

LAO PEOPLE'S DEMOCRATIC REPUBLIC

“The laws are promulgated but have no impact on the people”: Torture, ill-treatment and hidden suffering in detention

“I have been a prisoner for 17 years and seven months and have never been sentenced or tried. I have been illegally imprisoned by people without morals who have destroyed my spirit.” [Letter from a foreign national detained without charge or trial in Laos].

Amnesty International has raised concerns for many years about conditions of detention in prisons and prison camps in the Lao People's Democratic Republic. Prisoners of conscience, detained solely for their peaceful political beliefs, have been held in isolation for years, in remote parts of the country, denied regular contact with their families, adequate food and medical care.¹ Their suffering has always been denied by the Lao authorities, but it is a fact that no independent human rights monitors are permitted to visit Laos, and domestic civil society is so tightly controlled by the government that there are no local human rights groups to confirm the government's assertions on the basis of independent evidence. In the last three years, Amnesty International has gathered new data on the situation of people held in prisons, for alleged criminal offences. A bleak picture has emerged of arbitrary detention, lack of judicial oversight, little or no access to medical facilities, and appalling cruelty by prison officials. Whatever limited protection exists in Lao law to uphold the rights of the accused is not applied in practice, and individuals are at the mercy of a system which lacks transparency, clarity or reason. This document outlines Amnesty International concerns. The majority of those people who spoke or wrote to Amnesty International to share this information cannot be named, for their own protection.

Background

Laos is a very poor country; access to health care and education is restricted, and life expectancy at birth is very low, compared with economically developed countries. After independence from France in 1954, conflict between the communist Pathet Lao

¹ASA 26/004/2000, *The October Protesters: Where are They?* 31/05/2000; ASA 26/09/98, *Religious Imprisonment* 1/09/1998; ASA 26/07/98, *Prisoners of Conscience Left to Die* 01/05/98.
Amnesty International July 2002

forces and the armed forces of the Royal Lao Government ended in a cease-fire in February 1973. A Provisional Government of National Union was formed in April 1974 and the Lao People's Democratic Republic was proclaimed on 2 December 1975. Following the establishment of a communist state, tens of thousands of people were detained for "re-education" without charge or trial, some of them for more than a decade, in extremely harsh conditions. An unknown number of people died while in such detention, with unconfirmed reports of the killing of some, including members of the former royal family. Tens of thousands of others fled the country as refugees.

The Lao government greatly restricts the fundamental rights to freedom of expression, association and assembly. The only legal political party in the country is the Lao People's Revolutionary Party, the communist party which controls the government. Opposition to the government is not permitted, and the state retains control of institutions such as the media, religious organizations and trade unions.

The prison system

Amnesty International has never had access to official published documents from the Lao authorities about the workings of the prison system, its rules and regulations. However, the organization has managed, over a number of years, to interview people who have been detained in Lao police stations and prisons, or whose family members have been held. In the capital Vientiane, there are several prisons, including the main Samkhe prison, and Phonthong Prison, which is also sometimes known as the foreigners prison, although not all inmates are foreigners. The overwhelming impression Amnesty International has gained from its recent research is that the basic safeguards required to run a prison system, as detailed in many international standards, including the *Standard Minimum Rules for the Treatment of Prisoners*, the *Basic Principles for the Treatment of Prisoners*, and the *Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment* are almost wholly absent in the Lao People's Democratic Republic even though these standards should be implemented by all states. Written records of incarceration for detainees and prisoners², maximum periods of pre-trial detention within the bounds of reasonableness³, comprehensive and transparent prison regulations, and regular

²Standard Minimum Rule 7: (1) *In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received: a) information concerning his identity; b) the reasons for his commitment and the authority therefor; c) the day and hour of his admission and release.*

³ Principle 39 of the Body of Principles "A person detained on a criminal charge shall be entitled to trial within a reasonable period of time or to release pending trial."

independent inspections⁴ are vital safeguards against arbitrary detention and abuse and ill-treatment by officials, yet these procedures appear to be either non-existent or ignored in most cases. This applies to both Lao and foreign nationals who are detained for any reason.

One Lao citizen whose brother was arrested in mid-1998 in Vientiane told Amnesty International that it took three months before the family was given permission to see him, and that he had clearly been beaten. Immediately after he was arrested, a friend had traced him to a police station in the capital, and had witnessed police beating, kicking and punching him. Marks on his face, and missing teeth were evident months later, when his parents were allowed to visit. A foreign national who was arrested in 2000 reported that immediately after arrest, police did not even attempt to question him at first, but repeatedly beat him for an hour about the head, chest and body, while he was handcuffed. The apparent motivation for this beating was to secure a written statement. The beatings only stopped when the four men involved decided that the technique was not going to work, at which point the individual was transferred to Phonthong prison. A Thai national who was arrested said that he was not beaten, but that he had no idea why he had been detained, and no one seemed willing or able to tell him. This lack of information and denial of basic rights was apparent in all the cases brought to Amnesty International's attention; at no point in the arrest, interrogation and detention process are detainees informed of their rights or offered access to a lawyer, and in the case of foreign nationals, consular officials. The isolation of detainees makes them particularly vulnerable to torture and ill-treatment.

⁴ The Special Rapporteur on torture has noted that: "*Regular inspection of places of detention, especially when carried out as part of a system of periodic visits, constitutes one of the most effective preventative measures against torture.*" (Report to the General Assembly, UN Doc A/56/156, paragraph 39(e), 3 July 2001)

No legal process

It is a fundamental human right, recognised in the Universal Declaration of Human Rights, and in the International Covenant on Civil and Political Rights (ICCPR)⁵ that those deprived of their liberty shall have the right to a fair public hearing within a reasonable time, the right to prepare a defence and to be assisted by a lawyer, and the right not to be tortured or ill-treated in detention. Lao law does list a number of rights for the accused, but Amnesty International is extremely concerned at the apparently wholly arbitrary application of the law in Laos, which leads to human rights being violated with complete impunity on a daily basis. There appears to be no attempt to meet time limits set out in domestic law for bringing accused persons before a court, hearing their cases, and establishing guilt or innocence. Individuals without money, influence, perseverance, or in some cases just luck, can spend more than a decade in detention without trial. Even when the court orders release, prisoners are often not free to leave until they have paid "prison fees" for "expenses" during their detention. Cases detailed to Amnesty International in recent months report individuals held for as long as 18 years without charge or trial.

The law

The Lao Law Concerning Criminal Case Proceedings (1989) details the procedure which should be followed in arrest, detention and criminal prosecutions, but to Amnesty International's knowledge, the legal safeguards contained in this legislation are routinely ignored. Article 18 of this law lists the rights and obligations of the accused:

The accused or defendants have the right to:

1. Be informed of the charges against them
2. Present evidence
3. Submit requests
4. Review all documents contained in case files after all investigations have been closed
5. Have a legal representative to aid in their defence
6. Participate in courtroom case inquiries at primary level

⁵Laos signed the ICCPR in December 2000 but has yet to ratify it: in this interim period between signature and ratification, the government of Laos is bound under international law not to do anything which would defeat the object and purpose of the ICCPR.

7. Voice personal objections against judges, people's arbiters, people's prosecutors, investigative officials and law officers, experts and translators
8. File complaints concerning the improper conduct of, or orders given by investigative official and law officers, the prosecutor or the court
9. Be the final party to present their opinion in the court room
10. Appeal for a rescission of orders of investigative officials and law officers, or the prosecutor, or an overturning of orders, decisions and judgments of the court.

Amnesty International has no record of a case where these rights have been upheld in their entirety, or indeed of any of these rights being routinely guaranteed. In particular, the process by which a case reaches the court appears to be wholly haphazard; individual cases simply do not get heard, and detainees have no access to lawyers, and often remain in ignorance of the charges against them.

The organization is also extremely concerned that the safeguards detailed for arrest and detention procedures, and for ensuring prompt appearances in court are completely ignored. Articles 46 and 47 on detention and arrest list the various procedures applicable in the case of arrest and detention. They state (in part):

"When the whereabouts of a suspect have been discovered and when it is deemed necessary, investigative officials or law officers may detain a suspect for three days in order to conduct investigations, but a report must be made to a prosecutor within 24 hours from the time that person was detained. ... Upon receiving a request for an order to initiate temporary custody from an investigative official or law officer, the prosecutor must make a determination whether to release or to initiate temporary custody within 24 hours. (Article 46)

"Before an arrest warrant is issued, the prosecutor or the court must be able to establish the following conditions:

- 1. The act in question must be a criminal offence for which the law prescribes punishment by imprisonment*
- 2. The evidence in the case must be convincing.*

"For all types of arrest, the family of the arrested person and the office, agency or state enterprise of the arrested's employ must be notified within 48 hours if such action does not create any obstacles to normal

case proceedings. The detention facility must also be notified.”
(Article 47)

To Amnesty International's knowledge, it is not common practice to inform relatives of the arrest of a family member, and the organization is concerned that there is a vaguely worded, and potentially very wide exception to the obligation to inform families included in the law which easily allows the police to avoid giving such notification.

International standards require that detained persons must have access to the outside world - lawyers⁶, families⁷ and doctors⁸ so that those people can take appropriate action to safeguard the well-being of detainees where their rights are violated. Detainees should also be informed of the reason for arrest,⁹ their rights¹⁰ and the charges against them,¹¹ and be brought promptly before a judge who can assess

⁶Principle 1 of the Basic Principles on the Role of Lawyers, “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.” Principle 17(1) of the Body of Principles: “A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authorities promptly after arrest and shall be provided with reasonable facilities for exercising it.”

⁷Principle 19 of the Body of Principles, “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulation.” Rule 92 of the Standard Minimum Rules: “An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interest of the administration of justice and of the security and good order of the institution.”

⁸Standard Minimum Rules Principle 22: “At every institution there shall be available the service so at least one qualified medical officer...” and 24: “The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness...”

⁹Principle 10 of the Body of Principles: “Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.”

¹⁰Principle 13 of the Body of Principles: “Any person shall, at the moment of arrest and at the commencement of detention and imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of his rights.”

¹¹Principle 10 of the Body of Principles: “Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.”

whether or not their detention is legal¹². Detainees should also be given the opportunity to exercise their right to challenge the legality of their detention.¹³

These rights, enshrined in international standards which all states should respect, are apparently ignored in Laos.

Torture and ill-treatment

All the information received by Amnesty International indicates that widespread torture and ill-treatment of detainees and prisoners is taking place within Lao police stations and prisons. Article 47 of the Law Concerning Criminal Case Proceedings states:

“...Arrests are to be conducted using techniques and methods which are suitable to the nature of the offence and the person to be arrested. Battery or torture of arrested persons is prohibited.”

To Amnesty International's knowledge, this legal safeguard against the use of physical violence during arrests is simply ignored. Those who spoke to Amnesty International had either experienced such treatment themselves, witnessed it, or had

¹²Principle 11(1) of the Body of Principles: “A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.”

¹³Principle 32 of the Body of Principles “(1): A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful. (2) The proceedings referred to... shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.”

been told by fellow prisoners of their own suffering at the hands of the police and prison officials. One person told Amnesty International:

"It's common to use force during investigation. I've been to see myself, because there was a police station near my house, so I happened to see them abusing a prisoner during investigation."

Another, whose brother had been arrested said:

"A girl who was a friend of my brother saw he was beaten unconscious by the police. They were kicking and punching him. They tried to get him to confess with involvement with the criminals but he wouldn't. If you don't confess, then you'll be beaten. Everyone knows this. People who are innocent just confess because of the pain."

Common methods of torture and ill-treatment reported to Amnesty International include: punching and kicking with hands and feet, beating with sticks or truncheons, death threats and mock executions, solitary confinement, and long term shackling in wooden stocks. There are also reports of suffocation, near-drowning, use of electric shocks, burning with cigarettes, and exposure to extremes of temperature. Letters from detainees in Phonthong prison, made available to Amnesty International, detail extreme suffering from torture in prison.

One detainee states:

"I was arrested by the Lao police for what I don't even know, and I was beat[en] badly, even up to now they are still beating me. They laid a stick on my feet and two policeman stood on it, for more than five hours and since then I am unable to walk anymore, they beat me in the chest that I am now coughing with blood, they beat my stomach with iron that whenever I go to the rest room I put out blood. I am suffering from tender pains and they burn my penis with fire and they told me I am not going to have any child in my life, they even beat my head that my remembrance is no longer like before and sometime blood come out of my nose. I am dying slowly! Please! Please!"

Another states:

"I was arrested 11 May 2001. After a few weeks the interrogation police of the Ministry of Interior come to see me and this is when the nightmare began. They refused to accept my statement and instead instructed me to sign one they had prepared in the Lao language. They said I was refusing to cooperate and lying, and they would make me sign. They blocked my legs in wood so they were straight in front as they made me sit on a dirty concrete floor. Handcuffed my hands behind, put a dirty rag in my mouth and began to beat me for what I found out later was three hours. When I still refused to sign they became more brutal and forced me to lay on my back while they held me down and bashed my stomach, sides, rib, head and chest, with steel tyre brace and foot. Every part of my body was repeatedly hit till I thought I would die. I was taken back to my four metre by four metre cell that I share with four other prisoners who tried to comfort me but without medical help the best they could do was stop the external bleeding. For three days I coughed blood and had blood in my bowel motions. The next time they came was five or six days later and was similar experience only this time they taped my mouth to stifle my anguish, they put cigarettes on my genitals and the ash in my eyes. I blacked out from the pain two times that I remember them waking me with filthy river water ... They told me they could even kill me and no one would say anything about it ... The others here have also been tortured and we all carry the scars, broken bodies and pain in our heart as to why we are treated worse than animals."

Detainees are commonly held in rigid wooden stocks after arrest and during the early part of their detention. The legs are held against blocks of wood, and if the detainee moves, the skin is rubbed across the wood. These stocks are also used as a form of punishment, and Amnesty International has reports of individuals being held in them for months at a time, unable to move at all, even to use the toilet. The restrained person is forced to lie in his own excrement, causing serious health problems, including skin diseases, gastro-intestinal complaints, and muscle wasting. One former prisoner said *"If you break any of the rules, they lock you in wooden stocks for three months, sometimes you are locked together [with other prisoners]."*

The Standard Minimum Rules for the Treatment of Prisoners require that: *"Instruments of restraint, such as handcuffs, chain, irons and straitjackets, shall never be applied as a punishment."¹⁴* The use of arcane instruments of restraint, such as these

¹⁴ UN Standard Minimum Rules for the Treatment of Prisoners, Rule 33

wooden stocks, is also prohibited. Their use for extended periods of time, leading to such humiliation, pain and ill-health, is clearly a form of torture.

In Samkhe prison, Vientiane, it has been reported to Amnesty International that prisoners are usually detained initially in tiny individual cells, in which they are often also held in stocks. One Lao citizen with a family member held in this prison told Amnesty International that money was the key to getting a relative transferred to the larger rooms, where there was more room and people were not isolated from others. In Phonthong prison, there are no individual isolation cells, although not all prisoners are allowed out into the prison yard to exercise and mingle with other prisoners.¹⁵

Lack of medical care

Amnesty International has raised concerns for many years about the lack of medical care available to prisoners in Lao detention facilities. It is the responsibility of the state authorities to ensure that adequate medical assistance is made available in a timely manner to anyone detained by the state¹⁶. This duty of care applies in less developed countries as well as wealthier nations. Reports of total lack of care, leading to the deaths of inmates in at least two prisons have reached the organization in the last five years. Kay and Kerry Danes, an Australian couple held in Phonthong prison in 2000 – 2001, witnessed the death in custody of a French citizen, Francis Prasak, on 5 January 2001, from a suspected heart attack. They reported that Francis Prasak had a consular visit with the French Embassy in the afternoon of 5 January 2001, and on his return to the prison at about 3.30pm, he collapsed, holding his chest, and begged to be taken to hospital.¹⁷ His request was refused, and his fellow prisoners carried him to his cell, where his condition worsened. Increasingly desperate requests from fellow prisoners to the prison guards for help were ignored. At 7.40 pm, a prison duty officer went out and returned with the Commander and a prison nurse. Prisoners sharing a cell with Francis Prasak were told to carry his body to the room known as the infirmary, from where he was taken away thirty minutes later with an oxygen mask placed over

¹⁵Standard Minimum Rule 21 requires that “*Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.*”

¹⁶The Basic Principles for the Treatment of Prisoners (1990) require that “[P]risoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”

¹⁷“*Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals.*” Standard Minimum Rule 22(2)

his face. However, the prisoners who had shared his cell and carried him to the room said that he was already dead when they took him from the cell.¹⁸

Another person detained in Phonthong prison for a short period told Amnesty International: *"There is no healthcare - only aspirins, so you get aspirin for a headache, and aspirin for malaria, and aspirin for anything."* A Lao citizen who had visited a prison outside Vientiane reported: *"There is no medical care, if people are sick, they let them die. I saw many elderly people, I think they are upland people who have been there for a long time and will die."*

Mental health care is non-existent, and prisoners suffering from mental health problems are particularly vulnerable, as they are labelled by the prison officials as "crazy" and can become the target of abuse, while being in no position to help themselves. Foreign prisoners speaking languages not understood in the prison suffer from isolation, and are vulnerable to mental illness. Those who have been subjected to torture and ill-treatment are also at risk of psychiatric problems, including depression, nightmares, insomnia, anxiety and suicidal tendencies. The continued detention of persons with mental health problems is contrary to international standards¹⁹.

Detainees and convicted prisoners become increasingly vulnerable to health problems over the course of their detention, because of malnutrition. The food rations provided are insufficient, and lacking in essential vitamins and protein, even though Laos is required by Standard Minimum Rule 20(1) to ensure that *"[E]very prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served"*. Vegetables and fresh fruit are scarce, and meat is limited and of poor quality. The usual prison diet consists of a watery soup and rice twice a day. One short-term foreign detainee said: *"You get enough rice to feel full, but this does not meet your needs, especially over the long term."* Supplementary food in Phonthong prison can come from growing vegetables, and raising poultry and fish, some of which is used in the prison kitchen. However, this is not available to all prisoners, only to those with money or outside support. Prisoners lacking funds, family, or consular access are dependent on the basic rations, and on the goodwill of fellow prisoners, without which they become seriously malnourished. Family members of Lao prisoners in Vientiane prisons can send food to the prison, but delivery to the

¹⁸Written testimony from Kay and Kerry Danes to Amnesty International.

¹⁹Standard Minimum Rule 82 requires that: *"Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible."*

detainee is not guaranteed. One person said: *"The prison authorities agree that the family can send food once a week, but can't meet, you just give the food to the authorities who take it."* Another reported: *"Family members of those arrested continue to be extorted by police for money to "expedite" their cases to the court, deliver food or medicines."*

Absence of legal remedy

"It's not popular or useful to get a lawyer, as most cases don't go to court anyway. The police decide after the investigation and send people to the big prison. This is common." (testimony from Lao citizen whose family member is detained without trial)

In almost every case reported to Amnesty International, detainees and prisoners have had no legal representation, and in most cases, there have been no court proceedings at all. In addition, money has been seen as the critical factor in obtaining improved conditions, access to legal representation and eventual release. One person said: *"Everything can be done if you have money. As long as you have money, it's all okay"* while another reported:

"if you want to submit the case to court, you have to pay 50,000 baht. There are so many cases up for court, you have to go and pay. And you don't know how long the queue is. A relative told us don't agree to pay, as they had already experienced after paying, that their relative was still in jail and there was no court case."

Under international standards for fair trial, everyone arrested has the right to consult with a lawyer of their choice from the moment of arrest, and to be informed of the charges against them, to prepare their defence, and have their case judged by a competent, independent and impartial tribunal established by law.²⁰ These rights are simply not realisable in Laos – some foreign prisoners with determination, money, and consular support have been able to obtain the services of a lawyer, but for the vast majority of prisoners, this is not possible. Without a lawyer, a case is even less likely to reach the courts, and prisoners have no one to speak on their behalf and obtain information about the progress of their cases.

²⁰Article 10 of the Universal Declaration on Human Rights states: *"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and any criminal charge against him."*

The case of Kerry and Kay Danes

Some international attention was focussed on Laos in late 2000 when an Australian couple Kerry and Kay Danes, who had been working in Laos for a security company, were arrested and charged with theft. The couple were detained in Phonthong prison and since their release in 2001 have reported suffering torture and ill-treatment at the prison, and of witnessing appalling treatment of other prisoners. Their case showed that the concern of a government which is an important aid donor to Laos – in this case Australia – did not prevent the torture and ill-treatment of nationals of that country in the Lao prison system.

Kerry Danes was working in Laos as a security consultant when he was arrested on 23 December 2000. He was taken from his office to the Immigration Office, where he was shown to an interrogation room, and given a pen and paper, apparently to write a confession. When he did not write anything, he was handcuffed and then four policemen slapped, punched and kicked him for approximately an hour. He suffered a bruised face, cuts inside his mouth, a bleeding nose, abdominal pain, temporary hearing loss and pain in his ear, and pain in the rib cage. After about an hour, he was transferred to Phonthong prison, where he was held in a cell with one other prisoner, and was kept in wooden leg stocks for 48 hours. His wife Kay Danes tried to leave the country with their young children but was arrested, and also brought to Phonthong prison in late December 2000.

Kerry Danes was subjected to a further six interrogations at the prison, all of which involved physical violence. During these interrogations, there was no attempt to provide Kerry Danes with access to a lawyer or to Australian consular officials. Kay Danes was also interrogated, and was threatened with death, and told that her husband would be killed if she did not confess to the theft of precious gems that the Lao authorities accused her and her husband of stealing. Kay Danes was physically assaulted and verbally abused, when she refused to sign a confession. Her requests to see a lawyer she knew in Vientiane were ignored.

The couple were kept separately during the 10 months they were held in Phonthong prison and were not allowed to communicate. Embassy visits were eventually allowed, but these also took place separately. Kay and Kerry Danes' case was unusual in that a trial was arranged, and the two were convicted and were eventually allowed to leave Laos and be reunited with their young children in Australia. Both have consistently maintained their innocence and since their release have been campaigning for better conditions for prisoners in Laos. Kay Danes has also suffered

from post-traumatic stress disorder.

The case of Kay and Kerry Danes showed very clearly that even with the support of determined consular officials, foreign nationals arrested in Laos are vulnerable to serious human rights abuses. Lao nationals under arrest are even more helpless.

The arrest of foreign activists

In October 2001, five European nationals, all members of the Transnational Radical Party, which holds some seats in the European Parliament, were arrested in Vientiane. They had attempted to replicate a protest held in October 1999, by a group of students and former students from Vientiane University. At least five of the protest leaders were arrested, and there has been no news of their fate and whereabouts since that date.²¹The five European activists included Olivier Dupuis, a member of the European Parliament. After their arrest, the five were taken to Phonthong prison. They were initially held in cells with other prisoners, as is normal practice in that detention facility. However, after five days, the prison authorities moved the Europeans to separate cells. As many as 17 Laotians were held in Phonthong prison when the Europeans were brought in, and it was the Laotian prisoners who were moved out of the prison, to make space for the separate detention of the Transnational Radical Party activists. Amnesty International is extremely concerned about the fate and whereabouts of these Laotian prisoners, of whom nothing has been heard since October 2001. It is thought that at least 14 were moved.

The five European prisoners attracted much international attention, and were swiftly tried, sentenced and expelled from the country. They did not report being tortured themselves, but have said that others in the prison had clearly been subjected to torture and ill-treatment, and that many of the scores of people held in Phonthong prison had never been tried or sentenced. This corroborates information from Kay and Kerry Danes, who told Amnesty International that there are dozens of prisoners in Phonthong prison who have been held without trial. A letter from one such detainee (a Thai national) which reached Amnesty International states that he was arrested in March 1984, on an original charge of illegal entry. The person says that in his time in Lao prisons he has:

²¹For more details on this protest and those arrested, see Amnesty International *Lao People's Democratic Republic, The October Protestors: Where Are They?* AI Index: ASA 26/04/00, 31 May 2000

“learned and seen many things about foreigners who have suffered and died in jail. ... I have been tortured and seriously injured. Some people are very sick and not taken to hospital. They are just left to die in here. But nobody can say anything because they are afraid they will be placed in solitary confinement and tortured. ... Other prisoners and me cannot say or write anything because they only want us to speak about the prison in a positive way. ... The people cannot speak out or say anything at all. ... At present, I am still in this prison.”

Conclusion

The extremely serious nature of the allegations of torture and ill-treatment in Lao prisons and police stations, and the consistent pattern of such allegations made to Amnesty International in the last three years is a cause for very serious concern.

The organization fears for the safety of anyone arrested and detained in Laos, because of the complete lack of legal safeguards to protect the fundamental human rights of those detained: indeed, the complete lack of any rule of law in such an arbitrary system. The picture Amnesty International has built up of detention in Laos is one of arbitrary and prolonged detention, with little hope of trial and resolution unless an individual has substantial money available to buy their way out. During detention, prisoners are vulnerable to torture, ill-treatment, isolation, malnutrition, lack of medical care and mental illness.

The dire situation for human rights of detainees is extremely hard to remedy as there is a complete lack of independent monitoring of the situation in places of detention or guidance from the international human rights bodies to the government of Laos. There are no human rights monitoring groups in Laos, and independent international monitors are not allowed into the country. UN Special Rapporteurs have not received invitations to visit and conduct their work, and diplomats are often not even informed that their nationals have been detained. Immediate change is essential to end the suffering of hundreds of prisoners in Vientiane alone. The situation in prisons outside the capital is also reported to be extremely bad.

Recommendations:

The abuses and lack of safeguards indicate that the Lao government needs the most basic recommendations and guidance in how to ensure that the rights of detainees are respected. Therefore Amnesty International urges the Lao government to invite, as a

matter of priority, the United Nations Special Rapporteur on torture and the United Nations Working Group on Arbitrary Detention, to visit the detention facilities in Laos, meet with government officials and prepare a report on their findings with detailed recommendations.

Amnesty International also urges the government of Laos to:

- take steps immediately to ratify the ICCPR and the Convention against Torture.
- at the highest level, to publicly condemn the practice of torture and ill-treatment - including the use of wooden stocks, as well as beatings and death threats, and to ensure that all police and prison officials are held accountable for their actions.
- record interrogation sessions, at a very minimum with written records, preferably with video or audio technologies.
- ensure that all detainees have prompt access to lawyers and the opportunity to challenge the legality of their detention expeditiously and effectively; the judiciary should supervise all cases where people are detained.
- ensure that doctors can have regular access to detainees, both to offer medical treatment, and to make reports on any evidence of torture or ill-treatment according to the standards set out in the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Istanbul Protocol)*.
- put an immediate end to the practice by prison officials of delaying the release of those who have been freed by a court in order to extort money, as this is a clear act of arbitrary detention.
- establish immediately an independent body to inspect places of detention to monitor the treatment of detainees and the conditions of their detention. The inspection body should be able to speak privately to detainees, and report publicly. The membership of the inspection body should include doctors and psychiatrists.
- undertake prompt, independent, effective and impartial investigations into all reports of torture, and bring to justice those responsible.
- establish a independent system of inquiries so that all cases of deaths in custody are investigated.

To the international community:

- the international community should raise the issue of protection of human rights, and in particular, the human rights of detainees and prisoners, with the Lao authorities at every opportunity. Expertise and training should be offered to the Lao authorities to improve the situation in Lao detention facilities, and the functioning of the criminal justice system, and pressure should be applied to ensure that independent human rights monitors be given access to the country.