the selling of relief supplies by these authorities and their failure to use the vast amounts of aid money they received to deliver the relief supplies to the affected villagers. She also insisted that government officials should be properly trained should such a situation arise again. A year after these events, the same villages and provinces were once again impacted by flooding and displacement in August and September 2019 as a result of the tropical storm Podul and the tropical depression Kajiki. Seeing the harm that people suffered once again, through a Facebook video posted on 5 September 2019, Ms. Muay criticised the slow response of the government in providing assistance, bringing attention of the failure of government to learn from its shortcomings. This video that was viewed more than 173,000 times was the last time the government allowed Ms. Muay to freely voice her opinion on government policies and practices.

The Lao government viewed Ms. Muay as an enemy of the State and a threat to the stability of the Lao People's Democratic Republic and the continuity of the Lao People's Revolutionary Party in power because of the views she shared that were critical of government actions and the support these opinions received from civil society in Lao PDR. As a result of the efforts made by Ms. Muay to make sure that people at the grassroots level are able to enjoy the human rights that they are entitled to, she herself became a victim of rights violations.

Rights violations against Ms. Muay

When she started to publicly voice her opinions on the activities of the government and businesses in Lao PDR, the government began to monitor her, violating her **freedom of opinion and expression**. Ms. Muay was visited by government officials and given her first warning after she criticized the exorbitant toll being charged by Duangdee company. She was called in for a second warning when she questioned the government's poor response after the collapse of the saddle dam in the Xe-Pian Xe-Namnoy hydropower project. On her continued action taken to bring attention to harm caused by international business enterprises and investments, the government was forced to issue a press release where they warned against the spreading of alleged false information which could result in criminal charges and imprisonment. Ultimately, the government went through with this threat against Ms. Muay. The **freedom of assembly and association** were also denied to Ms. Muay, when the concert she organised to address corruption was shut down by inebriated officers after it had already begun, without any explanation. Although, Ms. Muay dedicated herself to the realisation of the **economic, social and cultural rights** of the Lao people, she herself faced a violation of these rights, including the deprivation of her **right to work** and an **adequate standard of living**. As the sole breadwinner of her family financially supporting her retired parents, two of her brothers and as a single mother to a 4-year old daughter, Ms. Muay's work and her income were vital for the sustenance of her family. However, the government forced the tour company that employed her to dismiss her from her position. This resulted in her becoming unemployed. At present, since she is serving a 5-year prison sentence for her legitimate human rights work, her family will once again be denied an adequate standard of living during her detention.

In addition to these rights, Ms. Muay was also a victim of an **arbitrary arrest and detention**, with due process and her **right to fair trial** not respected since the minimum guarantees set out in international fair trial standards were denied to her. On 12 September 2019, Ms. Muay was arrested while she was eating at a restaurant. No arrest warrant was produced and she was instead taken away to the police station without being provided with a notice of reasons for arrests or informed of the charges against her. Once at the police station, she was forced to delete a post she made on Facebook about her arrest to inform her family and friends while reaching out for help. She was then detained until her trial, not allowed any visitors and denied bail without any reason provided. There was no explanation provided on why she could not be granted bail, even after her family submitted a request to bail her out. The denial of her bail was particularly questionable since the bail application was already signed with a bail amount set, when her application was denied by the provincial police station. During her detention, Ms. Muay was extensively interrogated and forced to confess that she was guilty of criminal defamation by undertaking a campaign against the country, through illegal activities and by having a



connection with bad elements both in Lao PDR and abroad. Her confession was taken at the police station without a lawyer or judge present, with the police claiming that the confession was a result of their investigation and interrogation. During her trial before the Court, Ms. Muay was not given the option to choose her own counsel. Instead, a lawyer was appointed to her by the court, without an explanation of how the lawyer was appointed. The lawyer did not talk to Ms. Muay about her case at all. She was brought before the judge, made to confess and the maximum sentence of 5-years in prison and a fine of 20 million Kip was ruled against her. The court documents such as the order of the court pronouncing the sentence was not given to her or her family. Her parents were informed by the lawyer that the Court refused to give him the court order. Following her detention, Ms. Muay has been denied the right to appeal against the decision of the court. Ms. Muay's family has been afraid to discuss her case in the past for fear of reprisals against them because they were visited by government officials who informed them of the charges against Ms. Muay, warned them not to protest against the decision of the court and to accept the actions taken by the State authorities.

Ms. Muay's concerning detention conditions

Ms. Muay has now been in detention for about 7 months. Being detained due to politically motivated charges she is likely to face harsher treatment in prison, particularly because her prison sentence is meant to send a warning to the people of Lao PDR that no dissent will be permitted or tolerated. Her detention continues to be strictly monitored by government authorities and prison officials, including her interactions in prison and with visitors. She does not discuss how she is being treated, but she has lost a lot of weight and is suffering depression. Ms. Muay's family has found her detention difficult, particularly her daughter who has only been to visit her three times. Ms. Muay's friends who are themselves human rights defenders and critical voices against rights violations have been visiting her regularly, however they strictly only mention that they are friends and do not discuss their work with her at all. Non-governmental organisations have been specifically barred from visiting Ms. Muay in prison. Independent monitoring of prison and detention conditions by external parties has not been allowed in her case.

Request to examine complaint in support of Ms. Muay

Thus, we request you to examine this complaint at the soonest and correspond with the government of Lao PDR, among other appropriate actions, to ensure they take all necessary steps to withdraw charges and convictions against Ms. Muay and to release her from prison, without any delay. We also kindly request your esteemed experts to visit Ms. Muay in prison and/or urge Lao authorities to allow the Office of the United Nations High Commissioner for Human Rights and other relevant UN agencies to regularly visit Ms. Muay in prison to ensure decent detention conditions and further investigate her case.

We also urge you to take into account the record of the government of Lao PDR in relation to their obligations for advancing human rights in the country while examining this complaint. We also call on you to take into account not just the purpose, but the method in which the rights of Ms. Muay were violated using charges filed under Article 117 (previously Article 65, as amended on 1 November 2018) of the Criminal Code. As illustrated, there was poor to no compliance with any procedural measure in accordance with due process and international fair trial standards. Additionally, Article 117 is flawed in substance, vague with a broadly formulated offence of defamation that violates freedom of opinion and expression. Although the government of Lao PDR has repeatedly denied this provision being a barrier to freedom of expression, there have been other instances like the case of Ms. Muay where individuals have been subject to arbitrary arrests and detention, trials without any due process, and criminal convictions for expressing views of political opposition or views that were critical of government authorities, their policies and practices, particularly through the use of the internet. For instance, using Article 117 (formerly Article 65) of the Criminal Code, in October 2015, a Lao-born Polish citizen, Mr. Bounthanh Thammavong was convicted for being critical of the government's policies and actions on a Facebook Post, serving a 4-year 9-month prison sentence for this. In 2017, three activists Ms. Lodkham Thammavong, Mr. Soukane Chaithad and Mr. Somphone Phimmasone were given prison sentences of 12 years, 18 years and 20 years respectively for publishing a Facebook post on the absence of democracy in Lao PDR.

Closed civic space

The other issue of serious concern continues to be the closed civic space in Lao PDR. A defective or misused national law and policy framework with provisions such as Article 117 of the Criminal Code as well as flawed actions taken by government authorities prove to be an obstacle in the promotion of a civic space in Lao PDR where individuals can meaningfully exercise their human rights and promote human rights without fear of sanctions and reprisals. With the arrest, summary trial and imprisonment of Ms. Muay and others, freedom of expression, independence of media and access to information continue to be denied; freedom of assembly and association is absent; reprisals against human rights



defenders, civil society activists and journalists continue with the complicity of the government; civil society practices self-censorship and the negative impacts they face go unreported or underreported; no attempt is made to hold the government accountable; and the limited civic space in Lao PDR continues to shrink further. The actions taken by the government against Ms. Muay were to make her an example, so that no other Lao citizen expresses any dissenting opinion that brings attention to the shortcomings of the government of Lao PDR or that threatens the existence of the ruling Lao People's Revolutionary Party that enjoys special protection. At present, the government of Lao PDR seems to have achieved this goal. Hence, we hereby submit this appeal to you, to call the attention of the government towards respecting, protecting, and fulfilling human rights of the Lao people, and on preventing reprisals against human rights defenders and civil society for their legitimate actions to prevent human rights violations and ensure the achievement of basic human rights.

In case you require additional information, please do not hesitate to contact Ms. Emilie Pradichit, Founder and Director of Manushya Foundation, and Mr. Netiwit Chotiphatphaisal, Founder and Director of Humanity Beyond Borders, whose contact details have been provided in Annex 1 following your template for the submission of an allegation.

Your attention and action on this urgent matter will be highly appreciated.

Sincerely,

Manushya Foundation (MF) and Humanity Beyond Borders

ANNEX 1**DETAILS ON THE ARREST AND DETENTION OF HOUAYHEUANG XAYABOULY
FOLLOWING THE TEMPLATE FOR SUBMISSION OF AN ALLEGATION****Template for the submission of an allegation**

Name of victim(s):	Ms. Houayheuung Xayabouly (also known as Muay)
Gender:	Female
Nationality:	Lao PDR
Profession:	Tour Guide and Shop owner
Describe human rights activities in which the victim(s) is/are engaged, including involvement with human rights organisations (the name of the organisation, main activities, focus area etc.)	<p>Engagement of Ms. Muay in human rights activities¹</p> <p>An environmental activist and woman human rights defender, Ms. Muay (born 4 November 1988) contributes to the protection and respect for the rights of the Lao people, by highlighting the harms caused from business activities and corruption, as well as calling for solutions to redress the same. With a closed civic space and an environment of censorship in Lao PDR, Ms. Muay often served as the only source of information and thus as a default reporter in the case of human rights violations. The contribution to human rights made by Ms. Muay include her work addressing:</p> <p>1. Impact of business activities on the standard of living of the people of Lao PDR: Ms. Muay lived in Ban Salao village, Phonthong district, Champasak province in Southeastern Lao PDR² but worked as a tour guide and owned a business selling and renting traditional outfits in Pakse near the Mekong River. Located an hour away from Chong Mek border crossing between Lao PDR and Thailand, a lot of trading takes place across the border between the two countries. To sustain trading, their business or their daily activities; the people of Lao PDR use the bridges built across Mekong river. Many such bridges and roads are owned by private companies that receive concessions from the government to construct the bridge and also ask people using the bridge to pay a heavy fee or toll for crossing the bridge. One such toll bridge that was built and maintained by a company called Duangdee connected Ms. Muay's home in Phonthong and her workplace in Pakse. Ms. Muay, her family and several other common people who earned a living by trading between Ubon Ratchathani in Thailand and Champasak in Lao PDR used that toll bridge. It was also used by everyone visiting Vat Phou temple from Lao PDR.</p> <p>For 20 years, Duangdee company charged people using this toll bridge a fee that was the same cost as several meals, which proved to be a huge financial burden to them. This was a situation that Ms. Muay and her family were also suffering. Frustrated since 2016 by this unfair exploitation by an international company that received the support of the government of Lao PDR, on 1 October 2017, Ms. Muay recorded a video highlighting the trouble she faced on a road that should belong to the people using it.³ She believed that a solution to this would have been retaining the same old road that existed before the bridge was built as the people would prefer that. This video resonated with civil society in Lao PDR, drawing criticism on the symbiotic relationship between the Lao government and international companies. This resulted in the Lao government being held to account for its actions. At a press conference, the Lao government</p>

responded to this criticism by stating that the company would stop charging the toll. Although Duangdee continued charging the toll, this made Ms. Muay realise her ability to make a difference in the lives of the Lao people who were victims of rights violations and did not have a space to express the challenges they face.

2. Corruption and the damage caused: In 2018, Ms. Muay took up the issue of corruption by bringing focus to the buying and selling of government positions. Bribery is commonplace in the appointment of individuals to government positions in Lao PDR⁴ and Ms. Muay's younger brother fell victim to this, by paying a bribe of 1 million Kip or \$1100 for his appointment as a police officer. While Ms. Muay did not agree with her brother's actions when he waited years without being appointed as a police officer or being returned the money he paid as a bribe as promised, Ms. Muay decided that it was important to bring attention to the harm that corruption causes not just to the Lao bureaucratic system but also to individuals. Ms. Muay raised awareness by creating a video in May 2018⁵ where she said that if paying a bribe, the risk of being scammed must be accepted. She also voiced her disapproval of a system where paying for a position is necessary if your achievements are not at the highest level and where people with money do not invest time and effort in an education, instead paying someone to sit for their exams. Ms. Muay⁶ instead pointed to the importance of developing the human resource in the country, by giving people a good education and building their knowledge to be successful in life.

Taking the recommendation made to address corruption from a suggestion to a reality that would benefit Lao society, Ms. Muay and her friends decided to raise money to build a school that would address the negative impacts that corruption had on the Lao education system. To do so, in 2018, they made t-shirts declaring 'I don't want to buy government positions'⁷. Thousands of the t-shirts were bought within hours of their sale commencing. On 15 October 2018, Ms. Muay also decided to organise a concert in Savannakhet to raise money for the school, with her friends who were all famous internet personalities singing on stage.⁸

3. Critique of the activities of international businesses and impact on the Lao people and environment: In June 2018, when Ms. Muay criticized corruption that existed in the governance system, her employer was pressured to fire her. This led to her losing the job she had as a tour guide. At that time, Ms. Muay decided to highlight the problems that resulted from international businesses and investments in the country, which she witnessed while working in the tourism industry. For instance, Ms. Muay observed that with Chinese tourists visiting the country, the Chinese businesses would open their own tour companies, they would bring their own people to work in these companies, and they would build their own hotels. The competition that resulted from this caused many Lao businesses to shut down or to be forcibly sold to Chinese investors. Using Chinese investments, Chinese companies also built casinos in Champasak province in Southeast of Lao PDR, in the Special Economic Zones of Bokeo province in the North of Lao PDR, and in Savannakhet province in the West of Lao PDR. According to official rules, Lao people were not allowed into these casinos that were reserved for the Chinese. However, in reality, the Chinese business owners would pay the Lao police a bribe to lure and encourage Lao people to enter the casinos. This resulted in Lao families being negatively impacted and destroyed due to the loss of money, which also led to them stealing and selling drugs to either get the lost money back or to feed the gambling addiction they had been drawn into.



Additionally, Chinese companies including Chinese state-owned enterprises have invested in mines, dams, railways, other infrastructure projects, special economic zones and even banana plantations in Lao PDR. These projects were initiated following forced land concessions which harm 72% of the population of Lao PDR that depends on agriculture for their livelihood and the rest of the population that depends on the crops grown as a food source. As a result of this, agricultural produce now has to be imported from neighbouring countries at a high cost to the Lao people.

Banana plantations owned by the Chinese in Vangvieng district in Vientiane province, and Sangthong district in Vientiane cause immense harm to the Lao people. Indigenous peoples such as the 'Khmu' and the 'Hmong' not only lose their land to the banana plantations, but also suffer from the negative health and environmental impacts caused by the use of Prochloraz and other chemicals. These chemicals are used while planting to make the banana grow larger in size or for storage to have the banana stay fresh for longer. The water used in the plantation contaminates the river, the land and the groundwater resulting in dead fish, water that is not potable and land that is not arable. This results in people falling sick, not having clean drinking water, not having sufficient crops or fish to be used as food, or enough to sell in order to earn a living and sustain their livelihood. Also, while the owner and upper management of banana plantations are normally Chinese, indigenous peoples are employed by them as workers on the plantation but only for 3 years. This limitation is placed on the time period of their employment so that when they suffer from the negative impacts on their health and environment, they do not die while still working on the plantation. Ms. Muay highlighted all these issues through Facebook videos, to raise awareness amongst the people on the impact of business activities on the Lao people, particularly as resulting from foreign and multinational businesses and investments.

4. Collapse of the Xe-Pian Xe-Namnoy dam: Ms. Muay's activism on the harm caused by foreign and multinational enterprises and investments did not stop with the insight she provided on Chinese businesses and investments. On 23 July 2018, a saddle dam of the Xe-Pian Xe-Namnoy dam located between Paksong district in Champasak province and Sanamxai district in Attapeu province in Southeastern Lao PDR collapsed, following a storm.⁹ This collapse in a hydropower project with investments from two South Korean companies, a Thai state-owned enterprise and a Lao state-owned enterprise led to severe flooding, destruction of villages, displacement of over 5,000 people, and the disappearance as well as death of several villagers.¹⁰ In response to this event, the government of Lao PDR strictly clamped down on information and restricted access to the affected villages and provinces. People were warned to follow only state-run media and not to believe the accounts on social media and foreign media.¹¹ Limited number of aid organisations were allowed to visit the villages and even these organisations were not allowed to take pictures of the damage caused.

In these circumstances, Ms. Muay decided to collect money, food and clothes and bring them directly to the affected communities. To do so, she visited 2 camps which housed the displaced villagers in Attapeu between 25 and 26 July 2018 and also visited those at the site of the collapse. Once new camps were created to house the remaining villagers, she visited them three more times with supplies and money. The only reason she did not have a choice but to visit the communities directly was because of government inaction. Initially, Ms. Muay and her friends started bringing supplies to the government collection centre.

However, they discovered that the police and government officials were not giving these supplies to the communities. They instead told the communities the road leading to their villages was damaged and they took all that was received and sold it in the market. A friend of Ms. Muay's captured this on video by pretending to be a buyer and sent the recording to Ms. Muay. Using this, she highlighted the government's negligence and questioned why they were not using a helicopter to drop supplies in the flood zone using the vast amounts of aid money they received in support of the affected villagers. She also encouraged more people from all over the world to donate to the relief efforts, while being one of the few sources of information reporting the actual situation. Ms. Muay also insisted that government officials be properly trained to address such a situation should it happen again.

5. Flooding and government in-action: A year after these events, Ms. Muay's request to address the lack of proper training for government officials to deal with flooding once again came to light, when in August and September 2019, the tropical storm Podul and tropical depression Kajiki resulted in severe flooding in the south of Lao PDR and the northeast of Thailand.¹² The rise in the level of water in the Mekong river also caused the Xe-Pian Xe-Namnoy dam to overflow. Over 100,000 people were displaced because of the flood and they once again had to be evacuated to higher ground. Seeing the recurring harm caused to the people, through a Facebook live video posted on 5 September 2019,¹³ Ms. Muay highlighted the failure of the government to learn from the dam collapse and its impact while also criticizing their continued slow response in providing assistance to the affected people in the Champasak and Salavan provinces¹⁴. This video was viewed more than 173,000 times and brought more attention to the plight of the affected Lao communities.

Describe what happened, **where, when, and what** is the current situation (please provide as much relevant detail as possible and describe events chronologically, including any previous incidents)

1. Unsustainable development, poor governance, the lack of public participation and protection of the environment:¹⁵ Rich in natural resources and an economy dependent on the environment to sustain itself, Lao PDR is often a victim of an overzealous development agenda which is not sustainable for the environment or for the people of the country. Accompanied by a law and policy framework that supports these outcomes, this type of development leads to increased poverty, the further violation of people's rights, and irreparable damage to natural resources and the environment.

Information is often concealed or not provided in a timely manner to affected people and communities in Lao PDR, which intensifies the damage caused by these projects. An unwillingness to listen to the views of the people has also been harmful both to the local people and the rich ecosystem. This lack of access to information, participation and consultation of affected communities are injustice that Ms. Muay was herself affected by. Therefore, her goal was to make people aware of these violations, and to realize the rights they are entitled to while redressing this situation. Since Ms. Muay positively influenced some Lao people including those affected to be aware of their rights; her arrest, sentencing, and detention among other incidents have made those impacted by these development projects go silent, exercise extreme caution and practise extensive self-censorship.

2. Economic, social and cultural rights: The work of Ms. Muay focused on the realisation of the economic, social and cultural rights of the Lao people. She highlighted the violations they faced with respect to their economic, social and cultural rights including their inadequate potential to work caused by loss of livelihood sources in the agriculture and the fishery sector; absence of an

adequate standard of living including an inability to achieve minimum food and housing levels due to over-exploitation of the environment, forced evictions and displacement as a result of business activities; poor physical and mental health due to environmental pollutants and an atmosphere of fear; an unhealthy environment where profit is prioritised over people; and a poor education system where degrees can only be bought. Ms. Muay also pointed out the inadequate response by the government to these violations and their complicity in it, including through corruption and their support of international business enterprises and investors in violating individuals' rights. Her goal always remained to raise awareness amongst the Lao people of the challenges they face and to call on the government to change these circumstances by taking into consideration the voice of the Lao people. Ultimately, Ms. Muay was also a victim of these violations, when she lost her source of income as she is now being detained, unable to support her 4-year old daughter who she is a single parent to, or to assist her retired parents and her two brothers. All of them relied on her income for their sustenance.

3. Freedom of opinion and expression: Ms. Muay's actions bringing awareness to the human rights violations resulting from the activities of the government and businesses in Lao PDR led to her becoming a public figure and giving the Lao people a voice. As a result of this, the Lao government started to monitor her. Government officials were sent to meet with Ms. Muay and she was warned to stop criticizing the government.¹⁶ Ms. Muay was called in for a second warning, when she shared information and questioned the government's poor relief efforts in relation to the collapse of the saddle dam in the Xe-Pian Xe-Namnoy hydropower project.

When Ms. Muay shared information about the harm that foreign and multinational business enterprises and investments were causing to the environment and the Lao people, the government did not directly approach and reprimand her. Instead, they issued a press release through state run media outlets warning all those who shared information on social media that if they were found guilty of spreading false information, they would be criminally charged and sentenced to prison. The government went through with this threat, by arresting Ms. Muay on 12 September 2019 when she pointed out government inaction following a tropical storm that led to flooding in the South of Lao PDR, through a Facebook video of 5 September 2019. Subsequently, the Lao authorities forced her to confess, summarily tried her without following due process; and on 22 November 2019, Ms. Muay was sentenced to 5 years in prison and a heavy fine for the crime of criminal defamation under Article 117 of the Criminal Code, which was also the maximum penalty applicable for such a violation.¹⁷ Government officials also visited her parents to inform them of the charges she faced. They told her parents that it was the duty of the government and the military to take action against the crimes Ms. Muay had committed. They warned her parents not to protest against her arrest and detention, and to quietly accept the reality of the charges she faced. The government of Lao PDR used Ms. Muay to set an example.¹⁸ As a consequence, at present, out of fear, no one expresses any opinion that is dissenting to the actions or views of the government.

4. Freedom of assembly and association: On 15 October 2018, to address the corruption in buying and selling degrees, Ms. Muay organised a concert to raise money in order to build a school that would promote education over corruption.¹⁹ Thousands of people attended this concert that was organised in Savannakhet. The government feared a public assembly that was not ordered by them and

they viewed it as a threat to their stability. Therefore, the concert was called off by government officials after a few songs were performed. The police also arrested people who were wearing Ms. Muay's anti-corruption t-shirt including the person who delivered them, claiming that the T-shirts saying 'I don't want to buy government positions' were against the law.²⁰ The police officers who made the arrests were inebriated and abusive to those present.

5. Right to work and adequate standard of living: Ms. Muay has a degree in tourism and speaks 4 languages including Lao, Thai, Vietnamese and English. This along with the fact that she lived in Champasak province that has a rich natural ecosystem with a thick forest cover with lots of tourists, resulted in her becoming a tour guide. Ms. Muay is the breadwinner of her family. With the money she earned, she financially supported her retired parents, Mr. Vong Saygnabouli (67 years old) and Ms. Ouad Saygnabouli (58 years old) and two of her brothers. Ms. Muay is also a single mother of a 4-year old daughter, Ms. Khammany Sengsavang. After separating from her child's father when her daughter was one-year old, Ms. Muay also shoulders sole financial responsibility for her child with no other support from any external source.

In May 2018, when Ms. Muay criticised the corruption that existed in obtaining government jobs, she gained extensive attention and support from ordinary Lao people and civil society in Lao PDR.²¹ With her denouncing corruption and with the attention it received, the government forced the tour company that employed her to fire her in June 2018. This led to Ms. Muay becoming unemployed with no stable means to support her family. With the help of a friend, she found a temporary position in September 2018 selling merchandise for the Champasak football team for six to seven months, until she could find a job with another tour company in Champasak. With Ms. Muay's arrest on 12 September 2019, her trial, sentencing and subsequent detention, her family including her daughter that all rely on her have once again been left without any financial means to support an adequate standard of living for the 5 years she will be in prison.

6. Arbitrary arrest and detention: Due process was not followed in the case of Ms. Muay. She was arrested on 12 September 2019²², while she was eating at a restaurant. No arrest warrant was produced or given to her and she was instead taken away to Phonthong police station in Champasak province. No notice of reasons for arrests and charges were provided to her. During Ms. Muay's arrest, she posted about it on Facebook in order to reach out to those who could help her. Once at the police station, she was forced to delete the Facebook post. Ms. Muay was also detained until her trial, not allowed any visitors and denied bail. On enquiry, the police informed her friends and family that she could not have any visitors as she was being investigated and interrogated.²³ There was no explanation provided on why she could not be granted bail, even after her family submitted a request to bail her out. This was particularly questionable since after the bail application was submitted to the Phonthong police station, it was already signed and a bail amount was set at 100 million kip. However, when it was sent to the provincial police station to make a final decision on the bail, the application was rejected and Ms. Muay's bail was denied without any reason provided for the rejection. As explained below, due process and the minimum fair trial standards were not complied with following her arrest, through the court procedure and during her imprisonment, leading to the conclusion that her detention continues to be arbitrary in accordance with Categories I, II and III of the criteria adopted to identify cases of arbitrary deprivation of liberty by the UN Working Group on Arbitrary Detention.

7. Fair trial: None of the minimum guarantees set out in international fair trial standards were respected in the case of Ms. Muay. To elucidate, during her detention, Ms. Muay was forced to confess that she was found guilty of criminal defamation by undertaking a 'campaign against Lao PDR' through illegal activities and by having a connection with bad elements both in Lao PDR and abroad.²⁴ She was also made to admit that she violated Article 117 of the Criminal Code on propaganda against the Lao People's Democratic Republic (formerly Article 65 of the Criminal Code as amended on 1 November 2018)²⁵, which states that 'Any person conducting propaganda activities against and slandering the Lao People's Democratic Republic, or distorting the guidelines of the Party and policies of the government, or circulating false rumours causing disorder by words, in writing, through print, newspapers, motion pictures, videos, photographs, documents or other media which are detrimental to the Lao People's Democratic Republic or are for the purpose of undermining or weakening State authority shall be punished by one to five years of imprisonment and shall be fined from 500,000 Kip to 10,000,000 Kip'.²⁶

Ms. Muay's confession was taken at Phonthong police station without a lawyer or judge present. The police claimed that the confession was a result of their investigation and interrogation based on Ms. Muay's actions.²⁷ During her trial before a Court in Champasak, Ms. Muay was not given the option to choose the lawyer who would represent her. Instead a lawyer was appointed to her by the court, without an explanation of how the lawyer was appointed. The lawyer did not talk to Ms. Muay about her case at all. She was brought before the judge, made to confess and the maximum sentence of 5-years in prison and a fine of 20 million Kip was given to her.²⁸ The court documents such as the order of the court pronouncing the sentence was not given to her. Her parents specifically asked the lawyer for the court order, but the Court refused to give it to him as well. As of now, Ms. Muay has not been allowed to appeal against the decision of the court. Ms. Muay's family has been fearful to discuss her case or the details of the lawyer appointed publicly in the past, as they were afraid of the reprisals against them.

Describe actions taken by the victim(s) and/or the authorities **after** the alleged violation. Is there any ongoing investigation of the case?

1. Detention in Champasak provincial jail: Following a summary trial where international fair trial standards and due process were not followed, Ms. Muay has now been in detention for almost 7 months.

1.1. Detention conditions:²⁹ Prison conditions in Lao PDR have been repeatedly criticized due to overcrowding, minimal food supply and inadequate medical care. Detainees are often made to pay for the cost of their food on their release. In several cases, those detained due to politically motivated charges or for opposing the government face harsher treatment in prison. This could be particularly severe for Ms. Muay, whose prison sentence is meant to send a warning to the people of Lao PDR that no dissenting opinion or criticism against the government will be permitted or tolerated.

The detention of Ms. Muay continues to be strictly monitored by government authorities and prison officials. As a political prisoner, Ms. Muay is considered as an enemy of the state. All of her interactions in prison and that with visitors are being closely monitored. She does not discuss how she is being treated in prison, but visitors have informed us that she has lost a lot of weight. She is also very depressed and cries every time she meets with her friends or family, who visit her in prison. Independent monitoring of prison and detention conditions by external parties have also not been allowed in the case of Ms. Muay.

1.2. Support from family: Ms. Muay's family including her father, mother, three brothers and her daughter have had a very difficult time seeing her in detention. Her family continues to visit her in prison in order to meet with her. Ms. Muay's daughter is aware that her mother has been arrested and imprisoned, and she misses her mother a lot. She has been able to visit her mom only three times so far.

Ms. Muay's family supports her in her human rights work. However, following her arrest and imprisonment, they do not discuss her case or her work unless they know and trust the person. This is because they have been fearful in the past, since the visit by government officials who warned them not to protest against the decision of the court and to accept it. They were also afraid of reprisals targeting their family.

1.3. Support from friends: After Ms. Muay's detention, her friends who are themselves human rights defenders and critical voices against rights violations caused by the actions of the government and businesses, have been trying to financially support her family. They have been visiting her regularly, however they strictly only mention that they are friends and do not discuss their work with her at all. This is because all prison visits are being monitored and those working with non-governmental organisation have been specifically barred from visiting Ms. Muay in prison. Ms. Muay's friends are unable to support her and the work she did publicly, for fear of retaliation as they could also be arrested, summarily tried and detained like her.

1.4. Support from civil society in Lao PDR: After the arrest and sentencing of Ms. Muay, civil society in Lao PDR is more afraid than ever and they strictly practice self-censorship. There is no public support of Ms. Muay and her work by civil society in Lao PDR, following her sentencing out of fear for the consequences. There has also been a complete halt to sharing of any dissenting opinions against the actions of the government and businesses that were expressed by Ms. Muay that received popular support from civil society earlier. Civil-society organisations and their representatives have not been allowed to visit Ms. Muay in prison. However, outside of Lao PDR, the 'Free Muay' Campaign has been launched by Humanity Beyond Borders and non-governmental organizations in support of Ms. Muay, calling on Lao authorities to drop charges against her and to release her from jail.³⁰

2. Actions by the State authorities and institutions: Government authorities, officials and the state view Ms. Muay as an enemy. Her actions have always been seen as an effort to undermine the peace and order in the country, and a direct threat to the Lao government, the Lao People's Revolutionary Party and its stability. Government officials visited Ms. Muay's family after her arrest, explained the charges and informed them that the government and military were doing their duty, while warning her parents not to protest and accept the action taken by the State authorities.

2.1. Actions of the Champasak court: During the trial of Ms. Muay, the court assigned her a lawyer not giving her the option to choose her own counsel. The trial was quick, during which Ms. Muay was made to confess and a sentence was pronounced against her by the judge. As of today, no order of the court or other documentation has been shared with Ms. Muay or her family. No appeal has been allowed against the court decision.

	<p>2.2. Actions of the detention authorities: Ms. Muay was detained in two separate detention facilities. The first was pre-trial at Phonthong police station in Champasak and the second was following her trial and sentencing resulting in her detention at Champasak provincial prison to serve a 5-year prison sentence. Ms. Muay has been denied bail by authorities both prior to and after her trial. Ms. Muay was not allowed any visitors before her trial.³¹ The detaining authorities and officials at Champasak provincial prison have been closely monitoring Ms. Muay and those that visit her, which has led to her not being able to communicate anything about her situation in prison. They have not allowed any visitors from non-governmental organisations to visit her and they have barred all independent monitoring of her detention conditions.</p>
<p>Describe the link between the alleged violation and the victim's human rights work or their exercise of human rights</p>	<p>1. Linkage between the alleged human rights violation and the victim's human rights work: In all her human rights work, Ms. Muay's only goal was to make the government aware of the problems that Lao people faced, while encouraging them to listen to the solutions to these problems directly provided by the affected people. In Ms. Muay's own words, "What I am doing today is to make sure that people at the grassroots level are able to access the human rights that they have and they deserve."³²</p> <p>Ms. Muay raised awareness on the violation of human rights by the government and businesses through public documentation and dissemination on social media. She educated affected individuals on the rights they were entitled to, provided solutions to the problems they faced in the hope that the government would adopt these solutions, and encouraged an open civic space in Lao PDR where people's issues were openly discussed. Through her work, she provided an insight on environmental pollution and the harm caused; the lack of sustainable development; the unfair advantage given by the government to foreign and multinational businesses and its damage to the livelihood of the Lao people; the lack of public consultation of those affected; the poor compensation and rehabilitation of those displaced or otherwise impacted; and the corruption in bureaucracy as well as in the educational system. The Lao government and the businesses she criticized were fearful not just of the awareness Ms. Muay raised through her work, but also the attention and support her opinions got from ordinary Lao people and civil society inside and outside Lao PDR. In a country where any dissent against the Lao government, its agencies and authorities has not been tolerated, Ms. Muay's opposing views were seen as a direct threat to the way of governance is practised in Lao PDR. Therefore, to stop any further attention to the shortcomings of the Lao government, to end the focus on human rights violations the Lao people were facing, and to prevent the empowerment of Lao citizens to claim their rights or hold the government accountable, Ms. Muay was made an example of and demonised to make it seem like she was out to destroy the country. This had the desired effect of making human rights more taboo in Lao PDR than ever before, with a more pronounced environment of fear and paranoia.</p> <p>2. Authorities involved: The direct perpetrators of sustained violations against Ms. Muay include several different government officials, security forces, and the police. There has been no specific department, ministry or authority that can be attributed as having perpetrated the violations and most actions have been taken collectively by the government at the national, provincial and local levels. The court system, judicial officers and prison authorities have also been complicit in violations, including the denial of rights such as the complete omission of due process and the use of a legal provision in the form of Article</p>

117 of the Criminal Code that already violates the freedom of opinion and expression of individuals through its application, as determined by the Human Rights Committee.³³ This has resulted in the rights of Ms. Muay being violated by a law that is flawed in substance, exacerbated by poor to no procedural compliance.

3. Shrinking civic space and reprisals:³⁴ Lao PDR is a country with a limited civic space that continues to shrink with every retaliation against its own citizens. This is due to a defective or misused national law and policy framework as well as the actions taken by the government, to prevent any dissent aimed not just at their actions but also anything that would threaten the existence of the ruling Lao People’s Revolutionary Party that enjoys special protection. With a national legal framework and state officials that violate freedom of expression, independence of media and access to information; freedom of assembly and association; and that fail to protect while also being responsible for reprisals against human rights defenders, civil society activists and journalists; civil society and the negative impacts they face go unreported or underreported.

Article 117 (formerly Article 65) of the Criminal Code is one amongst several laws used to prosecute and jail activists in Lao PDR, for the legitimate work they carry out in relation to human rights. This provision has been used to restrict freedom of expression through a vague broadly formulated offence that has been misused by the government of Lao PDR in several cases. In these cases, just like the case of Ms. Muay, individuals were subject to arbitrary arrests and detention, trials without any due process, and criminal convictions for expressing views of political opposition or views that were critical of government authorities, their policies and practices, particularly through the use of the internet. For instance, in October 2015, a Lao-born Polish citizen, Mr. Bounthanh Thammavong was convicted under Article 65 (now Article 117) of the Criminal Code for being critical of the government’s policies and actions on a Facebook Post. He served a 4-year 9-month prison sentence for this. In 2017, three activists, Ms. Lodkham Thammavong, Mr. Soukane Chaithad and Mr. Somphone Phimmasone were given prison sentences of 12 years, 18 years and 20 years respectively under Articles 56, 65 (now Article 117), and 72 of the Criminal Code for publishing a Facebook post on the absence of democracy in Lao PDR. In September 2017, the UN Working Group on Arbitrary Detention found their detention to be arbitrary.³⁵

The provision of Article 117 of the Criminal Code has been used against Ms. Muay, as a means to curb her freedom of expression in sharing an opinion that did not support the wrongful government policies and actions, while also using her as an example in a country with a closed civic space so that no other Lao citizen expresses an opinion that brings attention to the shortcomings of the government of Lao PDR.

Confirm if the victim(s) has provided **informed consent** for the intervention by the Special Rapporteur on his/her behalf*

*consent by the victim(s) or their family/lawyer, including their understanding of the risks involved, is absolutely essential in cases of violations against individuals

Yes, consent has been provided by the family of Ms. Muay for intervention by the Special Rapporteurs.



Provide name, contact details and professional role (if relevant) of the individual or organisation submitting the allegation*

*This shall remain confidential

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#FREEMUAY!

FREE HOUAYHEUANG XAYABOULY!



**LAO GOVERNMENT
PLEASE RETURN
FREEDOM TO MUAY**



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About Manushya Foundation

Founded in 2017, Manushya Foundation serves as a bridge to engage, mobilise, and empower agents of change by: connecting humans through inclusive coalition building and; by developing strategies focused at placing local communities' voices in the centre of human rights advocacy and domestic implementation of international human rights obligations and standards.

Manushya Foundation strengthens the solidarity and capacity of communities and grassroots to ensure they can constructively raise their own concerns and provide solutions in order to improve their livelihoods and the human rights situation on the ground.



About Humanity Beyond Borders

Humanity Beyond Borders is a student run organisation supporting political refugees in Thailand, by building knowledge on the human rights violations faced by these individuals and the communities they belong to. Raising awareness on the challenges faced by the Uyghur Muslims in China and political dissidents in Lao PDR, this movement hopes to build a society in Thailand where democracy and human rights of all individuals are respected. For further information on the work of Humanity Beyond Borders, visit: <https://humanitybeyondbord.wixsite.com/human2019>

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