

The Value of the Belt and Road Initiative in Laos: The Laos-China Railway Case

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Abstract

The Belt and Road Initiative (hereinafter refers to BRI) is a relatively new name, initially it referred to as two separate projects, then as the ‘One Belt, and the One Road’ initiative, then finally as the “Belt and Road Initiative” or “BRI”. The BRI was first proposed by the President of China in 2013, and this idea will be considered the Central Asia is seen as the most vital region for the ‘Belt and Road’ element. In addition, the Belt and Road is seen as a crucial element in the Chinese government’s efforts to stimulate economies of the country’s central provinces, which historically lag behind richer coastal areas. The government uses the Belt and Road to encourage and support businesses in these central regions, allocating budget generously, and encouraging businesses to compete for Belt and Road contracts. The Belt and Road idea is an ambitious plan to develop two new trade routes connecting China with the rest of the world. But the initiative is about far more than infrastructure. It is an effort to develop an expanded, interdependent market for China, grow China’s economic and political power, and create the right conditions for China to build a high-technology economy. The BRI is integral to effort of China for creating its own more secure trade routes or corridor between China and other countries in international and regional levels. There is no doubt that China’s intention is also to make participating nations interdependent with the Chinese economy, and thereby build economic and political influence for China. The Laos–China Railway is a significant project under the Belt and Road Initiative Policy of China and it also implemented the Strategy of Laos the Transform the country from “Land-locked” to “Land-linked”. Therefore, in December 2016, the Laos-China Railway Company (老中铁路有限公司 or LCRC) a joint venture between three Chinese state-owned enterprises that collectively hold a 70 percent ownership stake and one Lao state-owned enterprise that owns a 30 percent ownership stake signed a BOT concession agreement with the Lao government for the China-Laos for starting the Laos-China Railway Construction. In 2021 the construction was completed and officially launched on December 3, 2021 it is a cross-border railway between Laos and China. The Laos-China Railway Protect could help Laos overcome its logistics infrastructure challenges, especially because the new railway and infrastructure have significantly reduced transportation time and cost, to create a lot of careers for Lao young people, which made the unemployment rate of Laos in 2021 decrease compared to 2020 by 1.05 percent and decrease by 2.25 percent in 2022 compared to 2021. The management and protection of the Lao and foreign employees at the Laos-China railway company in Laos is mainly to enforce domestic laws, especially labor law; internal regulation of company; and labor contract between the company and employee.

Keyword: BRI, Laos-China Railway, International Treaties, Domestic Legislation.

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1. Introduction

China’s Belt and Road Initiative, sometimes referred to as the Silk Road, is one of the most ambitious infrastructure projects ever conceived. Launched in 2013 by President Xi Jinping, the vast collection of development and investment initiatives was originally devised to link East Asia and Europe through physical infrastructure. The project has expanded to Africa, Oceania, and Latin America, significantly broadening China’s economic and political influence. Some analysts see the BRI project as an unsettling extension of China’s rising power and the project’s costs have skyrocketed. The opposition has grown in some countries. Meanwhile, the United States shares the concern of some in Asia that the BRI could be a Trojan horse for China-led regional development and military expansion. President Joe Biden has maintained his predecessors’ skeptical stance towards Beijing’s actions, but Washington has struggled to offer participating governments a more appealing economic vision¹. China cannot restrict the development of the BRI project according to China’s important policy even if other countries do not fruitful support. This project as important for development of international

¹ Council on Foreign Relations, China’s Massive Belt and Road Initiative on Title “China’s colossal infrastructure investments may usher in a new era of trade and growth for economies in Asia and beyond. But skeptics worry that China is laying a debt trap for borrowing governments”. More information sees at: <https://www.cfr.org>

cargoes and passengers transport infrastructure in the Asian region and links to European countries, which makes international cargo transportation convenient and cost-saving. Within BRI, six economic corridors have been designed to link countries in different regions through new roads, railways, ports and pipelines all aimed at boosting connectivity and reducing non-tariff barriers to trade in Europe, Africa, and Asia with China. So far, the Chinese investments have concentrated mainly on infrastructure development, energy and mining, ranging from a railway project in many countries in ASEAN. In the case of Laos, Beijing is also interested in the construction of infrastructure as the Laos-China Railway Construction¹.

Laos and China's relationship gradually cooperation and in 1989 Kaysone Phomvihane paid a state visit to Beijing. Diplomatic and party-to-party relations were normalized in 1989. Trade expanded from the local sale of consumer goods to the granting of eleven investment licenses in 1991 including an automotive assembly plant. Following the establishment of the Laotian-Chinese Joint Border Committee in 1991, meetings held in 1992 resulted in an agreement delineating their common border. China's commercial investments and trade with Laos expanded quietly and fast until now. China is the second-largest trading partner, the largest foreign investor, and the largest aid provider of Laos while the country is the third-largest destination of China's investments among ASEAN countries. While hopes are high on the Laotian side about future cooperation, Laos is also aware of the fact that they can't separate themselves from Chinese growth and power in economic development. The goal of the country should be to understand how they can share together with the Asian Giant while benefiting from their presence². In 2015, Laos joined the People's Republic of China's global infrastructure project the Belt and Road Initiative. Together the countries have most notably engaged in the construction of the China-Laos Railway project. The first stage of this railway connects Kunming, China to Vientiane Capital, Laos. This project is estimated to have a cost in the region of \$5.9 up to \$6.7 billion, which amounts to roughly 1/3 to nearly 1/2 of Laos' annual GDP. Laos only stands to hold 30 percent ownership of the railway, with the other 70 percent split between Chinese state companies³.

2. Relationships between the Belt and Road Initiative (BRI) and Laos-China Railway (LCR)

The Belt and Road Initiative is aligned with the Lao government's policy of turning itself from a landlocked to a land-linked country, which could contribute to lower costs of transport and logistics for export products between Laos, ASEAN countries, and China. The BRI also complies with the Lao National Socio-Economic Development Plan for 2020-2025, to create conditions for Laos to graduate from the least developed and become a developing country status by 2024. In addition, it shall implement the National Development Strategy 2016-2025, and the Vision of Laos until 2030.

Chinese Company started the Laos-China railway construction of a new high-speed railway in late 2016 that is set for completion at the end of 2021. By then 414-kilometers from Boten, on the Laos and China border sharing, all the way down to Vientiane Capital, on the Lao-Thai border. The new train will cut the journey to just three hours, normally driving a car for one day. The Lao government hopes the passenger and freight railway will boost tourism, and trade and bring prosperity to its seven million citizens. Given the country's mountainous geography, the railway is a mighty engineering challenge, only 38 percent of it will run along the ground, with the rest crossing 170 bridges and passing through 72 tunnels, and stopping at several of the 32 new train station sites, Laos is a developing country and many of its citizens welcome major infrastructure improvements. However, what longer-term change will the high-speed railway and bring to the country and the rest of Southeast Asia with the Laos-China railway project under the Belt and Road Initiative of China⁴.

Since 1986, Laos implemented an open-door policy aimed at developing a market economy to finance the country's infrastructure development and also to boost economic growth through attracting Foreign Direct Investment (FDI). While there is an increase in investments, most of it still arrives in the resource sector and China became the biggest foreign investor in the country. "Capital inflows from Chinese foreign direct investment to Laos account for 25.2 percent of the total FDI of the country. Since 1986, Lao PDR implemented an open-door policy aimed at developing a market economy to finance the country's infrastructure development and also to boost economic growth through attracting Foreign Direct Investment (FDI). While there is an increase in investments, most of it still arrives in the resource sector and China became the biggest foreign investor in the country. "Capital inflows from Chinese foreign direct investment to Laos account for 25.2 percent of the total FDI of the country⁵. Since 2000, Laos has been among the fastest-growing economies in ASEAN member countries, recording average annual growth of around 7 percent, mostly driven by the mining and

¹ VÖRÖS ZOLTÁN & PONGKHAO SOMSACK, Academic Journal Paper, Title on "Laos and the Belt and Road Initiative, An Interconnector Helping the Chinese Needs", 2020.

² Laos, the Ministry of Foreign Affairs, Report on title: "Laos and China's Diplomatic Relationship and BRI", 2021.

³ Lao Ministry of Finance, China-Laos relations on Belt and Road Initiative "Laos-China Railway Construction", 2016.

⁴ The China-built railway cutting through Laos by China Dialogue, Title on "Following the emerging railway from Boten in the mountainous north all the way south to Vientiane BRI's Laos-China Railway", 2019. More information sees at: <https://bkktribune.com> (Bangkok Tribune).

⁵ Laos, Reported by, Department of Planning and Investment Promotion, the Ministry of Planning and Investment Promotion, 2020 (Informal Translated by Department of Foreign Affairs from Lao version Report to English).

hydropower sectors and infrastructure development. However, strong GDP growth was not particularly inclusive, nor did it result in wide scale job creation. Poverty has decreased, but at a slower pace than in other fast-growing countries in the region, while inequality has risen. Neither has growth been sustainable from macroeconomic or environmental perspectives. Stocks of natural capital have been depleting: many of the country's forests and water resources are vulnerable. Public debt has increased to critical levels and the resulting debt service burden is crowding out public spending on critical services. This situation could lead to disruptive fiscal and external adjustments if left unaddressed¹.

As we know the Belt and Road Initiative (BRI) is a significant giant project of China as per the thought and vision of President Xi Jinping. Therefore, the China-Laos Railway has deepened the friendship between Laos and China, and Lao and Chinese employees at the Laos-China Railway Company in Laos, and provided development opportunities to both countries and peoples. As a symbol of China-Laos friendship and a triumph over Laos' landlocked status, the railway's Lao section has created more than 110,000 jobs for Lao people since its opening and has drawn the interest of numerous Chinese and local talents who pursue their professional careers on the railway.

Some challenges: Because Lao and Chinese speak different languages and different cultures it was a bit difficult to communicate with each other at first, but our Chinese colleagues who have worked at the Laos-China Railway Company in Laos are very kind. They patiently teach Lao employees without hesitation everything we need to know to do our jobs because Lao employees do not have experience in train services and it is also a new job. From 2021 until present, there are over 1,000 Lao employees in a series of courses on train driving, scheduling, and maintenance, and railway operation organized by the Laos-China Railway Co., Ltd. (LCRC), a joint venture based in Vientiane, Laos, and responsible for the operation of the railway's Lao section. Many Lao young people decided to work with the Laos-China Railway Company because the company could give them a stable job, and the China-Laos Railway could drive the overall development of Laos.

The Laos-China Railway will be a symbol of friendship between Laos and China and will bring happiness and prosperity to the people of both countries, and it brought development opportunities to Laos. In addition, Lao people can have a chance to take a train. The Laos-China Railway is a docking project between the China-proposed Belt and Road Initiative and Laos' strategy to convert itself from a landlocked country to a land-linked hub. The electrified passenger-and-cargo railway that went fully operational on December 3, 2021, is also built with the full application of Chinese management and technical standards.

2.1 The Benefits of the Belt and Road Initiative in Laos

China's Belt and Road Initiative (BRI) is a strategy initiated by the People's Republic of China that seeks to connect Asia with Africa and Europe via land and maritime networks with the aim of improving regional integration, increasing trade, and stimulating economic growth. China and countries along the routes launched research of benefits directly and indirectly to the countries, such as BRI boosting international cooperation on education, transport of international and regional trade, and connecting economic development. These are the most relevant development projects which not only create job opportunities and increase revenue for Laos but also bring extensive benefits to the long-term development of Laos as well as provide stable dynamics for economic cooperation between the two countries. BRI aims at promoting win-win cooperation by strengthening policy coordination, infrastructure connectivity, unimpeded trade, financial integration, and people-to-people bonds because the BRI covers Southeast Asia, South Asia, Central Asia, West Asia, North Africa, and Central and Eastern Europe².

2.1.1 Socio-Economic Development

Since its operation in December 2021, the Laos-China Railway has brought great benefits to the Lao people and opened up a new path for Laos' economic development and prosperity in the country. As the only landlocked member of the Association of the Southeast Asian Nations with mountains and plateaus that account for about 80 percent of the land area, Laos has realized its dream of becoming a land-linked hub in the region as the streamlined China-standard bullet train for the railway runs in the north of the country, Lao President Thongloun Sisoulith spoke at the launching ceremony on December 3, 2021, calling it "a proud moment and the dream of all ethnic groups of Laos."³

The Belt and Road Initiative makes the logistics transportation between Laos and China fast and cost-controllable by the Laos-China Railway, the railway has carried a total of around 2 million tons of goods, including some 1.6 million tons of cross-border goods as of late 2022. The Laos-China is also a significant transportation between Laos and China, and other countries in ASEAN because it freight transport has shown a rising trend with cargo categories expanding to more than 1,200 categories. Goods such as daily life

¹ The World Bank, Linking Laos, Unlocking Policies: Launch of the Lao PDR Country Economic Memorandum, Vientiane, June 7, 2022. More information sees at: <https://www.worldbank.org>

² Laos, Vientiane Times, Lao National Report Article on "Laos-China Railway benefits", 2021.

³ Thongloun Sisoulith, Spoke at the Launching Ceremony of the Laos-China railway on December 3, 2021.

commodities, fertilizers, electronics, photovoltaic, textiles, and vegetables, among others, were shipped from China to Laos, while iron and zinc ore, cassava flour, barley rice, charcoal, rubber, potash, and fruits were transported from Laos and neighboring countries to China, which can make the growth of the domestic economy grow because there are many shipments to foreign countries through the Laos-China railway transport system. Therefore, it can be said that the Laos-China Railway under the BRI protect is a part of the rapid economic growth of Laos¹.

Under the BRI project, the two sides (Laos and China) will use the Laos-China Railway as a channel to comprehensively strengthen the international agricultural cooperation, and economic and trade exchanges between Hunan Province and Laos through the joint construction of a link between the modern agricultural industrial park in Lao capital Vientiane and related industrial parks in Hunan. That means it is to create good conditions for the Lao farmers to grow more crops for export to China in order to generate income for families and to gradually improve the lives of the people until graduate from the least developed country in 2024 according to the guidelines of the party and government of Laos. Additionally, the China-Laos Railway also helped revive tourism in Laos as the demand from passengers traveling between Vientiane and the ancient capital of Luang Prabang is growing because it has shortened the traveling time between provinces along the route, enabling people along the line can travel to seek education, visit families, or receive medical attention a lot faster and easier.

Du Zhigang, an operation director of the Laos-China Railway Co., Ltd. (LCRC), a joint venture based in Vientiane and responsible for the operation of the railway's Lao section, said "the train tickets are in high demand because many passengers are eager to experience the high-speed EMU (electric multiple units) train, especially those from neighboring countries like Thailand, China"². And according to the Lao Ministry of Information, Culture, and Tourism, in the first 10 months of 2022, 335,794 tourists, accounting for 85.27 percent of the total, arrived in Luang Prabang by train by December, the railway carried a total of about 1.3 million passengers³.

2.1.2 Creation the Careers in the Country

The belt and Road Initiative (BRI) and the Laos-China Railway, which connects Kunming in southwest China's Yunnan Province with the Lao capital Vientiane, was built with the full application of Chinese management and technical standards. The railway's Lao section has created more than 110,000 jobs for the Lao people since its opening and has drawn the interest of numerous Chinese and local young talents who pursue their professional careers on the railway. The Laos-China Railway Co., Ltd. had opened a training course for around 600 Lao trainees to learn train driving, scheduling and maintenance.

Nevertheless, Laos needs to focus on developing human resources of railway, such as training peoples how offer services on train, and customer services. Laos also needs to frame promotion and protection policies from the Lao government. Since the beginning of the construction, in a period of 7 years (2016 – 2023), the Laos-China railway project had provided jobs for the local people in Laos up to 111,164 times, with the creation of training courses for Lao officials up to 995 sets. There are currently 1,206 employees at the Laos-China Railway Company, including 675 Lao employees. There are more than 1,000 people working together with the Laos-China Railway Company, such as safety guard company, cleaning in the stations, gardening, food delivery and other facilities, which is an important contribution in helping to create jobs for local people in Laos.

Vongthong Souphanthong, Deputy Chief Engineer of Laos-China Railway Company gave an interview to the Lao media on February 18, 2022 that: "675 Lao employees who work with the Laos-China Railway Company are divided into 2 parts: 35 people work at the company's headquarters and 35 people work at train stations, including 640 people who work to monitor and repair the electrical system and telecommunication lines that are scattered along the Laos-China railway corridor". He added that: those who will come to work as conductors of the Laos-China train must go through thorough selection and training in order to be able to work or serve as conductors of the Laos-China train. As for the employees from China who came to work on the Laos-China train service now, they are from the Kunming Railway Department in Kunming, with the goal that within 3-4 years, they must create Lao staff before they withdraw. Therefore, the 675 Lao employees working on the Laos-China railway company now must learn and exchange lesson from them as much as possible in order to teach or train other Lao employees⁴.

¹ The State Council Information Office of China, China-Laos Railway opens up new path for Laos' development, prosperity by Xinhua | December 26, 2022.

² Reported by Du Zhigang, an operation director of the Laos-China Railway Co., Ltd. (LCRC), a joint venture based in Vientiane and responsible for the operation of the railway's Lao section, 2022.

³ Reported by the Lao Ministry of Information, Culture, and Tourism, May 2023.

⁴ Interviewed Vongthong Souphanthong, Deputy Chief Engineer of the Laos-China Railway Company gave an interview to the Lao media on February 18, 2022.

3. Employees Protection under Domestic Laws, Employment Contract, and International Law

There is no distinction between foreign and local employees, both have identical rights and protections by domestic laws, and there are mandatory laws that regulate the employment relationship between employers and employees. An employer is defined as a person, legal entity, or organization using employees for its activities by paying salaries or wages, including other benefits provided for by laws, regulations, and an employment contract. Here are some laws that regulate employers and employees include the: Labor Law; Law on Investment Promotion; Law on Income Tax; Law on Trade Unions; Law on Social Security; Law on Intellectual Property; The Decision regarding the Permission for Import of Foreign Laborers to Work in Laos; Notification on Direction to Improve the Minimum Wage; Notification on Effectiveness of Implementation the Labor Law; Instruction regarding the Implementation of Decree on the Management of the Local Employee Working with Foreign Organization in Laos; Decree on the New Rate of Minimum and Maximum Salary Ceiling for Calculation and Distribution to Social Security Fund; Guidelines on the Implementation of the Social Security Law; Decree on Labor Conflict Resolution; Penal Code; Civil Code; Decision on Authorization for Foreign Employees to Work in Laos; the constitution¹.

3.1 Employment Protection by Domestic Laws

3.1.1 Labor Law, 2013

This law defines non-discrimination in employment and wages. It requires employers to abide by the government minimum wage and working hours, which are limited to 8 hours per day and 6 days a week. The law is comprehensive and covers aspects of discrimination in the workplace, considering equal opportunities, gender equality, child labor, labor disputes, and collective bargaining, amongst others. The law also sets out requirements for occupational health and safety in the workplace for workers. According to Article 105 this law, the definition of the minimum wage is that "the minimum wage is the level of salary or wage that the state announces from time to time to ensure the basic living standards of workers"². In fact, the government has announced minimum salary or wage for entities in Laos to implement it for local employees. The issue of notification letter for increasing minimum wage or salary from the government sector is very late and very low if compared to ASEAN countries which inconsistent to the actual living conditions in the present. Therefore, it is a gap that causes Lao skilled laborers go to work in the neighboring countries in large numbers of every year. This minimum wage cannot make local employees unable to survive their living costs current situation, due to the inflation rate, goods are high compared to 2020-2022.

(1) Working Hours: Accordance to Article 51 stipulated working hours that "Employees' normal working hours must not exceed eight hours per day, six days per week or 48 hours per week, the rest time is not exceed 60 minutes for lunch. For employees working in dangerous or hazardous conditions, working hours must not exceed six hours per day, six days per week, or 36 hours per week"³. Hazardous or dangerous conditions are defined as those involving: (a) Direct exposure to radiation or contagious disease; (b) Direct exposure to gas or smoke is dangerous to health; (c) Direct exposure to dangerous chemicals, for example, explosives; (d) Working in pits or underground tunnels, working submerged in water or elevated heights; (e) Working in abnormally hot or cold temperatures; and (f) Working with dangerous equipment on a constant basis. Any works conducted above normal working hours outlined above constitutes overtime work. The working hours of young employees, those aged from 14 to 17 years old must not exceed eight hours per day, they cannot work overtime or perform certain types of duties based on Article 101 in the Lao labor law.

(2) Overtime Payment: Generally, overtime must not exceed 45 hours per month, and three hours per day. Further, an employer cannot require an employee to work overtime for four consecutive days, except in the case of an emergency, such as on the occurrence of a natural disaster or an accident causing significant economic damage to the employer's business. Where an employer wishes to extend overtime hours beyond 45 hours in any given month, the employer must obtain both authorization from the Ministry of Labor and Social Welfare, approval from the trade union or the employees' representatives. Article 114 of the Labor Law stipulates overtime and on holidays as follows: Overtime on normal working days from 17:00 to 22:00 will receive an additional 150%, and from 22:00 to 6:00 a.m. will receive 200% of the normal salary. It will be calculated by taking the salary or wages divided by 26 days, then divide by 8 hours and multiply by the percentage and multiply by the number of hours worked to add that hour. For work on weekly holidays and official holidays, it will be equal to 250% of the normal salary; working from 16:00 to 22:00 will receive 300%, and from 22:00 to 6:00 a.m. will receive 350% of normal salary or wage.

(3) Annual work leave: According to Article 57 this law, annual holidays are set for all employees equally as

¹ Laos, Reported by the Department of Labor Management and Protection, the Ministry of Labor and Social Welfare, Foreign and Local Labor Management and Protection under Lao domestic legislations", 2022. (Informal translation from Lao version into English by author on June 27, 2023).

² Laos, Labor Law, No. 43/NA, Date 24 December 2013, Art. 105.

³ Laos, Labor Law, No. 43/NA, Date 24 December 2013, Art. 51.

follows: “Employees who have worked continuously for 01 year have the right to an annual leave of fifteen days, for employees who work in the field that is dangerous to health as defined in Article 51 of the Labor Law, they have the right to annual leave of 18 days with an agreement between the employer and the employee. Employees' annual leave is still entitled to regular salary, and employees' annual leave is not allowed to count weekly holidays, official holidays, traditional festival holidays, personal business holidays”. Article 55 stipulated the official holidays and traditional holidays are as follows: National Day, December 2, one day holiday; International New Year's Day, January 1, one day holiday; International Women's Day, March 8, a one-day holiday for women; Lao New Year, three days holiday; International Workers' Day, May 8, one day holiday; National Teacher's Day, October 7, a one-day holiday for teachers; National day for foreign employees who work in Laos¹.

(4) Termination of the Employment Contract: Article 80 of labor law stipulates the Notice Periods: Either party to an indefinite-term employment contract can terminate it at any time by giving the following statutory notice period 30 days in advance notice for employees doing unskilled employee, and 45 days in advance notice for skilled employees. The notice requirements for termination of fixed-term contracts can be agreed between the parties in the employment contract. Where a fixed-term contract does not specify any notice requirements, it is common for the parties to adhere to the statutory notice period for indefinite-term contracts. Article 88 stipulates the Illegal Termination of Labor Contract: In the case of a company or enterprise doing business in Laos, if it terminates an employment contract improperly in the following cases: (a) Termination without sufficient reason; (b) Employers use excessive power to force, directly or indirectly threaten, violate the basic rights of employee to the point that they cannot continue to perform their duties; and (c) The employer violates the contract, which has been protested by employee or the labor's representative, but the employer has not corrected or changed until laborers has left the job. Article 90 stipulated compensation is due to an employee where there is an unjustified termination or a no-fault-based termination. The employee is entitled to labor compensation equal to 15% of their last monthly salary multiplied by the number of months worked for employer, if termination employment contract based on Article 88 “Illegal termination of employment contract”.

(5) Labor Dispute Resolution Mechanisms: Article 147 defines that the labor dispute is that the employer and employee cannot agree on the labor issue which is divided into two categories: (a) Regulatory and legal labor disputes are disputes regarding the implementation of the company's internal regulations, labor contract, labor law and other legislation that related; and (b) Labor dispute of interests is a conflict related to the new rights and interests of employees who request the employer to resolve such as: raising the annual salary according to the knowledge and labor skilled of employees; revision of policies according to company regulations, labor contracts and labor law, etc. The form of labor dispute resolution must be carried out by any form according to the labor law, such as settlement by: (a) Negotiation with Conciliation, which means that both parties can resolve the dispute by themselves through negotiation, discussion with conciliation condition in a peaceful way, and after agreed, the results of the resolution must be recorded in writing and signed by all participants for legal proof of enforcement; (b) Administrative Regulation Resolution, it is the resolution of legal disputes and conflict of interests by the labor management agencies, such as: Labor Protection Department; and Labor Dispute Resolution Committee is consisted by labor union, chamber of industry and commerce, youth union, and labor protection department. This committee has an independent power for the resolution of labor dispute under the labor law. The parties to the dispute can submit a request to the local labor dispute resolution committee where the company is located and after the committee has received the request from the parties to the dispute, they must proceed with the resolution according to their roles, rights and obligation in a transparent and fair manner; (c) Labor Dispute Resolution by the People's Court, in the event of serious labor disputes such as violation of citizens' rights, labor abuse, violation of labor contracts and cannot be resolved through negotiation or mediation. Either side of the case can appeal to the People's Court or the Labor Court for consideration and adjudication in accordance with the law; (d) Labor Dispute Resolution by International mechanism, the case can be submitted to the Labor Management and Protection Agency in Laos, or can be enforced in accordance with international conventions to which Laos is a party. But this kind of situation in the past has never been presented to the International Labor Dispute Resolution Organization because it has to take a long time and the local employees do not have the knowledge and ability enough to present their labor disputes to the International Organization by themselves and do not have sufficient financial conditions and so on.

3.1.2 Social Security Law, 2018

The Law on Social Security is an important law to apply to companies and enterprises doing business in Laos. It allows all its employees, including foreign employees, to enter social security and pay social security in a systematic and legal manner to ensure access to labor health treatment for employees and to ensure the protection of the rights and interests of employees and employers by contributing funds and providing social security subsidies. Article 9 defines the types of subsidies and the goals of receiving social security subsidies as

¹ Laos, Labor Law, No. 43/NA, Date 24 December 2013, Art. 57, and 55.

follows:

- a) Health insurance subsidies;
- b) Subsidy for labor refusal or occupational disease;
- c) Subsidy for childbirth;
- d) Subsidy for loss of labor;
- e) Retirement allowance;
- f) Subsidy for family members; and
- g) Unemployment benefits.

Article 74 in this law stipulates the capital contribution rate, Clause 2: Capital contribution rate of the enterprise sector is stipulated that “All employers must contribute to the Social Security Fund for their employees. At the end of each month, employers must both: Deduct a mandatory contribution of 5.5% from the employee's relevant income or basic salary; and Make a mandatory contribution of an amount equal to 6% of the employee's gross salary. The maximum base salary or income for the calculation of social security contributions is LAK 4,500,000 per month. Therefore, the maximum contribution payable by the employer is LAK 270,000 per month and the maximum contribution deductible from the employee's salary is LAK 247,500 per month based on the Decree on the New Rate of Minimum and Maximum Salary Ceiling for Calculation and Distribution to Social Security Fund, Social Security Law¹.

3.1.3 Employees Protection by Employment Contract

Companies or enterprises doing business in Laos must create an employment contract with all employees and impose conditions according to the policies and regulations of the Lao government as defined in laws. An employment contract is a legal instrument and is very important for the implementation of the rights and duties of employer and employee. It is a document that determines salary or wage, official holidays, vacations and determines the rights and obligations of both. It is an agreement between employers and employees regarding working conditions, welfare and other policies that the company can meet according to the actual situation. An employment contract must be created based on the principle of equality and agreed by both parties with content and conditions that do not contradict the law. It may be concluded with a fixed term that can be renewed according to the agreement of both parties or the contract will be made without a fixed term. And for the foreign labor contract, it depends on the company or the labor user to negotiate and agree with the foreign worker, which will be a one-year labor contract that can be renewed twice. Foreign employees who come to work in Laos are protected by the laws of Laos².

Article 68 of labor law defines the acceptance of foreign employees to work in Laos and must meet the following legal requirements must be at least twenty years old; must have the necessary abilities and a professional level for the position; have a clean criminal record, be in good health, and meet any other requirements considered necessary. Employees from other countries are covered by Lao labor law, 2013 and it governs all matters with foreign employees working in the business sector or international organizations; embassies; and non-governmental organizations in Laos. All foreign employees who work in Laos will be required for a work permit by the employer these are essential prerequisites when applying for a Laos work permit: the company must be registered in Laos; the company should provide the job letter to the employee you want to hire or employment contract. The work permit also states the nature of a position. Therefore, accurate information is needed. The employee should hold a valid passport. And foreign employees should apply for residence permit, and working visa by an employer.

3.1.4 Employees Protection by International Treaties

1) Labor Inspection Convention, 1947 (No. 81): Laos ratified this convention in 2015, the Lao government constantly attaches importance to the improvement of the labor inspection system along with capacity building for labor inspection officials across the country to ensure the improvement of the working environment, and that labor productivity is increased and competition in the country is fair. And Convention No 81 determines the obligations of member states to improve their labor inspection systems in line with international labor standards and to attach importance to improving the working environment for both female and male employees. This convention has been approved by the International Labor Organization as a prioritized convention for labor market management and 145 countries have already ratified it.

Labor inspection in Laos is the right and obligation of the labor inspection agencies, such as the National Labor Inspection Committee, Trade Union, and Ministry of Labor and Social Welfare. This committee has power to monitor and inspect labor management and protection at the private companies and legal enterprises. However, through the actual implementation of their rights and obligations have been seen not yet full performed strictly and continuously due to the lack of budget and human resources are professional in labor inspection, which shows that the inspection of labor at local companies or enterprises is not done as regularly as it should be.

¹ Laos, Social Security Law, No. 54/NA, Date 27 June 2018, Art. 9, and 74.

² Souchantha Keomany, Library of the national Institute of Justice, Laos, Research on “Labor Management and Protection in Laos in during of Covid-19 Pandemic”, 2019. (Informal translation from Lao version into English).

It became a gap for labor management and inspection to be international standards as well.

2) Equal Remuneration Convention, 1951 (No. 100): Laos ratified in 2008, this convention is important for implementation in the country because of article 1 stipulated: (a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment; and (b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex¹. After Laos signed and ratified in 2008, the Lao government officially implemented and enforced it in 2009 and the labor law was amended in 2013 by bringing some of the principles and content of this convention to put in the labor law, focuses on the principle of equal remuneration for men and women workers for work of equal value.

However, the Ministry of Labor and Social Welfare in central level, and Department of Labor and Social Welfare in the local level, should implement and promoting to all companies and enterprises and employees in order to make them understand deeply about the principles and measures of the labor law equal remuneration convention, and other international conventions, such as Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Laos ratified in 2008; Worst Forms of Child Labor Convention, 1999 (No. 182), Laos ratified in 2005; Forced Labor Convention, 1930 (No. 29), Laos ratified in 1964 for protection of the rights and interests of both male and female employees equally. International conventions that deal with the protection of the rights and interests of employees are important for the development of the legal system, especially the labor management and protection system in the country to meet international standards. Therefore, the laws and legislation under the law related to labor management and protection are updated from time to time to ensure the systematic implementation and international standards. Of course, the Ministry of Labor and Social Welfare, and other related ministries must pay attention to the implementation of international conventions along with the internal laws to make the field of managing and protecting employees systematic and meet international standards.

4. Employees Protection at the Laos-China Railway Company by Legislation and Regulations

According to the report of the Department of Labor Management, Ministry of Labor and Social Welfare of Laos on December 25, 2022: The management and protection of both Lao and foreign employees at the Laos-China Railway Company in Laos is managed and protected under the Lao laws equally and justice, especially the content and form of labor contracts between the Laos-China Railway Company and general employees (Line Staffs), such as defining policies, welfare, basic salary, health treatment, receiving training according to their duties and responsibilities, and these policies are studied based on principles of Lao labor law and decrees of the government. All employees working at the Laos-China Railway Company are managed and protected by the laws as same as other companies in Laos because the government should protect their legitimate rights and benefits equally between Lao and foreign employees, male and female employees by the Lao constitution, regulations, the Laos-China Railway internal regulation, and employment contract².

Protection of employees at the Laos-China Railway Company in Laos occurred after the official launch of the Laos-China Railway on December 2, 2021, because the Lao constitution provides that Lao citizens have the right to work legally, and labor law also provides the right to vacation leave, sick leave, and welfare for all employees both the government sectors, private companies, legal entities, and enterprises. In addition, labor law still additionally provides for labor skill development equally based on employees' conditions. Labor law has provided labor protection, labor contracts, dismissal of labor contracts, working hours, rest hours, protection of women and child labor, wage, social security, safe working conditions, and enforcement measures, including employee's compensation for a work-related injury, the monitoring and supervising of labor and complimenting employees with good performance under the regulation of employees' performance.

The employment contract between the Laos-China Railway Company and employee is created by basic principles from labor law as follows: Labor contract is the basis of employee and employer relations under mutual benefits; the company guarantees to provide safe working conditions and a good workplace environment, fair wage payment, and social security program for employees, and the Lao government and the Laos-China Railway Company must guarantee the suitable employment of Lao and foreign employees, and protection of the right and interests equally; employees must receive short-term or long-term training based on their conditions. The government, as the main actor in labor protection at the Laos-China Railway Company as same like other

¹ Equal Remuneration Convention, 1951 (No. 100), is the General Conference of the International Labor Organization, having been convened at Geneva by the Governing Body of the International Labor Office, and having met in its Thirty-fourth Session on 6 June 1951, and it has decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and having determined that these proposals shall take the form of an international convention, adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one the following convention, which may be cited as the Equal Remuneration Convention, 1951, Art. 1.

² Report of the Department of Labor Management, Ministry of Labor and Social Welfare of Laos on December 25, 2022 (Informal translation from Lao version into English).

companies in Laos, assigns the Ministry of Labor and Social Welfare as the main responsible authority, which connects with the local governmental units and other sectors. The labor protection unit consists of the Ministry of Labor and Social Welfare, the Labor and Social Welfare Department in Provinces, the Capital and Labor Office in Districts, the Municipality, the National labor committee set up by the government with the responsibility for setting minimum wages, settling labor disputes, studying the labor-related treaties, monitoring the safety and health of employees, developing the labor skills and setting up labor standards. The committee is composed of the representatives of the government, employers, and workers with the government representative as chairman with secretarial assistance¹.

The Laos-China Railway Company has a policy for the local employees according to social security law, 2018, Article 34 (New): All places of work shall adhere to the social security system by contributing to the national social security fund in order for the employees to get the benefits under the social security law. Male employees shall retire and get old-age pensions at the age of 60, but 55 for females who have more than 15 years of work. Early retirement for male employees is at the age of 55 but 50 for females. Employees in work related to toxic or dangerous substances can get an oldage pension after more than 15 years of contribution to the fund. Employees with health problems but not at the age of retirement are under the social security and national budget act and can get old-age lump-sum payments calculated from the average of the last 6 months' payment based on times of salary multiplied by the years of work².

4.1 Challenges of Labor Protection in Laos: The Laos-China Railway Company

According to actual practical and implementation of labor monitoring and inspecting in Laos still has many difficulties and challenges especially in labor monitoring and inspection system because Laos does not yet have a modern and standard labor monitoring and inspection system due to limited budget and human resources with limited expertise which makes the monitoring and inspection system not up to international standards.

Through the actual survey of the Department of Labor and Social Welfare of local level, which found that the monitoring, inspection, management and protection of labor in Laos is not yet systematic implementation as it should be by expressing many problems and challenges such as: the implementation and enforcement of the labor law, the legislation under the law related to the protection of labor is still weak and does not follow the guidelines set by the Lao People's Revolutionary Party (LPRP) and the government policy; business units do not pay attention to complying with labor law and regulations it should be, such as some business units do not have employment contracts, no internal regulations and no social welfare policies for employees and do not pay into social security to ensure the welfare of unemployment allowances, maternity allowances, sickness allowances and others according to domestic regulations, labor law, and international conventions that Laos is a party. In addition, the government bodies related to the inspection, management and protection of labor do not publish the rules and labor law to employees and employers in the labor units within their own responsibility and obligations, which is expressed as follows: foreign employees have not received training in the management and protection of labor from the public sectors and do not understand what the labor law of Laos has determined to ensure their work in Laos. In addition, they still do not understand the policies and laws of Laos, so they do not follow the laws and customs of Laos.

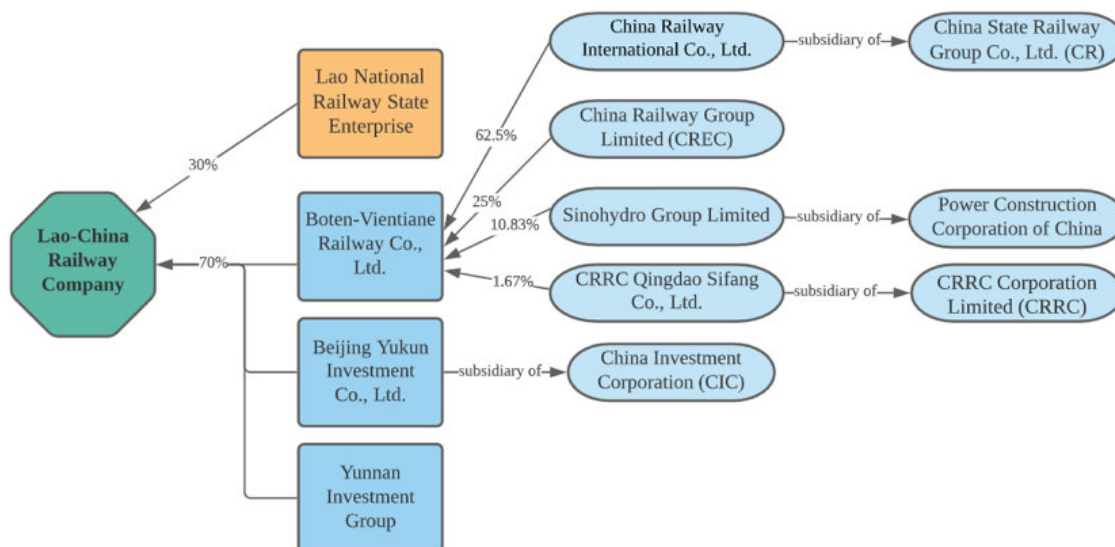
For the monitoring, inspection and management of Lao and foreign employees at the Laos-China Railway Company in Laos, it is a new challenge for the Lao government agencies, and the management board of the Laos-China Railway Company, especially the Department of Labor Management, Ministry of Labor and Social Welfare and the Administration and Human Resources Department of the company, because this company is a state-owned enterprise between the Lao government shareholding is only 30% and the Chinese government shareholding 70%. Therefore, the Chinese management board as the decision-maker. It is one of the conditions for the implementation of Lao labor law and legislation of the Ministry of Labor and Social welfare is difficult and not as efficient as it should be, starting from 2021 - 2022 the Laos-China Railway Company did not have employment contracts with employees, they worked more than 8 hours per day, they also worked overtime but did not receive overtime pay. The labor management department in the provinces cannot inspect labor management, especially the employment contract, internal regulations and other policies at the Laos-China railway stations because the Chinese side claims that it depends on the headquarters in Vientiane Capital for all the labor management system. It means the implementation and enforcement of domestic laws and regulations for employees' protection is not strict and has the gaps for the protection of the rights and interests of local employees absolutely.

The Laos-China Railway Company Limited, a Sino-Lao joint venture. Shareholders include the Lao National Railway State Enterprise; Boten-Vientiane Railway Company Limited, a joint venture between China State Railway Group Company Limited (CR), China Railway Group Limited (CREC), Power Construction

¹ Reported by the National Labor Protection Committee on November 2022, p. 5, par. 3.

² Laos, Social Security Law, No. 54/NA, Date 27 June 2018, Art. 34 (New).

Corporation of China, and China Railway Construction Corporation Limited (CRCC); China Investment Corporation; and Yunnan Investment Group. And the Lao side holds a 30% share in the project through the Lao National Railway State Enterprise, while Chinese capital is contributed through several state-owned enterprises (see the chart below) headed by the China State Railway Group Company Limited (CR). This is a chart for detail of shareholding of the Laos-China Railway:



1

4.2 Challenges Resolution of Labor Protection in Laos: The Laos-China Railway Company

Laos operates under labor law, 2013 it is old law for the present situation, however, which was formally approved by the Lao National Assembly. The revised law extends its coverage to both local and foreign employees who work at the legal entities and enterprises in Laos. It also includes policies for overtime and shift work, by prescribing the maximum working hours and appropriate compensation. And termination of employment contracts is also articulated in terms of resigning grounds and severance payments. Besides these provisions, health and safety procedures are outlined for every workplace. For the minimum wages at the present is LAK 1,300,000 per month that is government-mandated, meaning that employees cannot be paid less than the set minimum rate. With its minimum wage, Laos falls in the top 49 percent of all countries, with 97 countries that lie above its ranking and have a higher minimum wage².

Although the legal system and the labor law have defined many strict principles, regulations and measures for the labor protection, but the implementation and enforcement of those laws and legislations are not yet strict, are still technically weak and the implementation system from the relevant government bodies, such as the labor monitoring and inspection system, determining the salary or the minimum wage by the government, it is still in consistent with the current situation. However, the Lao government should pay attention in development of the labor inspection system to be standards by enforcing the rights and obligations of the National Labor Inspection and Protection Committee as defined by the labor law. The implementation of international conventions that Laos is a party is also important compliance for improving of domestic legislation to be appropriate the current situation.

The government must cooperate with private industrial companies, small, medium and large enterprises to improve the minimum wage or salary for employees in accordance with the current living conditions because the basic salary set by the government in 2023 of LAK 1,300,000 is not suitable for the current cost of living because the price of goods is high and inflation is widespread and cannot be controlled by the government. In addition, the labor dispute resolution mechanism should be developed into alternative mechanisms based on the international system. The government must improve the labor monitoring and inspection system and mechanism to be standards because it is one way to monitor the payment of income tax and social security fund of both Lao and foreign employees. In the past, there were some companies that did not declare the salaries of foreign employees, causing the government lose revenue without knowing the reason.

For the challenges resolution of employees protection at the Laos-China Railway Company: According to the report of the Deputy Director General at the headquarters of the Laos-China Railway Company in Vientiane

¹ The People's Map of the Global China, Laos–China Railway: Northern Laos, Laos, and China, WRITTEN BY WANJING (KELLY) CHEN AND JESSICA DICARLO.UPDATED ON 9 SEPTEMBER 2021.

² Open Development Laos, 28 September 2018, More information sees at: <https://laos.opendevlopmentmekong.net>

Capital, he said: On January 10, 2022, the management board of the Laos-China Railway Company held the 1st official meeting to discuss and exchange lessons and opinions from the Lao employees representing each department of the Laos-China Railway. This meeting was chaired by Director General of the Laos-China Railway Company in Laos. The content of the meeting is focused on the management and protection of employees at the Laos-China Railway Company under the domestic legislation and regulations. The Lao employees commented that: In the past, Lao employees joint work with Chinese employees was seen as a unity and lessons can be learned from the Chinese employees. However, it is proposed to the government sector of Laos, especially the Department of Labor and Social Welfare to enforce the labor law for the employees' protection more and more, and step by step. For example, in the case of employment contracts and internal rules of the company, the Labor Department must strictly inspect its rights and obligations to ensure the balance between the welfare policies and to register the employment contracts officially to be guarantee under the laws with related parties in a systematic manner as prescribed by the law.

The director general of the Laos-China Railway Company has promised to all Lao employees that: the company will bring comments from Lao employees to present to the board of directors to adjust the labor management and protection better, especially social welfares, minimum wage or salary, working hours, accession to health treatment, and other conditions based on Lao labor law and regulations. He also admitted that in the past there has not been a system according to the law as it should be because it is the largest and new company in Laos, and there are many parties that need to discuss step by step at a time. And lastly, he promised that for the internal regulations or employee handbook and employment contracts, the company will be appropriate to create in December 2022. The board of directors of the company will cooperate with the government sectors in the implementation of laws and bilateral treaties between Laos and China on the human resources development of the labor skills in various fields¹.

5. Conclusion

The Belt and Road Initiative (BRI) of China is value for Laos in development the socio-economic system, it also promotes the tourism, transportation, and foreign direct investment in Laos. As the part of efforts to transform Laos from landlocked to land-linked, the Lao government asked China to finance railway development in Laos under the BRI policy of China. Finally, in 2015 China approved and signed Memorandum of Understanding with Laos, outlining various stages of railway development plan. The first stage is to build a railway from Lao-Chinese border to Vientiane Capital of Laos which would then connect to Thailand. The Laos-China Railway is not only a symbol of Laos-China friendship and triumph over Laos' landlocked status, but will undoubtedly boost economic growth. The benefit from the Laos-China Railway is logistic system of goods, trades and passengers transportation between Laos and other countries in the world; the foreign investors need to invest in Laos, and now there are many numbers of companies have begun investing in logistics infrastructure, and other investment. Finally, the Laos-China Railway Company in Laos can create a lot of jobs for Lao local people.

In conclusion, the Belt and Road Initiative (BRI) and the Laos-China Railway project is not only a symbol of friendship between Laos and China, but it is a huge boost to Laos' ambition to build on its landlocked status by becoming a land bridge, but also has huge potential to drive economic growth, in the field of logistics, tourism, and agriculture. And it brings new hope and opportunity to Lao people, especially the careers, and sustainable job to young peoples. By the way, Laos must speed up the development of its human resources, the government is aware of this challenge and has sought to improve education infrastructure so that more people gain the skilled needed meet the growing demands of the job market.

The Lao government must pay attention to develop the labor inspection system for employees protection, in addition the increate of minimum wage or salary for general line staff, and labor skilled because their minimum wage is still very low compared to ASEAN countries they would to work in the neighboring countries. Especially, in order to ensure that skilled workers do not leave to work in neighboring countries in large numbers. Therefore, the government must take strict measures and plan a comprehensive strategy for the management and protection of skilled workers to work for companies, factories, and the Laos-China Railway Company with a dream and devote their knowledge, skills and experience in the performance of their duties with the hope that the return is a salary or a suitable wage and can live in the current society completely and adequately.

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