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United Nations Office on Genocide Prevention and the Responsibility to Protect

Email: osapg@un.org

To : Ms. Alice Wairumu Nderitu, Special Adviser of the Secretary-General on the Prevention of Genocide,
cc: Ms. Karen Smith, Special Adviser of the Secretary-General on the Responsibility to Protect

Dear Special Adviser of the Secretary-General on the Prevention of Genocide,

The Unrepresented Nations and Peoples Organization (UNPO) hereby provides a submission to the UN Office on Genocide Prevention and the Responsibility to Protect concerning the urgent situation of the Hmong community in the Xaisomboun region of Laos, and in particular the Phou Bia area.

The persecution of the Hmong community by the Lao People's Democratic Republic ('Lao PDR' or 'Laos') has intensified in recent years and has now reached critical levels. This submission aims to provide the United Nations Office on Genocide Prevention and the Responsibility to Protect relevant information on the political, human rights, humanitarian, social and economic developments relevant specifically to the indigenous Hmong community in Laos.

The submission is comprised of this letter, a report – enclosed, as well as accessible online at <https://unpo.org/article/22138> (direct download: <https://unpo.org/downloads/2705.pdf>) on the atrocities against the Hmong, and an addendum containing a number of relevant documents and resources.

While the Hmong have, for decades, endured militarized occupation in aid of extractive industries, the report outlines the escalation of targeted and systemic attacks that have taken place in recent years as a result of increased economic development projects and concerted efforts by the government to eliminate the Hmong from the region. The report argues that the international community must act urgently to protect the Hmong in the Xaisomboun Province, not only for the sake of the Hmong living there, but also to ensure that the government's policies do not spread to all rural ethnic minority and indigenous communities across Laos.

The situation of the ethnic Hmong community in Laos has steadily gained the attention of the UN's various human rights expert bodies over the past couple of years. In September 2021 the UN Secretary General published its report on reprisals against individuals seeking to cooperate with the UN which highlighted the alarming pattern on reprisals perpetrated by Laos against the Hmong community.¹ In April 2021 the Working Group on Enforced Disappearances and seven Special Rapporteurs have sent a second Joint Allegation Letter to Laos expressing alarm at the continued persecution of the

¹ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Human rights bodies and mechanisms, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (HRC 48th session, 29 Sept 2021) (see annex).

Hmong.² Similar concerns were raised less than one year prior in a Joint Allegation Letter signed by ten Special Rapporteurs directed to Laos.³

Further, in March 2021, the Asia-Pacific Centre for the Responsibility to Protect in its genocide early warning mechanism upgraded the risk level in Laos, citing specifically the military's targeting and persecution of the Hmong as a primary indicator of potential mass atrocities.⁴

With these concerns becoming well established and continually corroborated by the information we receive from the ground, this submission conveys how the treatment specifically of the Hmong by the government of Laos can be seen as satisfying a number of key risk factors as formulated by the Framework of Analysis for Mass Atrocity Crimes (2014) developed by the United Nations Special Advisers on the Prevention of Genocide and on the Responsibility to Protect (hereafter referred to as 'the Framework'). In particular our assessment finds that within the state structures of Lao PDR, there are: clear motives and intent to attack the Hmong ethnic group, a history and continuous presence of violent attacks and suppression, as well as significant structural deficiencies, including a strong reluctance to cooperate with human rights mechanisms.

Accordingly, the UNPO finds that there is a legitimate concern that Laos sustains an environment conducive to the commission of atrocity crimes, namely genocide, against the Hmong ethnic group, and in particular, to the ChaoFa Hmong group living in the forest of the PhouBia Mountain. The assessment identifies an urgent need for the international community to take seriously the continuing repression against the Hmong community and their need for protection.

Context: Laos

Lao People's Revolutionary Party is a landlocked country in South East Asia bordering China, Cambodia, Thailand and Vietnam. Under the 1991 Constitution, the Lao People's Revolutionary Party was designated as the sole political party of the country.

As identified by the Asia Pacific Centre for the Responsibility to Protect, there are many structural weaknesses in Lao PDR.⁵ These include: lack of an independent and impartial judiciary, endemic corruption through the judiciary and government, the absence of accountability mechanisms, and lack of ratification of international human rights conventions. Furthermore, Freedom House's Global Freedom Scores rates Laos a mere 2 out of 40 political rights, with the country categorized as "Not Free".⁶ Amnesty International have highlighted how "the rights to freedom of expression, association and peaceful assembly remained severely restricted, and the state exercised strict control over media and civil society".⁷ The state owns nearly all media, while intimidation tactics against state critics result in widespread self-censorship. Lao PDR is therefore characterized by its absence of freedom of speech and repression of domestic media. Moreover the presence of NGOs, international organizations, media or other relevant actors is very strongly regulated, to the point of being essentially non-existent. (*risk factor 3, 6, 7 of the Framework*)

While Lao PDR asserts the protection and inviolability of democratic rights and freedoms of all citizens under its Constitution and has ratified a number of international conventions pertaining to the promotion and protection of human rights, in practice, these rights are extremely limited. For instance, criticizing the government is prohibited under the Criminal Code, while political dissidents, human rights activists and ethnic and religious minorities are often detained without valid legal justifications. According to documented evidence, inhuman treatments or event torture such as beating or burning are of regular practices in detention.⁸ (*risk factor 2 of the Framework*)

2 JAL UA LAO 3/2021 (see annex).

3 JAL UA LAO 3/2020 (see annex).

4 "Atrocity crimes, Risk assessment series – Lao People's Democratic Republics", *Asia-Pacific Centre for the Responsibility to Protect*, March 2021 (see annex).

5 "Atrocity crimes, Risk assessment series – Lao People's Democratic Republics", *Asia-Pacific Centre for the Responsibility to Protect*, March 2021 (see annex).

6 Freedom House, 'Freedom in the World 2020: Laos' available at <<https://freedomhouse.org/country/laos/freedom-world/2020>>.

7 Amnesty International, 'Laos 2017/2018' available at <<https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/laos/report-laos/>>.

In terms of the country's economy, enormous external debts have been accumulated, mostly owed to Chinese lenders and mainly tied to the development of infrastructure projects.⁹ However despite the accumulated foreign investment in recent years, there has not been an equal distribution of benefits, but in the contrary, has led the local communities, where these development projects often take place, to face extreme poverty and serious marginalization. As noted by the UN special rapporteur on Extreme Poverty and Human Rights during his visit to Lao in 2019, there exists persistent structural barriers that prevent the full realization of human rights by people in poverty, particular by ethnic minorities. (*risk factor 1 of the Framework*)

Finally, it is notable that recent trends indicate the country's increase in its military power via developed defence alliances and increased military aid, particularly with China, Vietnam and Russia. For instance, earlier this year it was reported that Russian troops had been clearing an area of around 500 hectares of land in Laos' Xieng Khouang province with plans to build a new airport and military facility as part of an expansion of military aid to the country.¹⁰ (*risk factor 5 of the Framework*)

Situation of the the Hmong:

The Hmong are an indigenous group originally from the mountainous regions of southern China, Viet Nam, Laos, Myanmar and Thailand. Up to 600,000 Hmong are estimated to live in Northern Laos, mostly in Xaisomboun zone and the Phou Bia area, a resource rich remote region covered by jungle. They distinguish themselves from the general Laotian population because of their ethnicity, written and spoken language, culture and religion. The Hmong constitute about 10 percent of the Laos' population which makes them the third largest minority. Despite this, the government refuses to acknowledge the Hmong as an indigenous group, leaving the community without access to legal protection under international law that would accompany such status. (*risk factor 4 of the Framework*)

The Hmong community, and in particular the ChaoFa Hmong, have a long history of being discriminated against and having their human rights violated by the Lao People's Revolutionary Party. For the ChaoFA Hmong in particular, the Laotian government has even gone as far as to deny their existence. Broadly, all across the Xaisomboun region strict surveillance, extreme poverty, extrajudicial killings, slavery-like conditions and abuse, including sexual abuse, continue to take place on a regular bases. Due to extreme fear of reprisals, few cases are publicly reported. The UN Secretary Generals most recent report on cases of reprisals against individuals who have cooperated with the UN human rights mechanisms highlights this extreme situation. The Secretary General raised how "the fear that the army is spreading among the Hmong population in the area appears to be deliberately intended to isolate these communities, many of whom are already living in militarised villages, under tight security surveillance, to sever links with their members who have fled in the forest, and with the outside world, including UN human rights protection mechanisms".¹¹ (*risk factor 9, 10 of the Framework*)

The motives and incentives that justify Laos' use of violence against the Hmong community are numerous. One reason pertains to religion: in a predominantly Buddhist county, a large number of Hmong practice Catholicism. Religious practices of the Hmong are heavily monitored and restricted by the state, with religious leaders being frequent targets of violent attacks¹² Another key reason pertains to historical animosity arising from the Vietnam war, whereby the alliance of the

8 "Lao Movement for Human Rights: UNHRC 123rd session, Joint shadow report", *International Federation of Human Rights*, June 2018, available at <https://www.fidh.org/IMG/pdf/fidh-lmhr_joint_shadow_report_ccpr_123_lao_pdr_june_2018.pdf>.

9 Fitch Ratings, 'Fitch Affirms Laos at CCC', August 9 2021, available at <<https://www.fitchratings.com/research/sovereigns/fitch-affirms-laos-at-ccc-09-08-2021>>.

10 Radio Free Asia, "Russia to Build Airport in Laos, Train Armed Forces in Sign of Strengthening Military Ties", *VOA News*, April 4, 2021, available at: <<https://www.voanews.com/east-asia-pacific/russia-build-airport-laos-train-armed-forces-sign-strengthening-military-ties>>.

11 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Human rights bodies and mechanisms, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (HRC 48th session, 29 Sept 2021) (see annex).

12 For instance, on 13 December 2020 the Lao-Hmong Christian community leader Cha Xiong, known to host Bible studies and church services in his house, was shot by an unknown attacker while returning to his home. While the authorities cannot clearly determine the crime motive due to a lack of evidence, an official from the local district's

Hmong ChaoFa with Western powers has nurtured a continued perception of disloyalty in the eyes of the Laotian state, and a persistent “us” versus “them” dynamic. Still associating the Hmong with this role since the 1970’s, the national army continues to systematically target and attack the Hmong (*risk factor 4 of the Framework*).

Whereas reports of brutal killings and enforced disappearances have occurred on regular bases since the Vietnam war, the Laotian State’s desire to wipe out the ChaoFa has become even more evident in recent years due to economic incentives. Over the last decades, several traditional Hmong areas in the country, and in particular in Northern Laos, have been selected by the Laotian government for the development of large-scale industrial projects in order to boost national and, primarily, foreign, investment. Since 2015, as more foreign investment has poured into Laos, the escalation of violence has amplified to drastic levels as a campaign to seize the territories around Phou Bia launched. (*risk factor 4, 9 of the Framework*)

Since the Xaisomboun region was designated a ‘special economic zone’ in 2003, this allocation of land for large scale industrial projects has involved active exploitation of natural resources and wide-spread land-grabbing practices that have forced many Hmong communities to surrender and relocate into highly surveilled government controlled camps and villages. Military bases have been installed in the region, leaving it extremely isolated, and land concessions granted to private corporations to use in mining, hydro power, agricultural and forestry projects as part of the country’s “turning land into capital” economic development strategy. (*risk factor 8, 9 of the Framework*)

Inside the camps communities have been relocated to, the Hmong face repeated intimidation, abuse and disconcertingly poor living conditions, particular for women and children. Furthermore, journalists who have managed to access the camps have reported on how the Hmong suffer from serious psychological pressure and slavery-like treatment, while also having very little (or none at all) access to food, water or light.¹³ As they are not allocated land upon relocation and are prevented from farming or engaging in any agricultural activities which have traditionally sustained them, they are forced to work in slavery-like conditions in exchange for very little remuneration. For the remaining ChaoFa Hmong community’s living in the mountainous Phou Bia region, the situation is even more grave, as they are forced to live cut-off from the rest of the population and must constantly relocate to escape attacks (see below).

Finally, it is notable that the Hmong community at risk and in need of refuge receive a total absence of support from neighboring countries. In violation of the principle of non-refoulement, neighboring countries have been entering into agreements with Laos on forced repatriation of the Hmong people. A large number of ethnic minorities, including Hmong, remain stateless today, particularly along the Thai-Lao border. Their situation has not been addressed by Thai authorities, nor have UN agencies adequately responded. Since the last forced repatriations in 2009, UNCHR Bangkok has even refused to register the Hmong as refugees. Therefore while the UN has condemned these forced repatriation agreements and urged countries to reconsider and provide protection to those in need of refuge, it has yet to provide adequate protection itself.¹⁴ (*risk factor 6 of the Framework*)

Situation of the ChaoFa Hmong:

The ChaoFa Hmong, who live in isolation within the forest of the PhouBia Mountain, have been particularly targeted by the Laotian army. A final push to eliminate the ChaoFa Hmong culminated in March 2021 with the total cordoning off the area, including the prohibition of civilian entrance and exit from the jungle, leaving them completely cut off from both Laotian society and the international community, as well as proper access to adequate supplies of food, water, healthcare and means of external communication. (*risk factor 9, 10 of the Framework*)

During the campaign in the jungle to clear the region of the remaining ChaoFa community for the advancement of development projects, the Lao Military has reportedly used tanks and heavy artillery, firing indiscriminately into Hmong

security office told Radio Free Asia, “it is noteworthy that he was trying to propagate Christianity, and had been appointed to be responsible for other followers of that religion.” see <<https://www.rfa.org/english/news/laos/christian-02102021183233.html>>.

13 Jan van der Made, ‘Hmong face military in Laos jungle in fallout from Vietnam war.’ RFI May 12 , 2017, available at <<http://en.rfi.fr/asia-pacific/20171204-anno-2017-vietnam-war-still-rages-secretly-laos-hmong>> (see annex).

14 “UN rights experts call for end to Thai expulsion of Lao Hmong”, *United Nations News*, December 31, 2009, available at <<https://news.un.org/en/story/2009/12/325602-un-rights-experts-call-end-thai-expulsion-lao-hmong#:~:text=Reports%20of%20ongoing%20forcible%20return,United%20Nations%20human%20rights%20experts>>.

territory, despite awareness of the presence of women and children. The Laotian army have also reportedly blocked access to and intentionally destroyed wild food in order to starve the ChaoFa community that resist their pressure to leave the PhouBia jungle area.¹⁵ When a raid is conducted, the army often cease the few tools the population have, such as solar panel chargers or cooking devices. Anyone trying to provide assistance, even just by sharing essential food items such as salt, is at risk of imprisonment or even forced disappearance as the support is not tolerated by the LPA. While the community have often managed to build temporary shelters in the jungle, they have been continuously destroyed by military attacks, forcing them to constantly relocate. The targeted use of what seems to be the use of chemicals also destroys essential goods that the population need to rely on for its survival, while also causing severe and often fatal health problems for the population. Such issues are amplified by the complete lack of access to healthcare or basic sanitation services or facilities, having a disproportionate impact on the women and children hiding in the jungles. *(risk factor 9, 10 of the Framework)*

The severity of the situation was recently corroborated by the UN Working Group on Enforced Disappearances and seven Special Rapporteurs who sent a second Joint Allegation Letter to Laos over concerns of indiscriminate military attacks and the denial of the right to food, adequate housing, medical care and safe drinking water among other human rights abuses against the ChaoFa Hmong.¹⁶ The letter further expresses alarm as to purported acts of reprisals and intimidation against the community for reporting to the international community. The alleged reprisals include the extrajudicial killing of a family member, intimidation tactics against the families, and military isolation of the remaining ChaoFa in the Phou Bia mountain. It should be noted that Laos has demonstrated a strong reluctance to cooperate with UN human rights mechanisms, and has consistently failed to respond to requests for further information by UN Special Rapporteurs and the UN Secretary General. A notable exception was the country's response to the Working Group on Enforced and Involuntary Disappearances in October 2020 in which they categorically rejected the allegations made by the Working Group, even denying the ethnic group's very existence: "Once again, the Lao PDR would like to firmly reiterate that there is no group called "ChaoFa Hmong Community" or a "rebel group" in the Lao PDR".¹⁷ *(risk factor 6 of the Framework)*.

Conclusion

In light of the ongoing violence against the Hmong people by the Laotian government, the risk of an atrocity crime occurring in Laos against the Hmong specifically is assessed as one of a high-risk nature and in need of continual monitoring.

Repeated attacks perpetrated by the Laotian government, a history of discriminatory practices and policies, and the deliberate destruction of the community's livelihood all indicate Laos' capacity to escalate the current tensions into a systematic and targeted destruction of the Hmong population.

This continuing discrimination and violent suppression against the ethnic group generates grave questions as to the future survival of the Hmong, particularly the ChaoFa community. Constant persecution in the Xaisomboun region has resulted in a sharp decline in population demographics, from approximately 30,000 individuals in 1975 to an estimated 2,000 to 4,000 in 2016. In 2018 it was believed that around 100 ChaoFa Hmong were in the Phou Bia region. That year, 64 individuals reportedly surrendered to the Lao government and now, approximately 40 individuals are believed to be scattered around the jungle.

The UNPO urgently calls on the international community to take seriously the continuing repression against the Hmong community and their need for protection. It is vital that the Office on Genocide Prevention and the Responsibility to Protect utilizes the early warning mechanism and mobilizes the United Nations system and Member States to take effective action in response to the situation facing the Hmong people in Laos where the risk of atrocity crimes is high and humanitarian situation desperate.

We would like to thank you for the attention you bring to the case and we remain at your disposal for any further information.

¹⁵ For examples, see: UNPO, 'Timeline: Hmong' December 30, 2020, available at <<https://unpo.org/article/19682>>.

¹⁶ JAL UA LAO 3/2021 (see annex).

¹⁷ Report on Enforced or Involuntary Disappearances, Lao People's Democratic Republic 10010725 (see annex).

Sincerely,

A handwritten signature in black ink, appearing to be 'Mercè Monje Cano', written in a cursive style.

Mercè Monje Cano

Executive Director