Developing Legal University Education in Lao PDR

In order to Strengthen Rule of Law

Lina Birgersson & Lisa Nordbrandt
“It is better for the law to rule than one of the citizens”

Aristotle
Abstract

For a country to have a functional legal system it is not enough having a constitution and enacted laws, there must also be a system with institutions and people within the system that guarantee the implementation of the laws. Lao PDR is a country with a young legal system and has been ruled by the Lao People’s Revolutionary Party since 1975. To be able to develop the legal order in the country it is essential to understand the context of the country and the problems that must be handled. In Lao PDR one of the biggest problems is corruption. The corruption is widespread in the society and affects most areas. Rule of law is a concept that includes several principles that will ensure a certain quality of the content of the legal order, meaning that all actions taken by those in power must be accountable to the law. One effective means of promoting rule of law is through the legal university education. This thesis attempts to study how the Faculty of Law and Political Science at the National University of Laos promotes rule of law in the legal university education and how the legal university education can be developed in order to strengthen the rule of law. In this thesis we argue that the legal university education at the faculty are promoting rule of law indirectly by focusing on the teachers in terms of teacher training, academic research and development of the teaching methods. The concept is further present in the education when the teachers teach the students about rule of law values such as separation of powers and equality of law. We argue that the legal university education can be developed by inter alia raising the quality of the education. To reach this goal the corruption must decrease and the status of the teaching profession must increase. The students must also learn to analyse and criticize what they study and the learning environment must be further improved.
Acknowledgements

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We would also like to thank Mr John Connolly and all our respondents who provided us with valuable information about the legal university education and about Lao society.

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Finally we would like to make a special thanks to Mr Sharan Doowa who has not only helped us with the academic research but also taken the time to show us the beauty of the country.
Table of content

Abbreviations .................................................................................................................. 7

1 Introduction .................................................................................................................... 8
  1.1 Background .............................................................................................................. 8
  1.2 Purpose .................................................................................................................... 9
    1.2.1 Limitations ........................................................................................................ 10
  1.3 Method and Materials ............................................................................................. 10
    1.3.1 Qualitative Method .......................................................................................... 10
      1.3.1.1 Text Analysis ............................................................................................. 11
      1.3.1.2 Interviews .................................................................................................. 12
    1.3.2 Materials ........................................................................................................... 15
  1.4 Outline ..................................................................................................................... 16

2 The Rule of Law .............................................................................................................. 16
  2.1 Background .............................................................................................................. 16
  2.2 Definition of Rule of Law ......................................................................................... 17
  2.3 Promoting Rule of Law ............................................................................................ 19
  2.4 Promoting Rule of Law Through Legal University Education ............................. 20
    2.4.1 Background ........................................................................................................ 20
    2.4.2 How Legal University Education can be Developed in order to Strengthen Rule of Law ........................................................................................................... 22

3 Lao PDR .......................................................................................................................... 24
  3.1 History ....................................................................................................................... 24
  3.2 Legislation and Legal System .................................................................................... 27
  3.3 Education System ..................................................................................................... 29

4 Empirical Study ................................................................................................................ 30
  4.1 Background ............................................................................................................. 30
  4.2 The Understanding of Rule of Law .......................................................................... 31
  4.3 In what way Rule of Law is Present in the Legal University Education .................. 35
    4.3.1 Separation of Powers ......................................................................................... 36
    4.3.2 Access to Justice ............................................................................................... 38
    4.3.3 Transparency and Corruption ......................................................................... 39
4.3.4 Equality of Law and Basic Knowledge about the Law ......................... 41
4.3.5 Democracy ......................................................................................... 44
4.4 Conditions for the Legal University Education to Strengthen the Rule of Law ........ 45
  4.4.1 The Learning Environment ................................................................. 45
  4.4.2 Teaching Methods ............................................................................. 47
  4.4.3 Teaching Material .............................................................................. 49
  4.4.4 Teachers and Higher Legal Education ................................................. 50
  4.4.5 The Quality of the Legal University Education ..................................... 52
4.5 Ways to Improve the Legal University Education ..................................... 53

5 Analysis .................................................................................................... 55
  5.1 How the FLP Promotes the Rule of Law in the Legal University Education ...... 55
  5.2 How the Legal University Education can be Developed in order to Strengthen the Rule of Law ............................................................................. 58
  5.3 Conclusions and Ways Ahead .................................................................. 62

Bibliography .................................................................................................. 64
  Official documents ......................................................................................... 64
  Literature ....................................................................................................... 64
  Articles ........................................................................................................... 66
  Reports ........................................................................................................... 67
  Other sources ................................................................................................ 68
  Interviews ..................................................................................................... 69

Appendix 1 - Questions for student interviews, part I
Appendix 2 - Questions for student interviews, part II
Appendix 3 - Questions for teacher interviews
Appendix 4 - Questions for project employee interviews
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>APSC</td>
<td>ASEAN Political Security Community</td>
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<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>EFA NPA</td>
<td>Education for All National Plan of Action</td>
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<td>FLP</td>
<td>Faculty of Law and Political Science</td>
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<td>LFNC</td>
<td>Lao Front for National Construction</td>
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<td>LPRP</td>
<td>Lao People’s Revolutionary Party</td>
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<td>LSMP</td>
<td>Legal Sector Master Plan</td>
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<tr>
<td>MoE</td>
<td>Ministry of Education</td>
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<td>MoJ</td>
<td>Ministry of Justice</td>
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<tr>
<td>NA</td>
<td>National Assembly</td>
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<td>NASC</td>
<td>National Assembly Standing Committee</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>NUOL</td>
<td>National University of Laos</td>
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<td>OSPP</td>
<td>Office of the Supreme Public Prosecutor</td>
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<tr>
<td>PBL</td>
<td>Problem-based learning</td>
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<tr>
<td>PDR</td>
<td>People’s Democratic Republic</td>
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<tr>
<td>PhD</td>
<td>Philosophiae Doctor</td>
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<tr>
<td>PSC</td>
<td>People’s Supreme Court</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNSG</td>
<td>United Nations Secretary General</td>
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1 Introduction

1.1 Background

The legal system in Lao People’s Democratic Republic (PDR) can be compared with the country’s traffic system. There are a lot of important and elaborate rules, but the problem is that no one chooses to follow them. A red light does not necessarily mean that you should stop and crossing the street can take up to ten minutes since the pedestrian crossings are not respected. The traffic system is unpredictable, lacks transparency and no one follows the traffic rules even though they have knowledge about them. The same thing can perhaps be said about the legal system. Lao PDR has a constitution that protects human rights and has during the years adopted several laws regarding inter alia corruption, education and taxes. In theory Lao PDR seems to have a functioning legal system but the reality is something else. Corruption in the country is widespread and people know that even though the laws exist they will not be followed. Many people do not even have knowledge about the laws and their rights.\(^1\) The big problem in Lao PDR is not the lack of rules or regulations, the problem is implementation.

For a country to have a functioning legal system it is not enough having a constitution and enacted laws. There is also a need of separation of state powers, that people have access to justice, supremacy of the law and functional institutions, which can enable justice for the people. These are the core values in a rule of law state. The rule of law is to be seen as a concept that includes several principles and rules, which will ensure a certain quality of the content of the legal order.\(^2\) Lao PDR is a state with a young legal system that adopted their first constitution in 1991.\(^3\) Since then big improvements and development have taken place in the legal area, the most recent one being the Legal Sector Master Plan (LSMP). The LSMP is the framework for developing effective institutions in the legal sector of Lao PDR as a foundation for rule of law. The plan was adopted by the government of Lao PDR in 2009 and elaborated with assistance of inter alia the United Nations Development Programme (UNDP). Lao PDR is also a member of the Association of Southeast Asian Nations (ASEAN) and an important task for the association is to develop the judicial systems in the ASEAN countries

\(^1\) High, 2013, p. 140.
\(^3\) Boström et al., 2006, p. 22.
as well as the concept of rule of law. This puts pressure on Lao PDR to create a corps of well-trained lawyers.

In countries that have a young judicial system there is often a lack of people who can interpret and apply the law in practice. Education of legal professionals is therefore an important means to enable a functioning legal system. Assistance from foreign countries to rule of law projects in developing and transitional countries has been common throughout the years. One part of this assistance has been a development of the legal university education, by contributing with financial support, physical facilities, teacher training and scholarships. One of these projects is the Luxemburg project LAO/023 - *Strengthening the Rule of Law through Legal University Education* that has been operating at the Faculty of Law and Political Science (FLP) at the National University of Laos (NUOL) since 2010.

To be able to understand the importance of rule of law and how it can be developed in a country we chose to examine how the legal university education can work as a tool in promoting the rule of law in Lao PDR. Through the LAO/023 project we were able to conduct a study at the FLP by examining the legal university education and how it can be developed in order to strengthen the rule of law. After spending eight weeks in the country we got an insight in what way the legal university education can strengthen the rule of law in Lao PDR, but we still have not figured out how to cross the street without risking our lives.

### 1.2 Purpose

The purpose of this thesis is to study and analyse how the FLP at the NUOL promotes the rule of law in the legal university education and how the legal university education can be developed in order to strengthen the rule of law.

The following questions need to be answered in order to achieve the purpose.

1. In what way is the legal university education an effective mean to strengthen the rule of law?
2. What is the knowledge about rule of law among teachers and students?

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4 ASEAN Political-Security Community Blueprint, p. 1 ff.
5 See Bogdan, 1997, p. 146.
6 Transitional means a country, which is changing from a centrally planned economy to a market economy.
8 Bogdan, 1997, p. 150.
3. What are the main obstacles for the legal university education to be able to strengthen the rule of law?

1.2.1 Limitations
The concept of rule of law consists of two parts; a formal and a substantive. When talking about the substantive part, the moral aspects of the law are present. In this thesis we will not discuss or reflect upon the moral values of the law in the sense if the laws are good or bad in Lao PDR. When focusing on the substantive part we will discuss if the laws are applied, if there is equality of law and if the existing judicial system in the country is effective.

1.3 Method and Materials
There are different methods to be used in the pursuit of gathering and analysing material. Which method that should be used depends on how the material is collected and analysed. When trying to understand the legal framework of Lao PDR we have used a legal method. The legal method from a Swedish perspective means that legislation, legislative history, case law and legal doctrine are being analysed. To understand the legal method in Lao PDR has been difficult. This because there is no centralized depository for laws in the country and it is hard to know which subordinate rules that are currently in place. The amount of case law is also limited as well as the legal doctrine. When collecting material to understand the legal framework of Lao PDR we have therefore used the constitution, laws, decrees and official documents such as LSM P and the Education for All National Plan of Action (EFA NPA) for 2003-2015.9

1.3.1 Qualitative Method
To be able to fulfil the purpose with our thesis we had to collect data by making interviews and observations regarding the legal university education in Lao PDR. We also had to understand the political environment of the country and the history of the latter. To be able to do this we used a qualitative method. This method is the opposite of the quantitative method, which is based on measurable data such as statistic material and numbers. The qualitative method is based on data gathered by interviews and observations. The qualitative data are not

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9 The EFA NPA contains the Lao PDR government’s policy and strategic framework for action for basic education, which covers development targets and programmes for six basic education sub-sectors. The Plan seeks to accomplish three major tasks: equitable access, improved quality and relevance and strengthened education management.
measured; instead it is enough to state that the data exists, in what context it exists and how it works. The reason for our choice to use a qualitative method was that this method offers a way to examine norms and values in a context and enabled us to understand different perspectives and the environment that we were in. To fulfil the purpose with our thesis we needed to understand the values and norms of the country to be able to examine the role of the legal university education. This is not something that can be measured by numbers and statistics; instead we needed to use a method that allowed us to examine social constructions and understand the legal environment in the country.

One weakness with the qualitative method is the lack of generalizability, which means the possibility to draw conclusion about circumstances that have not been studied. The qualitative method does not offer any techniques that through statistical inference generalize from sample to population and thereby assess the likelihood that the generalization in question is correct. Despite this, generalization is not irrelevant for qualitative studies, instead of using probability calculations the qualitative method offers the possibility to make generalization claims. One way of making generalization claims is to examine if the result of the study is applicable to people or social environments, which are similar to the ones that have been examined. Another way to use generalization claims is to relate the result of the study to general theoretical frameworks, which means comparing the result with other research that have been made in the area. We were aware of this weakness of the qualitative method and any generalization claims we made were done with great caution.

### 1.3.1.1 Text Analysis

Using a qualitative text analysis means to analyse a specific text material in a qualitative way. When using the method of a qualitative text analysis we have read a great amount of texts very thoroughly and tried to understand the context of the text to find the main content. Most of the texts have been read more than once. By doing so we have been able to find information that we missed the first time and to interpret information that may have been presented between the lines.

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12 Svensson, Ahrne, 2011, p. 28 f.
Before we started conducting our text analysis we formulated a general purpose and questions to clarify for ourselves what we were looking for in the text. By using the method of qualitative text analysis we tried to find answers to our purpose and questions. The qualitative text analysis is therefore not used to make a summary of written text but to find answers to our specific questions. When asking specific questions before gathering material one has to decide how to relate to the answers. We chose to use an open approach meaning that the answers to our questions were determined by the content of the texts we examined. The important thing to bear in mind when using an open approach is to stay focused on one’s questions. Otherwise there is a risk of going off topic with information that is not relevant for one’s questions and purpose.14

1.3.1.2 Interviews

Qualitative interviews are based on conversation where the purpose is to derive interpretations from the respondent’s answers. The researcher’s task is to ask questions and listen while the respondent is answering. By making an interview the researcher aims to make cultural interferences, getting descriptions of a given social world, which is analysed for cultural patterns and values. The respondents are to be seen as meaning makers rather than agents for predetermined answers.15 It is the respondent’s perceptions or notions that the researcher wants to access and the answers can neither be considered to be true nor false. It is therefore important to be aware of one’s own prejudices regarding expected answers. One advantage of making interviews is that it provides a good opportunity to register unexpected answers and enables follow-up work.16

When making an interview it is essential to make good preparations by having prior understanding of what will be studied. The number of respondents is not decisive but rather the preparation and selection. In the preparation work it is important to be aware of the own understanding of the subject and how the selection of the respondents will be conducted.17 In our study we have chosen to interview a small group of respondents, resulting in ten students, three teachers and two project employees. The ten interviews with the students were short interviews based on ten basic questions. The aim with these interviews was to get an idea of

14 Esaiasson et al., 2012, p. 216 ff.
16 Esaiasson et al., 2012, p. 251 ff.
17 Ibid., p. 161.
how the students’ perceive their education and their knowledge about the rule of law. Of the
ten students in-depth interviews were later conducted with five of them. The five students that
participated in the in-depth interviews were randomly selected out of the ten students. By
making in-depth interviews the aim was to seek the same deep level of knowledge and
understanding as the respondents.18

The interviews with the teachers and the project employees were conducted as in-depth
interviews. All the teachers answered the same questions and were able to develop their
reasoning. The interviews with the project employees were conducted as more informal
interviews where the employees had the opportunity to share their experiences and opinions in
an open way. By choosing this method we hoped to receive more fruitful answers of how the
project has worked out and how the education is being developed. We are aware of that there
are both advantages and disadvantages of conducting interviews in this way. One might argue
that it is more difficult to ensure the scientific reliability by using this method. On the other
hand the advantages of the method is perhaps a deeper understanding of the subject since the
climate of the interview leaves room for reflection and questioning.

When selecting our participants we have chosen students and teachers mainly based on their
level of English proficiency. To be able to conduct an interesting analysis it is fundamental
that the respondents understand the questions and are able to answer them. Further, we have
chosen not to interview first-year students since they have studied for a shorter time and
usually have a lower understanding than more senior students. When deciding to select
participants based on their English skills we are aware of that they are not representative for
the FLP as a whole. By selecting the ones that are good at English it is likely that we have
chosen to interview the more ambitious students and teachers. When selecting participants
among the project employees we decided to interview two employees that have been working
with the project for a long time. An issue with interviewing the project employees is that they
might be seen as subjective experts and that they additionally are not to be seen as strangers to
us researchers.19 The relationship between the employees and us could be described as an
acquaintance, why we did not see a comprehensive problem to conduct the interviews. We

18 Johnson, 2001, p. 106.
19 Esaiasson et al., 2012, p. 259.
have taken these issues into consideration and have during the interviews tried to be as objective as possible.

When the selection of the respondents was made it was a great advantage having access to the field where the respondents stayed. This was achieved by spending time at the FLP every week. The project employees functioned as our gatekeepers to the students and the teachers, by introducing us to them.\textsuperscript{20} By having the opportunity to stay in the same environment as the respondents for a longer time enabled us to enhance the quality of the study. This since the respondents knew who we were, why we were at the FLP and by that they hopefully felt more comfortable to express their opinions when participating in our study. We chose to conduct all the interviews at the FLP; since it was a place that all the respondents were familiar with and hopefully were comfortable in.\textsuperscript{21} When we conducted our interviews we began by informing all the respondents that they would remain anonymous in the study. This because we wanted the respondents to be able to express their opinions without being obligated to stand up for them in front of others.

A semi-structured form of interview was used. This method involves asking a number of questions to all participants. During the interview the researcher may follow up the questions by asking the respondent to elaborate or exemplify a statement. Further, the method involves having a list of key words, which the researcher can lean on if the respondent does not bring them up by themselves. The method permits the interviews to be flexible as well as structured, since it focuses on prepared topics of discussion. When conducting the interviews with the project employees we used a non-structured form of interviewing. This method means that questions are posed in a more open way, thus letting the interview take its own direction.\textsuperscript{22} In this way the method allows the interview to take other directions and bring up subjects that could not have been considered beforehand.

When using the qualitative method there are different ways of checking the liability of the study. In our study we have tried to be as transparent as possible, which means that we have tried to be clear about our process of making interviews and gathering other material. This

\textsuperscript{20} Lalander, 2011, p. 91 ff.
\textsuperscript{21} Esaiasson et al., 2012, p. 268.
\textsuperscript{22} Gillham, 2008, p. 46 f.
gives the reader a possibility to criticize and discuss our study. When conducting the interviews we have tried to be objective and not have preconceptions about what the respondents would answer. To be fully objective is in itself impossible and if claiming that a study is objective would be a reason of doubting the reliability of the study. With this said we have tried to be objective but are fully aware of the impossible task of being so completely.

During the interviews we were aware of the hidden obstacles in the communication that may occur, meaning how the respondents used but also understood the English language as well as their cultural background. In some cases we noticed that the respondents gave us the answers that they thought we wanted to hear, or that there was only one correct answer to our question. When conducting the interviews we had to consider whether we wanted to use an interpreter or not. The advantages with using an interpreter where the possibility to avoid misunderstandings and the opportunity for the respondents to express themselves more articulately without having the language as a barrier. The disadvantage of using an interpreter could have been the risk of our questions being filtered by the interpreter due to deficient language skills, political beliefs or other cultural factors. Further, it could create a distance if we could not speak to the respondents directly. We weighed these pros and cons when we considered using an interpreter and we decided not to use interpretation.

1.3.2 Materials
The material consists of national legal sources in terms of the constitution of Lao PDR. Other sources of information and knowledge have also been used in order to understand the national situation for example reports of the UNDP and the United Nations Secretary General (UNSG), statistics from the World Bank, relevant literature and articles. Further, literature, articles and resolutions of the United Nations (UN) regarding the rule of law and legal education have been consulted. When gathering material for the thesis we have chosen to use reliable sources such as academic literature, articles published in academic journals, reports from international organizations and well-known Internet sources.

The most important type of information source used in the thesis is the interviews that we conducted in Vientiane, Lao PDR. There is a lot of written material on the subject rule of law

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23 Svensson, Ahrne, 2011, p. 27.
and how it can be promoted in developing countries. On the other hand there is a lack of written material regarding the presence of rule of law in the legal university education in Lao PDR, why the interviews were conducted with the purpose of filling this gap. As a complement to the interviews we have received some material from the project employees about how the project has been performed and the progress that has been made. The response we got from the interviews was directly compiled after each interview. During the interviews we took notes both of us, which content we later compared in order to minimalize contradictions and misunderstandings. We discussed thoroughly how we had perceived the answers of the participants. If we had any disagreements of the content of an answer, this part was left out. As a backup each interview was also recorded. When being uncertain of the content of an interview we therefore had the opportunity to listen to it once again.

1.4 Outline
First a presentation of the rule of law will be made where the concept is described and defined. Further, the promotion of rule of law projects will be explained and how promotion through legal university education can be carried out. The chapter’s aim is to give the reader an understanding of the concept and to answer the first question formulated in chapter 1.2. The following chapter 3 contains facts and data about history, the legal system and education in Lao PDR. The purpose of this part is to illuminate the cultural context of the country and help the reader to understand the obstacles that the country needs to deal with in order to become a rule of law state. The most comprehensive part of the thesis is the following chapter 4. It consists of summaries of several interviews conducted at the FLP and is presented with an integrated analysis of the material. The aim of this chapter is to be able to answer the second and third questions formulated. Finally an analysis and conclusions will be presented, thus relating the questions to each other and fulfilling the purpose of the thesis.

2 The Rule of Law

2.1 Background
Rule of law has become one of the main goals in development cooperation and is strongly emphasised by donors to achieve a positive legal development for developing countries to strive to reach international standards. The rule of law is not static, but rather a concept which concentrates on democracy and human rights. The essence of the rule of law concept is that law must regulate the exercise of state power. The overall idea is to sow a seed of a core
meaning which can be accepted in states with different legal traditions and form a base for legal development.\textsuperscript{25} Even though the power of a state may be regulated under the law, the state does not necessarily have the rule of law. One must remember the distinction between rule of law and rule by law. Under the rule of law, the law is preeminent and serves as a protection against the state, which means that no one is above the law. Under the rule by law, the law exist not to limit the state power but to serve its power.\textsuperscript{26} The procedural parts of the rule of law exist under the rule by law but it is clear that the government is above the law.

Why is the rule of law a desirable goal? The concept can be seen as an important political ideal. It means that the citizens should comply with the laws as well as the state power should be exercised under the laws. In addition to that, the concept rule of law also covers human rights and independent institutions that apply the legal system impartially. Further, it implies that the law has an intrinsic value and that the individuals should be safeguarded against the state.\textsuperscript{27} The rule of law is alleged to be important from two perspectives. The first perspective is that it gives a moral foundation to the legal order by safeguarding human rights values, which also increases its legitimacy. Secondly, it is important to be able to create a functioning market economy.\textsuperscript{28} When discussing the rule of law it is often divided in two parts; formal and substantive. The formal part is focusing on the existence of distinguishable elements in an ideal legal system, such as publicly available laws that are generally applied and independent judiciary. The substantive part focus on the contents of law, measuring the qualities of the system inter alia if the system is fair or just.\textsuperscript{29}

\textbf{2.2 Definition of Rule of Law}

The rule of law is a known and established concept, which is frequently used in projects by governments and non-governmental organizations (NGOs). The projects have the agenda of reforming aspects of law and justice in developing and transitional countries. However, the concept is vague and there is no clear definition of its meaning. It can therefore have different meanings in different countries and societies due to differences in legal traditions and political systems. A great problem with a vague definition is that the concept can be overlooked and unstable when it is invoked for many opposed reasons. On the other hand the reasons for

\begin{itemize}
  \item \textsuperscript{25} See Fogelklou, 1997, p. 32 ff.
  \item \textsuperscript{26} Carothers, 1998, p. 97.
  \item \textsuperscript{27} Persson, 1997, p. 210 f.
  \item \textsuperscript{28} Fogelklou, 1997, p. 33.
  \item \textsuperscript{29} Wennerström, 2009, p. 59 f.
\end{itemize}
avoiding specificity are motivated by both practical and political reasons. The elasticity of the concept enables it to be used in support for different objectives.\textsuperscript{30} To be able to discuss and problematize the concept a definition is needed. The UN has defined the rule of law as follows:

"...a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."\textsuperscript{31}

In 2012 the General Assembly of the UN made an attempt in plenary to implement a special definition of the rule of law. The attempt resulted in the resolution, \textit{The rule of law at the national and international levels}, which states: "that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations."\textsuperscript{32} However, the resolution does not declare what kind of human rights or democracy it refers to, creating a possibility for interpretation.

To summarize these different attempts to describe the concept of rule of law, we have in this thesis defined it as a legal order, which follows certain principles for the exercise of state power.\textsuperscript{33} A rule of law state is a state that is ruled through predictable and stable laws, which protects human rights. All actions taken by those in power must be accountable to the law. The rule of law is therefore to be seen as a concept that include several principles and rules which will ensure a certain quality of the content of the legal order. The realisation of the concept will vary in different states and the meaning of it must consequently be accepted by the states and also be able to form a basis of legal development. The principles must somehow be realised in a state if the state is to be regarded as a rule of law state. There are several lists

\textsuperscript{30} Bergling, 2006, p. 17 f.
\textsuperscript{31} UNSG Report S/2004/616, p. 4.
\textsuperscript{32} A/RES/67/97, p. 1.
\textsuperscript{33} Cf. Peczenik, 1995, p. 50.
of principles available. We have adopted the one that the legal scholar Anders Fogelklou espouses: The principles to be respected are; 1. Supremacy of law (legality); 2. Separation of powers; 3. Protection of human rights; 4. Legal certainty and access to justice; 5. Equality before the law; and 6. Effective instruments such as courts and executory bodies, which can implement the rule of law principles.\textsuperscript{34} In order to achieve rule of law, values such as proportionality, transparency and predictability are essential.\textsuperscript{35}

### 2.3 Promoting Rule of Law

Promoting the rule of law has become a top priority among international organizations and developing agencies throughout the world. The wish of donors to convey the concept of rule of law is translated and materialized into development cooperation projects, which are implemented by an institute, university, NGO or a similar body.\textsuperscript{36} The rule of law projects are many and differ in structure and transaction. Commonly, they are focusing on constructing and repairing courthouses, drafting new laws, supplying technical equipment, introducing training programmes for lawyers, prosecutors and judges, supporting human rights commissions and so forth.\textsuperscript{37}

The primary method for promoting the rule of law is to transplant and borrow laws and institutions from other countries in order to influence the recipient in a certain direction. Transplanting is however difficult and the laws and institutions often fail to be implemented. It may be a result of diverse systems and norms or perhaps the receiving country is ill equipped to handle the reform due to a weak government. Corruption and administrative deficiencies may also explain why the implementation is ineffective. Another method that is widely used is to push and lobby for something new. This means providing legal advisory and technical assistance to governments assisting them in ratifying international conventions and in drafting new laws. Usually the method is used in order to promote and incorporate international law.\textsuperscript{38}

The rule of law can both be seen as an end in itself but also as a means to achieve other development objectivities. In the projects, rule of law is not seen as the independent goal but

\textsuperscript{34} Fogelklou, 1997, p. 39 ff.
\textsuperscript{35} Bergling, 2006, p. 17.
\textsuperscript{36} Ibid., p. 7 f.
\textsuperscript{37} Sannerholm, 2009, p. 195.
\textsuperscript{38} Ibid., p. 195 f.
as an instrument of achieving a more comprehensive goal, which is called “good governance”. Good governance can be defined as a state of balance between the economic organization, the government and the civil society organizations within the country.\textsuperscript{39} Promoting the rule of law is a way of enhancing democracy and human rights in the recipient country. To be able to achieve success with the project, it must therefore be perceived as legitimate. Both the actions taken by international actors and the end goals of the project must be justified. Essential prerequisites for a successful project are participation of local actors and adaption to the local context. Change will occur when key persons inside the system want it to occur, why it is important to give those people enabling assistance to carry out their will.\textsuperscript{40} Problems with promoting and establishing the rule of law is often related to the country where the concept is about to be strengthen. Both historical experiences of the receiving country, corruption and a weak state may hamper the development. For that reason, the realisation of rule of law must vary in each state.\textsuperscript{41}

\subsection*{2.4 Promoting Rule of Law Through Legal University Education}

\subsubsection*{2.4.1 Background}

Throughout the years there has been a large number of projects promoting the rule of law around the world. Some of these projects have focused on providing legal education. Unfortunately the support to legal education has not been particularly prioritised due to an expensive, cumbersome and slow process in reaching tangible results. Achieving change through legal education takes time since it requires a long process to change the educational mentality within the system. It may therefore be perceived as easier to focus on projects delivering quicker results.\textsuperscript{42} The need of support for legal education is nevertheless a highly relevant rule of law project. The UNSG has highlighted the importance of education when it comes to legal development. The UNSG has stated: “\textit{legal education and support for the organization of the legal community are important catalysts for sustained legal development.”}\textsuperscript{43}

\begin{itemize}
\item \textsuperscript{39} Matsuo, 2009, p. 53 f.
\item \textsuperscript{40} Carothers, 2003, p. 9 f.
\item \textsuperscript{41} Fogelklou, 1997, p. 37 f.
\item \textsuperscript{42} Sannerholm, Haglund, (Working paper), p. 4 f.
\item \textsuperscript{43} UNSG Report S/2004/616, p. 9.
\end{itemize}
Education has an impact on many different levels. For example education of lawyers have impact on how they practice their profession, both in their private and governmental roles. Legal education also promotes scholarship and practical expertise among a range of governmental officials. Assistance in the field is often needed since economic and political reforms in developing countries tend to create an acute shortage of qualified legal professionals. The need of assistance aims to increase the level of knowledge among judges, lawyers and other legal professionals and make them capable of interpreting and applying the law in practice. The legal professionals may also be seen as carriers of legal culture and that they have a role as catalysts in a development process.

Historically, there have been several attempts to support reforms in the justice sector. The law and development movement of the 1960s was one of the pioneers. The movement had the goal to transform legal culture and institutions through an educational reform. By achieving change in the educational system it was assumed that change in all legal institutions would follow. Unfortunately the hoped spill over effect of democracy and protection of human rights never occurred and the project became a failure. Why the project did not work out can partly be explained by the time it was undertaken. During the 1960s liberal internationalism flourished and there was a large distrust of western intervention in the developing world. World politics and economics has since then developed extensively. For example the international trade has grown substantially since the 1960s and led to a world of economic integration. Further, the movement thought that the legal cultures of the developing world were formalistic, meaning that rules were developed, interpreted and applied without attention taken to policy goals. For example law teachers taught law as an abstract system without concern for policy relevance or impact. This meant that the rules were not adapted to the context they were going to exist in. Apart from the projects failure the law and development movement raised an important question, the relation between law and development. A lesson to be learned from the project is additionally that human rights will not occur automatically

45 Bogdan, 1997, p. 146.
47 A movement led by essentially US lawyers, who worked in development agencies, universities and foundations made an effort to reform the judicial systems and substantive laws of countries in inter alia Asia.
48 A foreign policy doctrine with the aim to reach eternal peace. The doctrine believe that international law and international courts can help to establish democracy, good relations and world peace.
49 Trubek, 2006, p. 76 ff.
50 Bergling, 2006, p. 28.
but must be pursued as an independent goal. The work with specifying human rights norms thereafter gained momentum and eventually human rights became a part of the discourse of domestic politics in many countries. It stood clear that the human rights protection was insufficient without strong actors in the recipient countries willing to accept and implement the notions. Thereby the work with domestic institutions, constitutional guarantees and access to justice was highlighted and developed. Unlike the law and development movement, which only focused on education, today’s rule of law projects seek to bring about change in all aspects of the legal system.51

2.4.2 How Legal University Education can be Developed in order to Strengthen Rule of Law

The backbone of legal university education is basically a good system of legal schooling, producing well-trained legal professionals. In order to achieve that, it is essential that the legal university education provide a supportive environment with capacities and resources. This might be easier said than done. The bureaucracy in many developing and transitional countries can be excessive and often there is a lack of cohesion between ministries and administrative departments. Furthermore there is often widespread corruption, which hampers development. Both the entrance to university studies and the acquiring of diplomas and exams could be bought. This of course strongly hampers the academic quality and promotion based on merits. It also imbues from the start a corrupt culture, which is adverse to rule of law. Further, the universities seldom have the opportunity of self-governance in these areas.52 In addition to the environment it is also important to improve the physical facilities of the universities, such as provide them with computers and copy-machines. To be able to develop the legal university education it is today essential to have these types of facilities. However, one should not forget that there is some costs associated with these types of facilities that the universities might not afford or have the ability to prioritize. In addition to this, there is often a great lack of domestic textbooks and education materials that can be used in teaching.53

Usually the development assistance is mainly focusing on the transfer of knowledge. A mean to achieve knowledge improvement is to finance visits by professors and lectors from other countries and offer scholarships to students so they can study abroad. Another way is to

51 Trubek, 2006, p. 84 ff.
develop the teaching methods. In many countries there is a great confidence in what is called “cathedral teaching”. The drawback of this method is that it limits the students’ interaction and can result in that the students become more passive. It would be desirable if the students had the possibility to participate more actively through solving practical legal problems, discussions and also be able to question what is taught. In some cultures there is a tradition of great respect towards teachers and elders. For example, it can be viewed as rude to question what the teachers say. The teaching methods can partly be explained by financial reasons, since it is more expensive to teach in smaller groups and partly by tradition, namely that there is a lack of tradition that students are questioning the teacher. The teaching method is often well established and a change must therefore be made with thoughtfulness and sensibility. There are several useful methods of teaching. At the department of law at Umeå University the teachers’ use a pedagogical method called problem-based learning (PBL). The method focuses on student activity with the goal to increase the students’ ability to solve legal problems. The method can be seen as an education process where the teacher does not give the answers to the students but the students’ must find the answers themselves by using legal sources. Further, the learning is primarily done in smaller groups and the students themselves have a major responsibility for their learning.

To be able to achieve a better education it is essential to have competent teachers. One problem related to this is the low salaries and pensions for the teachers, which contributes to teaching being a less desirable profession. Unfortunately, the financial issues with teachers’ salaries and pensions are usually related to widespread corruption. Low salaries often provide incentives for illegal business, such as receiving bribes from students to get higher grades or pass exams. Actions taken against corruption are thus important to be able to develop the education. There is much that can be done to improve the teachers’ competence. For example there is a possibility for teachers to take courses both in order to develop domestic capacity in the area and also to be able to reflect upon how the law is taught to the students.

54 Bogdan, 1997, p. 149 ff.
55 Bostrom et al., 2006, p. 35 ff.
57 Waters, 2005, p. 117 f.
3 Lao PDR

3.1 History

Lao PDR is a small country with approximately 6.9 million citizens. Very little is known about the history of the country before the 14th century AD, what is known is that Thai-speaking people came in to the country from the south of China in the 700th century AD. In 1353 small Laotian kingdoms united into one, Lan Xang. In 1893 Lao PDR was colonised by France and became part of the colony of the French Indochina until 1953 when Lao PDR became a fully independent state. During the period of more than 50 years of colonisation Lao PDR was conceived more as a hinterland for Vietnamese expansion and French exploitation. During the period of colonisation Lao PDR had a French-inspired coordinated law but parallel with that system there was still a customary law system and legal principles was maintained in the local society.

The development of a national movement in Lao PDR to liberate itself from France grew slowly. The main reason for this was that the opportunities were minimal to raise the political consciousness of the Lao population through either education or inter-ethnic contact. For example throughout the 1930s only 52 Lao graduated from middle school and even fewer completed their secondary education. Approximate 90% of the lowland Lao were farmers and in the few towns that existed in the country there was almost no working class. In the beginning of the 1940s a nationalist movement started to take form in the country, known as the Movement for National Renovation.

After the independence from France in 1953 a civil war broke out in the country that lasted for 20 years. The war had its origin in the opposition between socialist forces with strong ties to the left oriented guerrilla in Vietnam and the French-friendly side that feared an excessive Vietnamese influence. In the war the west-oriented Royal Lao government fought against the communist party Pathet Lao who got assistance from North Vietnamese troops. Lao PDR

60 Vannebäck, 2013, p. 110.
61 Stuart-Fox, 1997, p. 52 ff.
got dragged in to the Vietnam War and is the most heavily bombed country in the world in per capita terms.63

In 1975 Lao PDR became a one-party regime when the Lao People’s Revolutionary Party (LPRP), previously known as Pathet Lao took power after support from Vietnam. The Party replaced the multiparty parliamentary system, with the communist LPRP as the sole party and governing by the principle of democratic centralism. The LPRP is still today the only allowed party. The Party made many changes in the country, for example freedom of speech and the right to travel within the country were severely restricted. Initiatives were made by the Party to achieve collectivization of agriculture but were abandoned a few years later since they caused decreases in production. The Party created new institutions according to the organizational model in the Soviet Union and rule of law became a low priority. The government believed that the people and the state shared the same interest and if conflict would arise it could be handled by ad hoc decision by the administration.64

When the LPRP came in to power they socialized the economy, which led to a need for a reform in the 1980s. This because Lao PDR was facing problems of a substantial deficit in its trade balance and the need for foreign currency was acute. The Soviet Union had for many years provided Lao PDR with aid in forms of equipment, training and facilities. When the Soviet Union collapsed, Lao PDR lost a great deal of the foreign aid.65 The reform programme in 1986 known as the New Economic Mechanism meant a limited transition from a centrally planned economy to a market free economy. The reform took place mainly because of the collapse of the Soviet Union and the loss of foreign aid. The process of the economic reform took place gradually and resulted in reduced restrictions on internal trade and a free market was introduced for agricultural produce. The reform also enabled a liberalized international trade and foreign investments. The transition to a limited market economy took place without any political liberalization in the same way as in China and Vietnam.66

63 UNDP [http://www.la.undp.org/content/lao_pdr/en/home/mdgoverview/overview/mdg9/] 02/01/2015.
64 Boström et al., 2006, p.19 and Bertelsmann Stiftung, 2014, p. 3.
65 Ibid., p. 20 f.
66 Bertelsmann Stiftung, 2014, p. 3 f.
The first constitution of Lao PDR was promulgated in 1991 and the main part of the other legislation has been enacted after this date.\textsuperscript{67} Election to the National Assembly (NA) takes place every five years, the most recent one was held in 2011 and the LPRP was re-elected. Lao PDR is still today a one-party state and the LPRP controls the NA, the government and all mass organizations\textsuperscript{68, 69} Lao PDR is one of the least developed countries in the world and corruption is widespread at all levels in the society. The most common forms of corruption in Lao PDR are: accepting payments for illegal trade, especially bribes demanded to issue documents for establish a business or register a land title and use of government funds earmarked for projects, or salaries for individual gain. It is the political culture and the structure of political power in Lao PDR that enables the environment of corruption.\textsuperscript{70} The political and civil rights are limited and the capacity of the justice system is weak. The freedom of religion is limited and assaults against religious minorities and other ethnic minority groups occur. Freedom of speech is perhaps the most limited of the human rights and different security acts give the government the right to monitor people’s communications and other activities. Freedom of the press does not exist and the press is ruled and monitored by the government. During 2012 the government enhanced their capacity of monitoring the Internet traffic.\textsuperscript{71}

The development of Lao PDR is slowly moving forward. In 2009 a Decree on Associations made it possible for Non-Profit Associations to operate which was an important reform in terms of developing civil society.\textsuperscript{72} In 1997 Lao PDR joined the ASEAN, an international organization with the purpose to increase economic and political cooperation between the countries in the region. One of the aims of ASEAN is: “to promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter”.\textsuperscript{73} In the 14\textsuperscript{th} ASEAN Summit in Thailand in 2009, the member states agreed to establish an ASEAN Community by 2015. A part of this agreement is the ASEAN Political Security Community (APSC) with the aim to create a rule-based community in the ASEAN countries.

\textsuperscript{67} Boström, et al., 2006, p. 22.
\textsuperscript{68} There are four mass organizations in Lao PDR: The Lao Front for National Construction, the Lao Federation of Trades Unions, the Lao Youth Organization and the Lao Women’s Union.
\textsuperscript{69} Stuart-Fox, 2011, p. 2 ff.
\textsuperscript{70} Stuart-Fox, 2006, p. 59 f.
\textsuperscript{71} Utrikesdepartementet, 2013, p. 7 ff.
\textsuperscript{72} Bertelsmann Stiftung, 2014, p. 7.
of shared values and norms. In order to achieve this goal support is given by the APSC to strengthen the rule of law and the judiciary systems in the ASEAN-countries.\textsuperscript{74} This can be seen as a commitment made by the Lao government to strengthen the rule of law.

There have also been some steps back in the development of Lao PDR becoming a more free and democratic country. In 2012 the Asia-Europe People’s Forum was held in Lao PDR in association with Asia-Europe Meeting, which lead to intimidation of civil society participants.\textsuperscript{75} In addition to this, in 2012 the popular Lao National Radio show \textit{Talk of the news} was cancelled without notice or explanation. The popular programme had existed for four years providing people the opportunity to call in and share their opinions anonymous about how the country is ruled.\textsuperscript{76}

3.2 Legislation and Legal System

The constitution of Lao PDR was adopted in 1991 and amended in 2003 and regulates fundamental rights and duties of citizens. The constitution outlines a formal separation of powers between the NA (legislature), the government (executive) and the judiciary. The legislation of Lao PDR is continuously expanding by subordinate legislation issued by various ministries or agencies according to delegated authority. The subordinated legislation consists of decrees, decisions, ordinances, regulations or guidelines.\textsuperscript{77} There is no centralized depository for laws in the country and it is hard to know which subordinate rules that are currently in place. The distribution of laws to the courts and the administration is done on an ad hoc basis.\textsuperscript{78}

The customary/informal law system exists as an alternative or parallel system to the formal legal system. Due to the ethnic diversity in Lao PDR, with approximately 49 different ethnic groups, many of them living in remote areas the formal state legislation does not have a strong presence in these areas. Instead the customary law is of great importance since it has a pervasive basis for rights and dispute resolutions.\textsuperscript{79}

\textsuperscript{74} ASEAN, 2009, p. 1 ff.
\textsuperscript{75} Bertelsmann Stiftung, 2014, p. 3.
\textsuperscript{76} High, 2013, p. 147.
\textsuperscript{77} UNDP, 2011, p. 79 ff.
\textsuperscript{78} Boström et al., 2006, p. 30.
\textsuperscript{79} UNDP, 2011, p. 79 ff.
When it comes to international law, Lao PDR has ratified a number of UN documents; the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention of the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Convention for the protection of All Persons from Enforced Disappearance. Lao PDR has a dualist legal system, which means that the treaties that the country has signed must be incorporated into domestic law before they become effective in law and practice.\(^{80}\)

The court system is divided into four levels. The area courts which have jurisdiction over civil claims less than 300 million kip (USD 36,500) and minor criminal cases in which the sentence is less than three years in prison. The provincial courts are the first instance if the cases fall out of the jurisdiction of the area courts and the appellate court for cases handled in the area courts. The regional court handles the appeals from the provincial courts. The highest level of court in Lao PDR is the People’s Supreme Court (PSC). The Prosecution Office is also divided into four tiers; district level, provincial level, an Appellate Public Prosecutor in the regions and the Supreme Public prosecutor.\(^{81}\) The regulation regarding the judicial bodies and the Public prosecutor is stated in chapter 9 of the constitution.

In 2009 the government of Lao PDR officially adopted the LSMP prepared with assistance of inter alia UNDP. The plan is a long-term strategy on how to develop the rule of law in Lao PDR by 2020. The LSMP seeks to co-ordinate all the stakeholders, official and unofficial, working with legal system development. In 2003 the government of Lao declared that it would strive: “to develop a coherent, credible and predictable legal framework established in a transparent and participatory manner”. To achieve this target the government adopted the LSMP, which is the framework for developing effective institutions in the legal sector of Lao PDR as a foundation for rule of law.\(^{82}\)

The situation of the legal system today is that there is still a lacking capacity and knowledge by the judges and other people active in the legal system. Some reforms have during the

\(^{80}\) UNDP, 2011, p. 79 ff.
\(^{81}\) Ibid., p. 81.
\(^{82}\) UNDP, 2013, p. 1 ff.
recent years been made to strengthen the legal system by educating prosecutors, reconstructing the legal university education, establishing a coherent system of authorities and revising the procedural law. Human rights are regulated under the constitution in chapter 4, such as article 35, equality before the law and article 44, freedom of speech but can be limited through legislation.

3.3 Education System

The constitution of Lao PDR states in article 38: "Lao citizens have the right to receive education and upgrade themselves". In 1996 the Prime Minister of Lao PDR issued the Decree of Order on Compulsory Primary Education, which inter alia states that all Lao citizens must receive primary education at the beginning at the age of six years. The Decree made primary school compulsory and free for all children and the duration for primary school is five years. In 2004 the government of Lao endorsed EFA NPA for 2003-2015 in responding to the Dakar Framework of Action. One of the most important commitments towards the achievement of the EFA NPA goals was to reform the general education system being a twelve-year system by adding one year to the lower secondary education. To summarize the educational system in Lao, primary school is five years, lower secondary school is four years and upper secondary school is three years. After these twelve years students are able to apply to higher education. There are four different schools that offer higher education in Lao PDR, one of them being the NUOL.

There are big disparities in access and quality of education in the country. Most of the villages without primary schools are located in mountainous areas. Urban population have access to schools that are better equipped than rural communities, for example access to electricity and rooms for teachers and principals. All the teaching is in the majority language, Lao, which decreases the access to education for ethnic groups. The literacy rate 2005 among Lao citizen (15 years old or older) was 72.7%.

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83 Utrikesdepartementet, 2013, p. 4 ff.
84 No.138/PMO/96.
85 Phetsiriseng, 2009, p. 269.
86 IBE/2011/CP/WDE/LS.
87 Ibid.
88 Utrikesdepartementet, 2013, p. 12.
The higher education regarding legal university education existing today in Lao PDR is quite young. Before 1975 a French speaking legal education existed in the country and focused mostly on the French legal system but it was closed in 1975. The country then lacked a legal education until 1986 when the Ministry of Justice (MoJ) restarted the education again through the Vientiane School of Law. In 1997 the legal education was incorporated in the NUOL and the administrative responsibility were instead placed at the Ministry of Education (MoE). The legal department changed their name to FLP and education changed from a three year to a five-year education. Due to the transition from the MoJ to the MoE a great part of the staff at the legal university education quit their job and were replaced with young graduates as teachers. The legal university education in Lao PDR has grown quickly during the past years. Through the MoE and the NUOL a new legal university education has started in the southern part of Lao PDR. The MoJ has also started their own legal education in three different places of the country. The purpose with the legal education arranged by the MoJ is to keep educating officials whom are already working within the legal system in the country.\(^{90}\)

4 Empirical Study

4.1 Background

We have conducted our interviews at the FLP, which is one of the eleven faculties at the NUOL. The FLP is situated in Vientiane and consists of five different departments; International Relations, Civil law, Business law, Criminal law and Political science. Approximately 2 400 students are now studying at the FLP and about 80 teachers are working there. To get a bachelor degree the students study for four years. Since 2008 it is also possible to get a master degree at the faculty. The two different master degrees that are provided are; master program in law and master program in international law.\(^{91}\)

Since June 2010 the project LAO/023 has been operating at the FLP. The project is funded by the government of Luxembourg and the present project period ends in June 2015. The project’s specific objective is to improve the higher legal education at the FLP and the project is building on achievements made during a prior Swedish International Development Cooperation Agency project. Some of the areas the project works with is: improving the teaching skills and quality; giving students improved theoretical and practical knowledge to

\(^{90}\) Vannebäck, 2013, p. 111.
\(^{91}\) Respondent 2T and Faculty of Law and Political Science, 2014.
be able to face the labour market; improving the physical and institutional capacity and enhancing English language proficiency. At the moment the project is in a consolidation phase which means that they are taking a step back and trying to hand over the different areas that they have been working on to the faculty. The LAO/023 project is also aiming at developing the curriculum for the education, improve the English language education and the internal communication at the faculty. It was through the LAO/023 project that we got in contact with the teachers and students at the FLP.

4.2 The Understanding of Rule of Law

Rule of law is highly on the agenda in Lao PDR since the country adopted the LSMP in order to develop the state and strengthen the rule of law. This adoption can be seen as a statement by the country to become a rule of law state and as an indication in what direction the country wants to go. The concept of rule of law is present in newspapers, TV and radio but the meaning of it is seldom being explained. When asking students at the FLP about their understanding of the concept of rule of law four out of ten students had a vague idea of its meaning. Some students thought that it had to do with how the law controls the people. This idea is more recognized as the rule by law rather than the rule of law. In the students view, the law exists to serve the state power instead of limiting it. Other students had the opposite opinion, that the rule of law means that the Lao citizens and the government are equal and that the law should protect the people more than the government. The understanding of the concept among the students are mixed. The ones that had more international experiences, for example by scholarships and internships in other countries, were more aware of its meaning. Many of them had good knowledge about rule of law values such as, separation of powers, access to justice, equality of the law, transparency and democracy, but were not able to explain the whole concept.

Among the teachers the understanding of the concept was more consistent but still sprawling. One of the teachers explained that it is a country based on rules and laws that gives minimum

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92 LAO-Luxembourg Development Cooperation, Strengthening the Rule of Law through Legal University Education: LAO/023.
93 Respondent 2T.
94 Respondent 2S and 4S.
96 Respondent 9S and 10S.
Another teacher explained that rule of law is to be seen as an international principle and said that: “A country need to improve the legal system. Give information to the people so they can get access to legal system and access justice. They have to understand what is written in the law and be guaranteed basic rights both in private and public sector.” The overall understanding of rule of law among the teachers are also mixed. The ones being abroad have been influenced more and are often more inclined to accept change. The understanding is further interlinked with the institutional environment at the FLP. Some of the teachers are happy with the status quo and do not support change, others are more open-minded and willing to try out new ways. One problem is that there is a great lack of intellectual curiosity among the teachers. Most of the teachers have an opinion of the meaning of rule of law but one must remember that it is a tacit knowledge. This means that it is difficult to know the understanding of the concept among the people since it is seldom discussed openly.

When questioning if there is a Lao version of rule of law some of the teachers confirmed that there is. One of the teachers told us that the idea of rule of law in Lao PDR is the same as in other countries but since the country is a one-party state the implementation might be different. The country has the aim to achieve rule of law by socialism. What the respondent meant with achieving rule of law by socialism was further not explained and it is therefore difficult for us to understand the meaning of it. However, it can be questioned whether it is possible or not to become a rule of law state when being a one-party state. In theory it is possible to unite a one-party state with the concept of rule of law if there is independent courts and free formation of public opinion. In practice the implementation of the concept is more difficult in a one-party state. Even if the Party would limit its own power and abandon its role as a ruling party, the absence of an opposition party would give them few constraints in the exercise of state power. One could argue that the judicial institutions in such a country would not be stable enough to enable support for rule of law principles. One of the project employees believes that rule of law might work out in Lao PDR despite being a one-party state. To achieve success the state must be willing to reduce more of its power and control.

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97 Respondent 2T.
98 Respondent 3T.
99 Respondent 1P.
100 Respondent 2P.
101 Respondent 3T.
Rule of law is based on independent review\textsuperscript{103} why there is a need of political will to reach a change.\textsuperscript{104}

As argued above, Lao PDR has showed a will of becoming a rule of law state by adopting the LSMP. The general vision of the LSMP regarding the development of the rule of law in the country is: “making full efforts to develop Lao PDR to become a state which fulfils its obligations towards security of its citizens, and citizens are enabled to perform their obligations towards the state fully.”\textsuperscript{105} To achieve this goal the state needs long-term development processes, which are depending on national socioeconomic development, knowledge and political awareness. The country must also develop and improve the legal system in order to ensure the implementation of international treaties that have been ratified. To be able to ensure an effective implementation of a constitution and laws the government officials have the right to practice only what the law allows.\textsuperscript{106} The LSMP lacks a clear definition of the meaning of rule of law. This might not be a problem but it can lead to different perceptions of the concept’s meaning, which may hamper the development. If there are diverse views about the meaning, it might be difficult to reach a common goal. One of the project employees said that rule of law is present in Lao society as a desirable goal but it is never being explained. By itself the term rule of law is meaningless and that is the reason why the government can embrace it.\textsuperscript{107}

The LAO/023 project also lacks a common definition of the concept of rule of law. An absent definition might be positive since it can facilitate communication and enable an open dialogue. Using a common definition can create deadlocks, which complicates the work. “It is important to remember that it is not our development that is being supported but Lao PDR’s. The responsibility for development is not our mission.”\textsuperscript{108} Perhaps it is not desirable or even possible to have a common definition of the rule of law. One of the project employees questioned if there is any agreed definition of the concept anywhere in the world. Rule of law is a whole culture not just a definition. Lao people have an idea of the meaning of the concept

\textsuperscript{103} Examples of independent review are that the audit of the state budget is independent and that decisions made by the government are transparent and possible to review.
\textsuperscript{104} Respondent 2P.
\textsuperscript{105} LSMP, 2009, p. 8.
\textsuperscript{106} Ibid., pp. 7 and 59.
\textsuperscript{107} Respondent 1P.
\textsuperscript{108} Ibid.
but it is not in their culture. The Lao people have a sense of what justice is, since the respondent believes that it is a universal value. It is therefore difficult to separate law from anthropology. Having a definition or not is not the problem, it is the need of ownership that is important. Strengthening the rule of law is something that the Lao people are doing for themselves.  

After the interviews had been conducted, we realized that the understanding of rule of law at the FLP varies and that many students lacked a view of its meaning. We then asked ourselves what problems this might cause when trying to become a rule of law state. Is it essential to have a clear definition of the concept to be able to promote it or is the vagueness perhaps an advantage? A vague or a non-existing definition allows providers to avoid getting involved with sensitive questions such as power and status, which unavoidably arise when changing legal structures. It also provides entry into societies and processes that otherwise would be closed to international cooperation because of differences in political agendas. The problem with an indefinite definition is the risk of the concept being unstable and overlooked when being invoked for opposed reasons. When understanding that neither the LSMP nor the LAO/023 project use a definition when trying to strengthen the rule of law we realized that a promotion can be performed in several ways. Rule of law is a known concept with deep historical roots and several meanings. In this thesis we have defined rule of law as a concept that include several principles and rules which will ensure a certain quality of the content of the legal order. What the concept comprises is however up to the developing country to decide, but the core values of rule of law need to be respected. To achieve success with a promoting project the concept must undeniably be adapted to a local context. If it is easier in Lao PDR to promote the concept without having a common definition used, it must be the right way for the country to go. Perhaps it is easier for us to understand why the LAO/023 project does not use a definition of the concept. It is possible that a definition would hamper their work and limit their possibility to operate in the country. When it comes to the LSMP we question why there is no definition. Lao PDR has a possibility to adapt the concept of rule of law in the way it suits the country. By not being clear on how the development of the country will fulfil its responsibilities towards security of its citizens we doubt that the impact of the LSMP will be as effective as hoped for.

109 Respondent 1P.  
110 Bergling, 2006, p. 17 f.  
111 Fogelklou, 1997, p. 35.
4.3 *In what way Rule of Law is Present in the Legal University Education*

As presented in chapter 4.2 many of the students and some of the teachers had some difficulties describing the term rule of law. In order to be able to talk with the students and teachers about the rule of law and how it is presented in the legal university education, without being limited by the term rule of law, we asked questions about the values included in the concept of rule of law. We chose to ask them about separation of powers, access to justice and equality of the law, which are three of the six principles that are used when describing the rule of law in this thesis. Questions regarding who needs to follow the law, who the law is supposed to protect, but also basic knowledge about the law and the constitution were asked. Important values such as transparency, democracy and human rights were further discussed.

Since the purpose of the LAO/023 project is to strengthen the rule of law through legal university education we wanted to know in what way the project worked on making the rule of law a part of the education. One of the project respondents described that the project in itself does not proclaim rule of law in the education. Instead rule of law is indirectly advocated through the different components of the concept such as predictability, transparency and the equality of all people when project activities are implemented in the training for the teachers. The project focuses more on creating tools for the teachers than teaching the concept directly to the students. The respondent believed that it is more sustainable if the project focuses on the capacity of teachers to comprehend the rule of law concept. The other project respondent was of the same opinion and believed that the LAO/023 project works like a road sign for the FLP.

The LAO/023 project can by its own way of working be a good example of the positive effect of predictability and transparency. This because many of the selection processes and the financial matters at the FLP are closed and corruption is common. In this matter LAO/023 project can be an example in how to run a clean organisation. Corruption issues are often related to the low salaries and pensions of the teachers but there is also a need to strengthen the integrity system at the universities. To strengthen the integrity system means reviewing

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112 Chapter 2.2.
113 Respondent 2P.
114 Respondent 1P.
system of appointing associate professors and teachers and to work on having an open and transparent merit-based system. The project has noticed that people at the faculty have become more empowered and self-conscious about rights. They have for example asked about independent audits and that they want to have an insight in the selection processes. In this way the project have sown a seed of the different components of rule of law simply by their own way of running the project.

4.3.1 Separation of Powers
In the first part of the interviews with the students we asked them about what separation of powers is, and if they had learned about it in their education. Out of ten students seven of them knew what separation of powers is and six of the students believed that they had learned something about it in their education. Most of the students described separation of powers as different institutions divided into three powers: the parliament, the judiciary and the executive. Some used the term administration instead of the executive and some used the term government instead of parliament. In the constitution of Lao PDR the separation is explained as the NA being the legislative branch (article 52), the government being the executive branch (article 69) and the PSC being the judicial branch (article 79). The students who did not understand what separation of powers is described it as the power of the law, a law that gives limited power to the government to act and division of power between the government and the people. When explaining the concept of separation of powers many of the students took Lao PDR as an example. One of the respondents described that in Lao PDR separation of powers is different since they are a one-party state. The respondent did not agree with the one-party system in Lao PDR since the leader of the court must be a member of the Party and due to this the Party can control the court, meaning that the court is not an independent institution. The respondent believed that this needs to improve in the future and that Lao PDR has to learn from other countries. Two of the respondents mentioned transparency, as an important factor of separation of powers and that balance is important so the institutions can control each other. When asking the teachers if they teach the students

116 Respondent 2P.
117 Respondent 4S, 5S, 7S and 9S.
118 Respondent 1S, 6S and 8S.
119 Respondent 5S.
120 Respondent 9S and 10S.
about separation of powers none of the three teachers did because they do not think that it is a part of their subject but they all believed that other teachers teach the students about it.\textsuperscript{121}

The second part of the interviews with the students included more in-depth topics and we asked the students if they could explain more on how the relationship works between the three different institutions: the government, the NA and the judiciary in Lao PDR. We also asked if they believed that some organ is stronger than the other. One of the respondents described the relationship between the institutions as separated but that the parliament is the most powerful of the three. The respondent explained that the court is in charge of legal matters and that the government make the policies but that there is a relation between the parliament and the court since the laws comes from the parliament.\textsuperscript{122} Another respondent believed that the institutions have to work together and that the government report to the parliament and that the parliament act if the government does something wrong. The respondent was also of the opinion that the parliament decides who can be a member of the court since you have to be a Party member to be a member of the court. According to the respondent the parliament is the most powerful institution of the three existing in Lao PDR.\textsuperscript{123}

The separation of powers into a judicial, a legislative and an executive function distributed among separate state bodies is basic to a rule of law state. The separation of powers is an important factor in a democratic society that is hard to underestimate when it comes to guarantee basic political and legal rights. This since the consequence if the same person who legislate also administrate the legislation that he/she has legislated there may be a risk that the interpretation will be in that persons own interest.\textsuperscript{124} When talking to the students some of them suggested that the NA (the legislative power) also is a part of the administration of the legislation since the NA affects the courts and decides who should be a member of the court. This indicates that the separation of powers only exists on paper in Lao PDR and that the reality is something else. The interesting part of this is that the students that made these suggestions did not seem to see a problem with it. Neither did they reflect upon the consequences with one of the state institutions being the strongest one, that balance does not

\textsuperscript{121} Respondent 1T, 2T and 3T.
\textsuperscript{122} Respondent 6S.
\textsuperscript{123} Respondent 4S.
\textsuperscript{124} Fogelklou, 1997, p. 44 f.

37
exists and that the NA who creates the law also decides how and to whom it should be applied.

### 4.3.2 Access to Justice

The definition of access to justice is the ability for individuals to understand and exercise their rights and in particular to be able to seek and obtain remedies for grievance in connection with their rights. When people are unable to get access to justice they cannot exercise their rights.\(^{125}\) We asked the students and the teachers about the concept of access to justice, why they believed it to be important and how it can be achieved. One respondent said that people in Lao PDR do not dare to go to court since it is “dangerous” because it takes money and time and if you want to change something in Lao PDR you cannot claim it from the government. Another respondent believed that access to justice is how the law can be used, that people know their rights and if you do not know your rights there is a high probability that you will be treated unfair.\(^{126}\)

When talking to one of the teachers how to achieve access to justice the teacher believed that it depends on many circumstances in Lao PDR. This because all people have the same rights but people in the rural areas do not know the law and do not know how to proceed if they have a legal problem. People in the cities on the other hand have according to the teacher a greater possibility to get access to justice. The teacher believed that the government does not have enough ability by itself to work with this problem that is why NGOs such as UNDP are working with this in the country.\(^{127}\) The other two teachers had the opinion that it is easy to get access to justice in Lao PDR.\(^{128}\) Most of the students believed that the way of achieving access to justice is through more education especially in the rural areas of the country. When asked if they have learned about access to justice in their education two of them said that they had. The other three had learned by themselves or through the Community Legal Education Programme\(^ {129,130}\). The programme was created in 2006 at the FLP in cooperation with the LAO/023 project and focuses on training students in teaching methodology. Then they travel to rural areas to teach in the communities about inter alia land law and land policy. This gives

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\(^{125}\) UNDP, 2011, pp. 67 and 77.
\(^{126}\) Respondent 2S and 6S.
\(^{127}\) Respondent 3T.
\(^{128}\) Respondent 1T and 2T.
\(^{129}\) Also known as the Clinical Legal Education.
\(^{130}\) Respondent 1S, 2S, 4S, 6S and 9S.
the people in the rural areas knowledge about law and legal institutions in Lao PDR, which gives them possibility to access to justice.\textsuperscript{131}

Our overall perception after the interviews with the students and the teachers was that they have a good understanding of access to justice even though it is not a big part of the education. According to UNDP the rule of law, access to justice and legal empowerment can create an enabling environment to be able to achieve the Millennium Development Goals. These values can also promote economic growth and be helpful in creating a safe environment.\textsuperscript{132}

\textbf{4.3.3 Transparency and Corruption}

In one of our first interviews with the students one respondent when asked the question what the most important subject is in their education answered: "The most important subject is tax law. It is much corruption in Lao and if you know the law nobody can trick you."\textsuperscript{133} When we received this answer we understood the importance of asking the students more about corruption and in the in-depth interviews we did. Of the five students asked, all of them could explain what corruption is and four of them were able to explain the consequences of corruption. One respondent described corruption as when someone uses their power of position in the wrong way to benefit themselves, their families and relatives. The same respondent described a case of corruption at the FLP without realizing that it was corruption. The respondent told us that there is a big problem with transparency with the exams since some students can bribe the teacher into getting a better result than they achieve at the exam. The respondent viewed this as a big problem since it hinders the development of education.\textsuperscript{134} One respondent also believed that the quality of work gets lower when there is corruption. The respondent gave an example of a company that receives a job to make roads but did not get the job because they were the best suited but because they knew the “right” person.\textsuperscript{135} Another respondent believed that a consequence with corruption is that it will be an unequal society since for example you need to have contacts to get a job. If you do not have the right kind of contacts and cannot pay, you will not get the job.\textsuperscript{136} One respondent believed that

\textsuperscript{131} Faculty of Law and Political Science, Community Legal Education – Law on the go.
\textsuperscript{132} UNDP, 2011, p. 67.
\textsuperscript{133} Respondent 3S.
\textsuperscript{134} Respondent 2S.
\textsuperscript{135} Respondent 6S.
\textsuperscript{136} Respondent 1S.
every developing country has problems with corruption and that the consequences of corruption is inequality and that it creates big gaps in the society and is not transparent. The respondent was despite this hopeful that the situation would change to the better in the future since the country have an anti-corruption act, the law on anti-corruption No. 03/NA was promulgated the 25\textsuperscript{th} May 2005.\textsuperscript{137}

The view of the respondent that developing countries have problems with corruption has also been widely recognised.\textsuperscript{138} If corruption in a society is widespread it can strengthen undemocratic tendencies and weaken the economy, which will be hindering to the development in the country. A society that has corruption can also mean that there will be a loss of credibility. This can lead to a loss of respect for authorities and the law since it is accepted that anyone can buy his or her way through the system.\textsuperscript{139} A culture of corruption is more likely to develop in an authoritarian state since it cannot be criticised or replaced by political means. Countries such as Lao PDR that are single-party states are more disposed to develop a culture of corruption since corruption feeds on power.\textsuperscript{140} By looking at it in this way the development of a functioning and accepted legal system is being undermined by corruption, which also means that corruption is a big obstacle in trying to create a rule of law state. Stuart-Fox, a history professor and Lao connoisseur even mean that: \textit{“the only way of limiting corruption in any society is through the rule of law”}.\textsuperscript{141}

When interviewing some of the teachers we wanted to know if they taught the students about transparency. One of the teachers was of the opinion that transparency is a big problem in Lao PDR and that it is a reason why Lao PDR still is a least developed country. Educating about transparency is not really a part of this teacher’s subject but the teacher’s opinion is that it is a too important subject not to talk about. The teacher want to make sure that the students know about the current issues in the world and in Lao PDR and the teacher shows the students news from NGOs and the government regarding the subject. The teacher is surprised that the students know so little about issues concerning transparency and the lack of it in Lao PDR. The teacher referred to the Corruption Perceptions Index made by the organization Transparency International that is released yearly. The teacher said that Lao PDR is always in

\textsuperscript{137} Respondent 9S.
\textsuperscript{139} Persson, 1997, p. 231 f.
\textsuperscript{140} Stuart-Fox, 2006, p. 60.
\textsuperscript{141} Ibid., p. 69.
the end of the list but the students do not have any knowledge about it.142 In the Corruption Perception Index for 2014 Lao PDR was on place 145 of 174.143 Another teacher we interviewed did not teach the students about transparency. At the time we found it strange that the teacher did not educate the students about transparency since it was clearly a part of the teacher’s subject. When interviewing one of the LAO/023 project employees we asked about this, the staff member believed that the reason for this is that the teachers at the FLP tend to teach about only “what is in front of them” and not view subjects as crosscutting.144 This may also explain why some students easily can talk about rule of law values such as corruption and separation of powers but cannot explain the term in itself. If the teachers are not able to draw conclusions or make connections between different subjects to make the students understand the dynamics of a subject it can mean that it is more difficult for the students to do it by themselves.

4.3.4 Equality of Law and Basic Knowledge about the Law

The constitution of Lao PDR was adopted in 1991 and amended in 2003 and regulates fundamental rights and duties of citizens. In the first part of the interviews with the students we wanted to know if they were familiar with the constitution and if they believed it to be important. All the ten students that we asked knew about the constitution and believed it to be very important. One of the respondents described it as: “the mother of law, it is above everything.”145 Another student described the constitution to be the highest act in Lao PDR and that no law is allowed to be in conflict with the constitution.146 This is also stated in the constitution in article 96 that all laws must comply with the constitution. After the first part of the interviews we knew about the students’ knowledge regarding the constitution. In the in-depth interviews we wanted to know how much the students knew about other existing laws in Lao PDR, how a law is created, how they interpret the law and if the laws are easy to access.

The ones who are allowed to propose and draft laws in Lao PDR is stated in article 59 of the constitution: the president, the National Assembly Standing Committee (NASC), the government, the PSC, the Office of the Supreme Public Prosecutor (OSPP), the Lao Front for

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142 Respondent 3T.
144 Respondent 1P.
145 Respondent 2S.
146 Respondent 4S.
National Construction (LFNC) and the mass organizations at the central level. The process of creating a new law differs depending on which body the draft is coming from. When LFNC, mass organization, PSC and OSPP propose a law they send it to the MoJ which sends it to the NASC, after that to the NA for adoption and then to the president for promulgation. When a ministry wants to draft a law they send it to the MoJ, who send it to the government, who send it to the NASC, who send it to the NA and then to the president. If the government draft a law it goes to the NASC, to the NA and then to the president. Then finally when NASC draft a law it goes directly to the NA and then to the president. Of the five students asked none of them could fully explain how a law is created. Most of the students did know that it is the NA and the president who amends and promulgates laws. The students are of the opinion that they learn about how a law is created in their education. Of the three teachers asked only one could fully explain the process of the creation of a law.

In the in-depth interviews with five students we asked them about their knowledge about the law, meaning their basic knowledge about laws and other regulations, how the laws are interpret and applied. All the students except one believed that they have good knowledge about the law. The student who did not believe to have good knowledge we asked if this was not a problem if you are to work with the law, the student did not believe it to be a problem. Most of the students believed that the laws are difficult to understand and when we asked how they do to understand and interpret the law, most of them said that they ask their teachers. When we asked the teachers the same question they said that they ask their colleges or senior professors to understand and interpret the law. Some teacher has a friend at the NA to ask and two other teachers said that the only one who can interpret the law in Lao PDR is the NASC. When we asked the students were to find the laws we received many different answers, most of the students did refer to the Internet and that some laws could be found at the library. We never fully understood if all the laws are gathered into one statute book. Information about new laws the students get from the NA website, the news, TV and radio. We also wanted to know who the students believed needs to follow the law. Of the

147 National Assembly of Lao PDR
148 Respondent 1S, 2S, 4S, 6S and 9S.
149 Respondent 3T.
150 Respondent 1S, 2S, 4S and 9S.
151 Respondent 1S.
152 Respondent 1S, 2S, 4S, 6S and 9S.
five students asked they all believed that everyone needs to follow the law, citizens and the state. One respondent had the opinion that it is difficult for people to follow the law if they do not know about it.\textsuperscript{153} Another student expressed the importance of the state following the law to set an example for the society.\textsuperscript{154} All the students also believed that there would be conflict and chaos in the country if the laws would not be obeyed.

According to article 35 in the constitution of Lao PDR, all Lao citizens are stated equal before the law. When talking to the students about this we first asked them whom they believed the law is supposed to protect. The students believed that the law is intended to protect everyone, the citizens and the government and one respondent believed that law is supposed to protect the people from the government.\textsuperscript{155} One of the teachers was of the same opinion but told us that only approximate 70% of the students are aware of who the law is supposed to protect.\textsuperscript{156} When talking to the students about equality of law the students explained equality as that all people have the same rights and one respondent explained that the laws that are created must focus on all the people in the society and not only benefit one group of people.\textsuperscript{157} Some respondents did believe that the law is not equally applied to all since many people in the rural areas do not have knowledge about the law.\textsuperscript{158} All five students believed that they learn about equality of law in their education.\textsuperscript{159} One teacher explained that when teaching about equality the students get fundamental information about equality of law, the status before the law and that no one is above the law.\textsuperscript{160}

When talking to the students and the teachers about their basic knowledge about the law and the equality of the law we wanted to examine two important rule of law values; the legality of law and the equality of law. The legality principle means that valid legislation has to be obeyed and applied by the state and the courts and that all kind of coercion from the state against its people must be based on law. If this is not applied the mentality in the society could turn into that no one obeys the law because the law will not protect the people. Or that the law will not apply to the actions by the state and that there is no equality of law. A rule of

\textsuperscript{153} Respondent 4S.
\textsuperscript{154} Respondent 1S.
\textsuperscript{155} Respondent 2S.
\textsuperscript{156} Respondent 1T
\textsuperscript{157} Respondent 4S.
\textsuperscript{158} Respondent 1S and 9S.
\textsuperscript{159} Respondent 1S, 2S, 4S, 6S and 9S.
\textsuperscript{160} Respondent 3T.
law regime can in reality be viewed as a reflection of a certain mentality.\textsuperscript{161} If the mentality in the state, among officials and the people is that there is no legality of the law the state lacks a foundation for being a rule of law state. The impression we got from the students and the teachers is that they have basic knowledge about the law and a view of what equality is, which is a good start.

\section*{4.3.5 Democracy}

There is a strong interaction between a rule of law regime and a democratic regime. A democracy demands an adoption of a constitution as well as legality. Attempts to hinder a democratic process often involve violations of rule of law principles.\textsuperscript{162} Due to the link between democracy and rule of law we wanted to know what the students knew about the subject. One respondent described democracy as; the rights of the people and a country where democracy does not exist people are not free to do what they want. The respondent believed that: \textit{“if there is no democracy human rights are not respected.”}\textsuperscript{163} All five of the students believed that they in some way have learned about democracy in their education but not enough. Many of the students have learned about democracy by themselves.\textsuperscript{164} When we asked about what the students had learned about democracy in their education one respondent told us that democracy is described in two different ways, the western way where anyone can do anything and the eastern way where people are free but are limited in different ways. The respondent compared with the situation in Thailand and all the demonstrations and conflict that have occurred there. The respondent believed that Thailand have more of a western democracy and was of the opinion that western democracy cannot apply to all countries in the world but believed it to be important for the development of a country.\textsuperscript{165} One of the teachers said that democracy is present in the education even though they stay in Lao PDR. The teacher educates the students about why democracy is important to Lao PDR and why it is promoted in the world. The students get to discuss in groups and the teacher makes sure they know the basics.\textsuperscript{166}

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\textsuperscript{161} Fogelklou, 1997, p. 41.
\textsuperscript{162} Ibid., p. 33.
\textsuperscript{163} Respondent 2S.
\textsuperscript{164} Respondent 1S, 2S, 4S, 6S and 9S.
\textsuperscript{165} Respondent 2S.
\textsuperscript{166} Respondent 3T.
\end{flushleft}
Democracy seemed to be presented in some way in the legal education at the FLP. The division that one of the students explained were present in the education between eastern and western democracy could perhaps be explained by the ideology Asian values. The term Asian values is a political ideology created in the 1990s which implies that Asian values do not give freedom the same value as in the western part of the world. Whether this is the case or not will not be further discussed in this thesis. The interesting part is though that the respondent uses an Asian country as Thailand as an example of western democracy gone wrong and claims that the western kind of democracy will not work in every country. In the constitution of Lao PDR, article 2 it is stated that the state of Lao PDR is democratic and all power belongs to the people. The question is though what is meant by democracy in Lao PDR? We have not examined this further in our study and we have not really received an answer of what democracy is in Lao PDR from the respondents. Despite this we believe that it is positive that the teachers do talk about democracy and the students have heard about it, showing that an important rule of law value is present in the education.

4.4 Conditions for the Legal University Education to Strengthen the Rule of Law

4.4.1 The Learning Environment

To enable a legal university education of good quality a supportive learning environment is required. The environment affects the students’ ability to learn and if it is not satisfying it is a risk that they can become uninvolved and receive lower grades. When examining the learning environment we learned that much of it have been improved in the recent years. A lot of support has been given to the FLP from different foreign donors, which have made it possible to invest in buildings and physical facilities. For example they nowadays have group-studying areas outside, a library, student dormitories and better access to the Internet.

Most of the students that we interviewed share the view that the learning environment has become better. Some of the students find it boring and that it is not conducive to learning, others are more satisfied. One of the students said that it is not mainly the environment that matters but competent teachers and good material. Another argued that the location of the

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168 Respondent 1S.
169 Respondent 2P.
170 Respondent 1S and 6S.
FLP is a problem since there is sounds and smells from the surrounding area.\textsuperscript{171} The teachers that we talked to believe that there are things left to develop when it comes to the environment. For example they find it hard to teach large student groups and would prefer to split the classes into smaller groups. A division of the classes can be difficult to achieve due to lack of rooms and teachers.\textsuperscript{172} Teaching in smaller groups are often much more efficient but more expensive in terms of money and human resources.\textsuperscript{173} One of the teachers told us that the FLP have quite enough physical facilities and that the students today can afford to buy their own computers. Another teacher expressed a wish to use the Internet and computers as tools when educating the students, but the FLP are not able to provide it.\textsuperscript{174} This is a problem also being recognized among the students. Facilities that can help to improve the education and make it more interactive, for example technical equipment like projectors and microphones are requested.\textsuperscript{175} Former graduated students have collected money and donated them to the FLP in order to help current students to get more physical facilities in hope of enabling a more improved learning environment.\textsuperscript{176}

Supporting facilities is an easy way for foreign donors to assist the development of a legal university education. On the other hand expensive equipment can often be viewed as a status symbol and be left unrepaired if it breaks down because of lack of money for maintenance and repairs.\textsuperscript{177} One problem with the equipment being viewed as a status symbol may be that it will not be used for fear that it will break. Another issue might be that some see the possession of the equipment as his or her personal belonging and are not willing to let others use it or placed with persons in a managerial position who does not need it or cannot use its full potential. After having conducted the interviews we understood the great value for the FLP of having suitable buildings and physical facilities. There were to some extent different opinions of what is still missing and needed in the learning environment. However, it was clear that the environment affects both students and teachers in their everyday work and that it among other things is a prerequisite to support a good education.

\textsuperscript{171} Respondent 2S and 4S.  
\textsuperscript{172} Respondent 2T and 3T.  
\textsuperscript{173} Bogdan, 1997, p. 150.  
\textsuperscript{174} Respondent 2T and 3T.  
\textsuperscript{175} Respondent 1S and 6S.  
\textsuperscript{176} Respondent 3T.  
\textsuperscript{177} Bogdan, 1997, p. 150.
4.4.2 Teaching Methods

Throughout history the teacher have traditionally been recognized as an expert who possesses all the answers. The role of the teacher has been to share its knowledge with the students by giving them the right answers. A modern teacher is to be viewed more like a guide, who can help the students in their learning process. This teacher does not provide the answers to the students but helps them to find them.\footnote{178} At the FLP a new approach regarding learning and how to teach have evolved during the latest years. A lot have been done to raise the pedagogical skills and competence among the teachers.\footnote{179} When talking to the teachers we learned that all of them use a more modern type of teaching method. One of them told us that the teaching method being used depends on what subject is being taught. Sometimes the information is provided to the students and on other occasions they have seminars with discussions. The students are also instructed to make presentations and encouraged to self-learning. Another teacher explained that the students usually are given an assignment for which they need to find the information by themselves. The students are taught the concept of the subject but are not receiving the answers.\footnote{180} There are syllabi for each course. They think that a syllabus is important so both the students and the teachers know what to learn in class.\footnote{181}

It was clear to us that these teachers’ way of teaching was not representative for the whole FLP. We were told that the younger teachers often use a modern method while the older were less willing to do so. The older generation might not even know how to use computers. Having a syllabus is not common among the teachers, approximately less than 40 % does. Many of the teachers are conservative and they like to do as they always have done. They are not interested in sharing the information with their students.\footnote{182} This picture was further confirmed when talking to the students. One student told us that: “the used teaching method depends on the teacher. Usually the teacher speaks and the students take notes. Some teachers that have been studying in other countries might use other ways, [...] group discussions.”\footnote{183}

\footnote{178} Boström et al., 2006, p. 7.  
\footnote{179} Respondent 2P.  
\footnote{180} Respondent 1T and 3T.  
\footnote{181} Respondent 1T, 2T and 3T.  
\footnote{182} Respondent 1T and 3T.  
\footnote{183} Respondent 2S.  

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In trying to learn more about the environment in the classroom we continued to ask if the students were able to discuss and argue with their teachers. We had heard that it has been considered rude if a student questioned or opposed a statement made by the teacher.\textsuperscript{184} We learned from the students that it in the past was difficult for the students to discuss with their teachers but that notion has changed to the better. Today there is a more open climate where they can express their opinion and share ideas. Almost all students indicated that the discussion climate depends on the teacher.\textsuperscript{185} One student said that it is the teacher that decides how much time that is given to questions. If the teacher thinks that it is “crazy” questions being asked, he or she will not answer them. Another issue is that most Lao people do not like to ask questions, it is not a part of the culture so many students stay quiet.\textsuperscript{186}

It seems like the teaching methods are gradually being developed. Some of the teachers, especially those who have been abroad and gained experience from other countries where other pedagogical methods are used, are trying to improve teaching by focusing on student-oriented activities and discussions. The teaching methods described and used by the teachers that we interviewed tend to support the students to become more active in class and to learn by themselves. These methods can easily be compared with the PBL method used at Umeå University. Apart from the method that encourages students to participate more actively in discussions it also allows teachers to be more flexible in teaching. The method can however be more demanding for the teachers, since they tend to lose some of the control of the content and direction of the subject being taught.\textsuperscript{187} This might be a reason why some of the older teachers are less willing to embrace new methods. The great advantage of the method is that it is believed to improve problem-solving skills and better long-life learning skills.\textsuperscript{188} It is essential that young graduates are able to find a plausible solution to a legal issue even when the standard sources do not provide an answer.\textsuperscript{189} By using the PBL method one can therefore argue that the students are more prepared for their future working life.

\textsuperscript{184} Bogdan, 1997, p. 150.
\textsuperscript{185} Respondent 1S, 2S, 4S and 6S.
\textsuperscript{186} Respondent 2S.
\textsuperscript{187} Boström et al., 2006, p. 9.
\textsuperscript{188} Ibid., p. 36.
\textsuperscript{189} Bogdan, 1997, p. 147.
4.4.3 Teaching Material

Previously there has been a great lack of legal literature in Lao PDR but during the years the number of textbooks have progressively increased. The textbooks are often translations made from Thai, Vietnamese or English. There is only but a few that are originally written in Lao language by Lao professors.\textsuperscript{190} When teaching students the teachers primarily use textbooks and Internet sources. One of the teachers told us that: "the textbooks are useful and can provide some basic information to the students but unfortunately the information is quite old why the material must be complemented."\textsuperscript{191} Most of the students also find the textbooks useful but in need of improvement. The textbooks cover a lot of theory and are not very interesting since they seldom have examples or pictures. They are often too basic and sometimes hard to understand.\textsuperscript{192} The ones that are written by Lao professors are easier to understand since they have not been translated. It is problematic with the translation of the textbooks because when being translated there is always something missing. The students must therefore use the Internet to be able to reach a deeper knowledge of the law.\textsuperscript{193} When asking the students about what the most important material they use in their education is, only one answered the textbooks. The others advocated the Internet and computers as the most important material.\textsuperscript{194}

Internet is a great source of information, which simplifies the availability of knowledge. One great issue is though that the information in Lao language is very limited and the language skills among the students leave much to be desired. When the students begin to study at the FLP all of them are taking a test in English to know which level they are at. Only 10\% of the students have enough English language skills to study basic law in English. To raise the English level among students and teachers is a high-priority of the LAO/023 project since language is viewed as a key to knowledge of law.\textsuperscript{195} Many of the students understand the value of languages and told us that they want to learn more, especially English.\textsuperscript{196}

The teachers that we interviewed all used, to some extent, case law in their teaching. Usually the cases are described to the students since it is hard for them to read the cases in English.

\textsuperscript{190} Respondent 2T.
\textsuperscript{191} Respondent 3T.
\textsuperscript{192} Respondent 1S, 2S, 4S and 6S.
\textsuperscript{193} Respondent 2S.
\textsuperscript{194} Respondent 6S.
\textsuperscript{195} Respondent 1P and 2P.
\textsuperscript{196} Respondent 3S, 8S and 9S.
One of the teachers argued that it is necessary to use case law to show the students the facts. Another said that it is important to discuss case law so the students get practical knowledge.\textsuperscript{197} Each of the students believes that learning through cases is important. It gives practical examples of how the law is used and helps us to understand more about the law.\textsuperscript{198} One of the teachers also want to make sure that the students learn to be critical of the sources they use when trying to find information.\textsuperscript{199} When we asked the students about this we learned that only two out of five students are used to critically analyse the material that they receive from their teacher or that they find by themselves.\textsuperscript{200}

We can see that the material used in the legal university education have been improved throughout the years. New textbooks have been written and others have been revised. By talking to the teachers and the students we understand that this trend is good but still not enough. To enable successful teaching a good and updated teaching material is essential. The content of the teaching material might still not be sufficient for using an interactive PBL method.\textsuperscript{201} This issue highlights that the development of the legal university education must take part at several levels. If the textbooks are improved and adapted it is more likely to succeed with a modern teaching method. A modern teaching method may in turn provide future legal professionals with improved problem-solving skills.

4.4.4 Teachers and Higher Legal Education

Aside from teaching method and material, the teachers are also central actors when trying to develop an education. By talking to the students we learned that the students believe that most of their teachers have good knowledge of the law. The ones that lack knowledge of the law are the teachers that teach in subjects that they have not studied. They might have studied something similar and they receive short training in the current subject before teaching the students.\textsuperscript{202} Some of the students argue that the teachers’ knowledge is not the problem, but the way they teach and communicate. It is the method used by some teachers that is the problem.\textsuperscript{203} One of the teachers believes that the teachers must learn more and work harder. All teachers need to improve themselves by taking part in seminars, getting a master or a

\begin{itemize}
\item \textsuperscript{197} Respondent 1T and 2T.
\item \textsuperscript{198} Respondent 4S.
\item \textsuperscript{199} Respondent 1T.
\item \textsuperscript{200} Respondent 2S and 6S.
\item \textsuperscript{201} Sannerholm, Haglund, (Working paper), p. 8.
\item \textsuperscript{202} Respondent 4S and 6S.
\item \textsuperscript{203} Respondent 2S and 4S.
\end{itemize}
Philosophiae Doctor (PhD). There is an awareness within the government that current teaching methodology being applied is often old fashioned and insufficient. The methodology is not helping the students to analyse the laws and do not encourage them to independent and creative thinking. The teachers are often seen as inexperienced and lack training in legal pedagogy.

The LAO/023 project is supporting teacher training and have a particular focus on developing teaching methodology for teachers. Teacher training is training of legal staff who are established as teachers at the FLP. The weakest teachers get support by interactive proposals in how to develop the teaching. They get to learn methodology, PBL, basic learning and that there are many different ways of learning. The teachers told us that they have the possibility to follow a teacher training course once or twice a year. There they meet other teachers and participate in group activities where they discuss and share ideas. They can participate in training programmes, which aim is to improve teaching, syllabi, textbooks etc. The possibility to attend training abroad is very limited due to lack of financial support. If the teachers want to get legal training abroad they can apply for scholarships and internships.

At the FLP the highest level of degree is the master programme. The quality of the master is however low and it would not be recognized anywhere outside Lao PDR. It is not possible to get a PhD within the country so the teachers must go abroad to get it. There has been an attempt to initiate a PhD programme in Lao PDR but it takes time and it is not yet available. Most of the teachers are associate professors but some of them are unqualified due to the lack of independent review. The LAO/023 project is trying to support academic research at the FLP by giving financial support and by arranging training courses and workshops in how to do research. The research that is conducted at the FLP is however very basic and is more quantitative than qualitative. Due to lack of available sources, interview studies is mainly conducted. Academic research is still in its infancy but the FLP have begun to understand the value and importance of academic research because of the ASEAN

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204 Respondent 2T.
205 LSMP, 2009, p. 43.
206 Respondent 2P.
207 Respondent 1T, 2T and 3T.
208 Respondent 1P.
209 Respondent 1T.
210 Respondent 2P.
cooperation. The ASEAN are making an evaluation of legal educations in all member state countries. In comparison with other countries Lao PDR does not want to be outdone, why there is a desire to improve the academic research.

There is a lack of people who can do research in Lao PDR and the interest in academic research and teaching law is also limited due to low salaries. The government have made an attempt to raise the status of the teaching profession by increasing the salaries but there is still much that is left to be done. One of the students told us that no one wants to become a teacher because of the low salaries. As a teacher you are not able to support yourself on the teacher salary but must work extra. The ones that apply to become a teacher today are former students with low grades. The ones with good grades seek other more well-paid jobs. The respondent is questioning: “if the students that do not have high knowledge of law become teachers how is it then possible to give the new students a good education?” To enable a higher level of education it is important that the FLP are able to keep the talented teachers that they have. By giving them access to teacher training and scholarships it is more likely that they will stay.

4.4.5 The Quality of the Legal University Education

Having a legal university education of high quality can be viewed as a precondition in becoming a rule of law state since an education of high quality can provide competent legal professionals. All of the students that we interviewed believe that the quality of their education is average, not too bad nor too good. The teachers have a similar view. One of the teachers is of the opinion that the low quality of the legal university education is an urgent issue. In comparison to other Asian countries the quality of the education in Lao PDR is low. Even if it has become better it is still not good enough. Because of the poor quality it will be hard for Lao students to compete for jobs with students from other countries. Another issue is that the education at the FLP is a university education but it is pursued as primary school training. Everybody get in and everybody get out. Usually a university faculty is an elite, but not here. There is a great gap between the students’ knowledge, which result in the best students are pulled down by the ones that are lower skilled. Much of the quality of the

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211 The NUOL is a member of the ASEAN University Network who conducts the evaluations.
212 Respondent 1P and 2P.
213 Respondent 1P.
214 Respondent 2S.
215 Respondent 1P.
216 Respondent 1S, 2S, 4S, 6S and 9S.
217 Respondent 3T.
education depends on which teacher the students get.\textsuperscript{218} To be able to get students with a high knowledge of law and students that are capable of analysing and questioning what they learn the education must improve. We believe that the quality of the legal university education is interlinked with the development towards becoming a rule of law state. If the education becomes better it will help to shape competent students that are used to problem solving. If the students for example become better in English they can learn much from other countries, which will help Lao PDR in the development towards becoming a rule of law state.

4.5 \textit{Ways to Improve the Legal University Education}

To change the organization of education takes a generation one of the respondents answered when we asked about the education, and it is clear that there are a few factors that need to improve in the legal university education at the FLP. One big problem in Lao PDR is that there is no reading culture or intellectual curiosity; this in combination with lacking skills in English creates a weak basis of knowledge. The students and teachers need to improve their English skills and their will to learn. Changes have occurred at the faculty. There are more students in the library and the project tries to encourage the students to learn new things for their own sake. The LAO/023 project has also created an online English learning space so that the students can improve their English by themselves. The English language is a key for the students to achieve deeper knowledge and learn from other countries, this can also create awareness about the current situation in the country. English language knowledge has also become prioritised from the government side due to Lao PDR’s membership in ASEAN and English being the official language in the association. In this sense the will exists in Lao PDR for students to get better at English but the problem is implementation.\textsuperscript{219}

Institutional matters are also an area that needs to improve for the legal education to work in a more efficient way. When interviewing one of the project employees the respondent argued that matters such as transparency, participation and communication are presented as important factors to get a functional and sustainable faculty. Another great problem for the faculty is the same as for Lao PDR as a country, corruption. It creates distrust among people at the faculty, that people put their own interest before the public interest. For this situation to change and improve, good examples are needed from all different levels in the society and at the faculty.

\textsuperscript{218} Respondent 1P.
\textsuperscript{219} Ibid.
The respondent believed that it is important that it exists a belief that things can become better in the future if corruption stops. Changing the mentality at the faculty is a big challenge but an important factor to be able to improve the faulty in a sustainable way. The FLP also needs to get more in contact with the society and get a wider view at law and establish a rule of law thinking.  

We also asked the students what they believed could improve in their education. One of the students believed that the teachers need to improve their teaching method especially when it comes to using textbooks and other materials. The student also believed that there should be bigger opportunities for students to go abroad to learn better English and learn how the education is pursued in other countries. Two other students believed that the practical experience needs to improve in the education as well as the knowledge among the teachers. One of the students brought up the same matter as one of the project respondents did, namely transparency. The student believed that for the education to develop and improve there must be more transparency at the FLP. The present situation at the FLP is according to the student that students can bribe a teacher to get higher grades. The student believed that this does not only hinder the development of the education but also create students that graduate without any real legal knowledge. The student also believed that to improve the education there needs to be better conditions for the teachers when it comes to salaries so that more ambitious students want to become teachers.

When interviewing the teachers about what could be improved in the legal university education one of the teachers believed the students and the teachers need to get better knowledge about the Lao legal system. This because it is important when comparing with other legal systems. The teacher also believed that the education is in need of more money in order to develop and expand to the rural areas. Another teacher considered that the material that the students use need to improve and develop, in some subjects the students have no textbooks and other material. The teacher also thought that the teachers need to improve their skills by participating in more seminars and take master degree and PhD. It is important the

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220 Respondent 2P.
221 Respondent 6S.
222 Respondent 4S and 9S.
223 Respondent 2S.
224 Respondent 1T.
teacher said that the teachers at the FLP get deeper knowledge to provide to the students. Another teacher saw a great risk with the low quality of the education in the future. This mainly because of the ASEAN Economic Community, a regional economic integration by 2015 in the ASEAN countries which will among other things mean that ASEAN will transform into a region with free movement of goods, service, investment, skilled labour, and freer flow of capital. The teacher feared that since the quality of education is low in Lao PDR the students will not have a chance to compete for jobs in the ASEAN countries. If Lao PDR as a country and students should have a chance to compete in the ASEAN market, the standard of the university education need to improve. One important factor that the teacher believed needed to improve was the learning and teaching process but also that the board at the faculty should listen more to the students and what they want from their education. After talking to the LAO/023 project employees, students and teachers we found that there are mainly three important factors that need to be improved in the legal university education; English skills, in-service training for the teachers and the institutional area, meaning improving the physical and institutional capacity of the faculty.

5 Analysis

The concept of rule of law is not static and there is no specific definition that works for every country. Instead the concept has to be viewed and applied in the context where it is going to exist with respect to the core values of rule of law. We realised early in our study that we could not discuss the rule of law directly with the students and the teachers since many of them were unfamiliar with the term rule of law. Instead we had to talk about rule of law values and how the education is being performed to be able to understand how the FLP promotes the rule of law in the legal university education and how the legal university education can be developed in order to strengthen the rule of law.

5.1 How the FLP Promotes the Rule of Law in the Legal University Education

To make generalization claims when conducting qualitative interviews are difficult from a scientific point of view since it is difficult to examine the validity of the study. Another issue

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225 Respondent 2T.
226 Respondent 3T.
228 Respondent 3T.
in our study is also that we only talked to ten students and three teachers, which cannot be viewed as representative for the whole FLP. Despite this we can make general assumptions in what way the rule of law is promoted in the legal university education. In our opinion rule of law values such as separation of powers, access to justice, transparency and democracy are present in the legal education in the sense that most of the students have heard about these values and can explain what they mean. Despite this we got the impression that the students had knowledge about the values but could not relate them to each other, express the importance of the values or the consequences if they are absent in a country. The legal university education needs to provide the possibility for students to deal with legal problems through independent analysis of various sources of law.\textsuperscript{229} In our opinion this is lacking at the FLP. This problem was also presented to us during one of the interviews with the teachers. One of the teachers did not teach about transparency, equality of law and democracy since the teacher believed that it was not a part of the subject, but in our opinion it clearly was. One of the project respondents then explained to us that the teachers do not view subjects as crosscutting, even though they are. If the teachers do not have the possibility to connect different subjects to each other this will not be something that will be present in the legal university education and the students will not be familiar with analysing and discussing their knowledge.

During the interviews with the students we partly wanted to focus on their knowledge about the law. As presented the students had good knowledge about the constitution. Many of the students did though believe that the laws in the country are hard to understand and there is really not any tools provided from the legislature on how the law should be interpreted. To have good knowledge about the laws, that the laws are easy to understand but also to have access to the law are important factors in a rule of law state. This since if you do not have knowledge about the law it will be harder to claim your rights. If the laws are not easy to access the consequence will be that the people in the country, who the laws are supposed to protect will not have knowledge about them. If the laws are unclear and there are no tools for how to interpret the law there is a big risk that the laws will not be predictable since it is not clear how they should be applied. The students themselves also raised the issue with lack of knowledge when we discussed access to justice. They believed that the problem with access to justice is that people in the rural areas do not have access to justice because they do not

\textsuperscript{229} Bogdan, 1997, p. 147.
have knowledge about their rights and the legal institutions. For the FLP to promote rule of law in an effective way in the legal education we are of the opinion that more focus have to be on the Lao legal system, which is the same opinion as one of the teachers expressed. If the students do not have knowledge about the laws how can they question them and examine their legality? If the students who in their profession will work with Lao laws do not have good knowledge about them, how will they be able to explain it to others? We believe that for the students to understand the concept of rule of law they need to have good knowledge about their own legal system and its weakness. Since the concept of rule of law is not static and needs to be viewed and applied in the context where it is going to exist, the students at the FLP need to understand the Lao context. If the students do not have knowledge about the Lao laws and the legal system it can be in our view problematic for them to understand the Lao context.

The LAO/023 project promotes rule of law indirectly at the FLP by inter alia focusing on the teachers. By giving the teachers the possibility to get scholarships to go abroad and learn from other educational systems but also by presenting rule of law values in the teacher training, rule of law is promoted indirectly. The respondents from the LAO/023 project are of the view that it is more sustainable to focus on the teachers and create an understanding among them about the concept of rule of law; we are partly of another opinion. We agree that it is important to focus on the teachers as rule of law enablers since the students learn from their teachers. At the same time we learned that some of the students themselves become teachers. Many of the students will also be working in positions were they will have the possibility to work with rule of law values and will be able to affect the progress of rule of law in Lao PDR. By focusing more on the students the FLP can create a deeper knowledge among them about rule of law. It could also be a forum were the students can discuss with each other and reflect about the importance of rule of law values as well as an understanding of their own legal system and what may be missing.

The rule of law is not promoted directly in the legal university education but indirectly by teaching the students about the rule of law values. This is a good start and a positive progress for the legal university education to be an actor in strengthening the rule of law in Lao PDR. The legal university education at the FLP needs to take the next step and teach the students

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230 See chapter 4.5.
about how the values are connected to each other and in what way the values are important in a justice system. Another important factor of promoting rule of law in the legal university education is the environment of the education. The FLP have in cooperation with the LAO/023 project developed the legal university education by building new classrooms and a new library but also developed the teaching material and other physical facilities. The teaching methods have also made a great progress since the teachers are using different kind of methods such as seminars and group discussion when teaching. The environment in the classrooms has also changed in the sense that the students are able to ask more questions to the teachers and discuss with the teacher. The FLP have succeeded in creating a stable foundation at the faculty for knowledge to develop and have thereby taking a great step in promoting the rule of law. By teaching students to question and analyse the material that they use in the education could possibly mean that these students will do the same in their future professions. Students with deep knowledge about the law and with the ability to question the same are an important way for the legal education to be a part of the rule of law progress in Lao PDR.

5.2 How the Legal University Education can be Developed in order to Strengthen the Rule of Law

In a rule of law state the law regulates the exercise of state power and serves the role of safeguarding the people from the state. To reach this goal in a country as Lao PDR, there is a lot that must be improved. To develop the legal university education is one way of reaching the target. Education is a good arena to act on since it affects many people at different levels. The main obstacles for reaching the target of becoming a rule of law state are the same for the legal university education as for the society, corruption. The corruption in the country is widespread at all levels in the society. In the education it is present through bribes that is given from the students to the teachers and it can also be seen as a result of the low salaries of the teachers. To understand the great problems of corruption in Lao PDR it must be viewed not only from the perspective of the education but also from the society as a whole. When it comes to follow the law there are not many incentives to do so since it is common that people act on their own behalf and serve their own interest. Corruption creates big gaps among the people in the society and prevents transparency and equality of the people. It may also be a reason for why Lao PDR still is a least developed country. It is clear that corruption hampers the development of both the education and the society in becoming a rule of law state. Stuart-Fox means that: “the only way of limiting corruption in a society is through the rule of
but simultaneously one can argue that the only way of reaching rule of law is by limiting the corruption. The two are interlinked and somehow dependent on each other. To be able to achieve rule of law the corruption must decrease. How this is accomplished is easier said than done. We argue that there must be key persons within the system that are willing to change. If governmental officials, teachers and other officials set an example it might affect others as well. If people see that the rules work as they should they will have a greater belief in that the law is followed and handled correctly. To be able to develop the legal university education in order to strengthen the rule of law a main path is therefore to take action against the corruption both at the university and in the society.

Corruption is the biggest institutional problem at the faculty together with lack of transparency, participation and communication. All these areas need to improve in order to become a rule of law state. The LAO/023 project has by its own way of working been a good example of how work can be done in a predictable and transparent way. By this way of working rule of law values are present in how the institutions are ruled without being proclaimed upon the faculty. This is a good way of trying to change the cultural mentality at the FLP and we hope that it will prevail. It would also be fruitful if other channels were used in order to develop the communication and participation and make the people at the faculty more aware of corruption and transparency. As argued above we can see that many people have good knowledge about corruption and transparency but that they often lack the ability of putting it in a context and for example reflect upon how it affects the education at the FLP. By discussing the issues more openly in seminars, in class or at meetings more people would become conscious. On the other hand it might be a more difficult way of attacking the subject since corruption and transparency can be sensitive subjects to talk about. During our time at the FLP our perception was that the climate was open regarding discussing these types of problems and we therefore believe that a more direct channel also can be feasible. When changing and developing institutions it is essential to talk about the mentality among the staff and the students. If the mentality is that there is no legality of the law the state lacks a foundation in becoming a rule of law state. In Lao PDR there is a lack of legal tradition and no culture of intellectual curiosity or questioning. When trying to find key persons within the system that are willing to change the way of teaching it is further important to transform the mentality to be able to achieve a sustainable result. The people must believe in what they

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231 Stuart-Fox, 2006, p. 69.
strive towards and be confident in that they do it for their own sake. Once again it is important with good examples from others, for example from the LAO/023 project but also from the state. By highlighting the problems of corruption, transparency and predictability at the faculty it is possible that the people will get more aware and that they by themselves can work as key persons from the inside. We therefore argue that a more open channel of discussion with the staff and students at the faulty can help to develop the mentality among the people.

When arguing that the legal university education must be improved in order to strengthen the rule of law in the country one must remember that Lao PDR has a young legal system and that they have not had too many years to be able to develop a rule of law state. Since the constitution was adopted in 1991 only 23 years has past. For example it has taken Sweden and other countries more than 100 years to develop a functional legal system so it would be wrong saying that Lao PDR should achieve the same at one-fourth of the time. In the recent years the development in the country has gone forward and much have been accomplished. The membership in ASEAN can be an incentive in trying to develop the standards especially within English language but also the legal education. The adoption of the LSMP is another example of development. Lao PDR has through the LSMP stated that they want to become a rule of law state and have shown an awareness of the country’s problems that need to be handled. In the Vientiane Times, which otherwise is a cautious newspaper, one could recently read that corruption is a threat against the country’s development and that action must be taken in order to change it.232 The development in Lao PDR is in progress but more time is required before tangible results can be seen.

When conducting our study our focus has been on the FLP, how rule of law is present in the legal university education there and how the education can be developed to be able to strengthen the rule of law within the country. Even if much have been done and is ongoing at the faculty there is still many things that the education can improve. One of the main things that must be developed is that the students must learn to analyse and question the legal material that they use. We argued above that there is a great problem that the teachers sometimes lack knowledge and that the students do not learn a critical way of thinking. This is important so the students can become competent legal professional in the future. The FLP can work on providing an environment that encourages questioning and independent thinking. We

232 Times-reporter, 15/12/2014.
know that the project is trying to promote the students to learn by themselves, which is great but the students must not only learn by themselves, they must also be able to analyse what they learn. If they can analyse and question we are positive that they will become more conscious and thoughtful as legal professionals. One way of achieving this goal is to improve the teaching methods at the faculty. By using a more interactive method like the PBL method the students will hopefully improve their problem-solving skills. Using case law can also help the students to understand the practice of law. Even though Lao PDR lacks domestic case law the ones from international courts can be used to a greater extent. Dividing the student groups into smaller groups may also be a way of raising the knowledge among the students. Today many of the talented students are being pulled down of the ones being lower skilled. If the teaching can be carried out in groups made after ability we are certain that more students could receive a more adapted education. The teaching method is often well established why change must be made with great sensibility. The change is not only technical but the culture of learning must be adapted, which will take time. The students’ level of English must also increase. If the students become better in English they can access more legal material and get influences from other countries. To learn from other countries is necessary when trying to develop the own country. The English level can increase through more lectures but also by providing opportunities for the students to go abroad.

Crucial for the development of the education at the FLP is competent teachers. The work of teacher training and promotion of academic research must improve in order to get competent teachers. This development is somehow interlinked with the status of the profession and the low salaries. Some attempts have been made to raise the salary of the teachers and hopefully it will give results. Meanwhile the faculty can once again work with the mentality among the staff and the students. By presenting a good working environment and highlight the role of the teacher as a guide with the mission to help the students in their working processes they might attract some students to become teachers and perhaps encourage the teachers that already work to continue on their careers.

In summary the legal university education at the FLP must continue to educate their staff. By having different forums promoting professional development it can be performed. Promotion of academic research is essential to reach a higher quality of the education. Competent teachers will create competent students. It is necessary that the faculty can provide an environment where development of own abilities are encouraged and promoted. Achieving
change in the area is further dependent on adoption of the culture and the mentality among the people at large in the country. To be able to develop the education one cannot ignore problems like corruption and transparency. These issues must be present and discussed to enable a supportive environment with capacities and resources.

5.3 Conclusions and Ways Ahead

After conducting our study at the FLP our opinion is that the rule of law is present in the legal university education at two different levels. By focusing on developing teaching material, teaching methods, teacher training, academic research and other physical facilities, FLP creates a foundation for enabling the promotion of rule of law. With a stable foundation such as this, the FLP are able with support from the LAO/023 project to enable the presence of rule of law values in the education. This by creating an environment to discuss rule of law values in the classrooms but also by making the values present in the curriculum. The rule of law values are further present in how the LAO/023 project operates at the FLP. By showing the FLP the positive ways of working with values such as transparency the project can indirectly affect how the institutional work at the FLP can be conducted.

The legal university education is a good arena for changing attitudes and norms. This because the students after they have graduated will work in various arenas and institutions. By having a legal university education that graduate students with good knowledge about the law and an understanding of the legal system and its importance in the society enables sustainability. In our opinion it is sustainable since the former students carry knowledge that make them serve as key persons in developing the society. They can bring new ideas and methods to their workplaces and thereby improve and develop the culture or mentality within that institution. A big problem in Lao PDR is not only the need of development in the legal university education but also in the whole educational system. Many primary and secondary schools in Lao PDR are inadequate, especially in the rural areas of the country. A consequence of this is that the level of knowledge among the students that begin to study at the FLP is low. We can therefore see that there is not only a need of developing the legal university education but also revise the education within the country. By doing so the students that will continue to study will be better prepared to conduct a higher legal education and the gaps between the students’ knowledge at the university can be reduced.
To be able to reach success with a rule of law project we believe that the concept needs to be locally based. In Lao PDR the formal part of the rule of law concept is present since they have a constitution, existing laws and judicial institutions. Despite this the substantive parts of the concept are not present since many laws are not applied and the judicial system does not work in an effective way. When laws are not equally applied to all people in a country and it is difficult to access to justice it can create a mentality among the people that there is no supremacy of law. We believe that this is one of the main obstacles for Lao PDR in becoming a rule of law state. To change the current situation there needs to be a will to change attitudes to rule of law at all different levels of the society, both from the leaders of the country as well as from the citizens. We are of the opinion that to become a rule of law state, reform needs to come from different community stakeholders, education being one of them. If Lao PDR is able to inter alia get functioning judicial institutions and change the mentality among the people they have a great possibility in becoming a rule of law state based on their own conditions. An effect of becoming a rule of law state is that it enables respect for human rights and democracy in a society. After conducting our study we strongly believe that the legal university education is an important rule of law enabler in Lao PDR.

For the legal university education to be a more effective rule of law enabler we believe that there are some parts that need to be developed. The main obstacle for the legal university education today is the quality. We think that the teachers need to improve their knowledge, that the admission requirement to the education must become higher and the requirements for graduating need to be stricter. We are of the opinion that enabling an environment that promotes academic research is essential in reaching a deeper level of knowledge among the teachers and later on also among the students.
Bibliography

Official documents
Constitution of Lao People’s Democratic Republic, No. 25/NA, 06/05/2003.

Law on anti-corruption, No. 03/NA, dated 19/05/2005.

Decree on Associations, No. 115/PM, dated 29/04/2009.


A/RES/67/97, The rule of law at the national and international levels, resolution of the United Nations General Assembly, 14/01/2013.

Literature


**Articles**


Times-reporter. NA members call for the uprooting embezzlement, *Vientiane Times*, 15/12/2014.


**Reports**


Transparency International. *Corruption Perception Index 2014*. Accessed through:


**Other sources**


Information folder, *Community Legal Education – Law on the go*. Faculty of Law and Political Science, National University of Laos, Lao-Luxembourg Development Cooperation.

Information folder, *Strengthening the Rule of Law through Legal University Education – LAO/023*. Lao-Luxembourg Development Cooperation, Faculty of Law and Political Science, National University of Laos.


Interviews

Respondent 7S, Student, 14/11/2014.
Respondent 8S, Student, 14/11/2014.
Appendix 1
Questions for student interviews, part I

1. Why do you study law?
2. What do you want to work with after you have graduated?
3. What do you think is the most important subject that you learn about in your education?
   a. Why do you think that is important?
   b. Is there something that you miss in your education?
4. Is a constitution important?
   a. Why?
5. Do you know about the concept of the rule of law?
6. What does the rule of law mean to you?
7. Do you learn about the rule of law in your education?
8. Do you know about separation of powers?
9. What does separation of powers mean to you?
10. Do you learn about separation of powers in your education?
Appendix 2

Questions for student interviews, part II

The legal education
1. Do you have to study law to be able to work with law?
2. What kind of material do you use in your education?
   a. Are the textbooks written in Lao or in other languages?
3. Do you question the content of the material that you get in your education?
4. When you study what is the most important material that you use?
5. How is the learning environment here at the faculty?
6. What teaching method is used in your education?
7. In your opinion, do your teachers have good knowledge about the law?
8. Are you able to question what the teacher says?
9. Do you think the quality of your education is good?
10. Do you think it would be good if the student could influence their education?

The rule of law
1. How is a law created in Lao PDR?
   a. Can you follow the process of the law?
   b. Do you learn about how a law is created in your education?
2. Who needs to follow the law?
3. Is it important to follow the law?
   a. What happens if you don’t follow the law?
4. Is the law equally applied to all?
5. Who is the law supposed to protect?
6. Do you have knowledge about the existing laws in Lao PDR?
   a. How do you find the laws? (Are they easy to access?)
   b. How do you get information about new laws?
   c. Do you learn about this in your education?
7. Are the laws easy to understand?
   a. Do you use case law?
8. In your opinion, what is corruption?
   a. What are the consequences of corruption?
9. What is access to justice?
   a. How do you achieve access to justice?
   b. Do you learn about access to justice in your education?
10. What is a democracy?
    a. Do you learn about democracy in your education?
11. What does equality mean to you?
    a. What is equality of law?
    b. Do you learn about equality of law in your education?
12. What is the purpose with a court?
    a. If a person is judged by the court to go to jail, is there a problem if the person doesn’t go to jail?
13. In your opinion how does the relation work between the judiciary, parliament and the administration?
Appendix 3

Questions for teacher interviews

The rule law

1. Are you familiar with the rule of law?
2. What does rule of law mean to you?
   a. Do you teach the students about rule of law?
   b. Is there a Lao version of rule of law? (General concept?)
3. What do you know about separation of powers?
   a. Do you teach the students about separation of powers?
4. What is access to justice?
5. How do you achieve access to justice?
   a. Do you teach the students about access to justice?
6. Who needs to follow the law?
   a. Are these questions present in the legal education?
7. Who is the law supposed to protect?
8. Do you use case law in the legal education?
9. Do you teach the students about values such as equality in law, democracy and transparency?
10. How is a law created in Lao PDR?
    a. How do you find the laws? (Are they easy to access?)
    b. How do you get information about new laws?
    c. How do you teach the students about this?
    d. If the law is unclear how do you teach the students to interpret?

The legal education

11. What kind of material do you use when educating?
    a. What do you think of the material that you use?
12. How is the learning environment here at the faculty?
13. What teaching method do you use?
14. Do you use a syllabus?
    a. Is a syllabus important?
    b. Is the rule of law included in the syllabus?
15. What do you think of the quality of the education here at the faculty?
16. Are the students active in the classroom?
    a. Are the students able to argue or discuss with you?
17. Is there some area where the students are lacking knowledge?
18. What is the biggest challenge when you teach?
19. How are your opportunities to teacher training?
20. How are the possibilities to make academic research at the faculty?
21. Do you think it would be good if the students could influence their education?
22. In what way do you think that the education can be improved/developed?
Appendix 4
Questions for project employee interviews

Could you make a small summarize of what the project is working on right now and what the project have accomplished so far.

1. What progress has been made in the legal education since the project started?

2. How does the project define the rule of law?
   - Is there a problem that you haven’t defined it?
   - Is there a problem that the project have another definition than the government have?

3. In what way have you worked with the rule of law as a part of the legal education?
   - Is it taught?
   - What method is used?
   - Is it a part of the syllabus?

4. Do the teachers have good knowledge about the rule of law?
   - How do the project work to increase the knowledge of the concept among teachers?

5. Do the students have good knowledge about the rule of law?
   - How do the project work to increase the knowledge of the concept among students?

6. How are the possibilities to make academic research at the faculty?
   - Is it possible to become a PhD student or a professor at the faculty?
   - Are there any professors at the faculty?
   - Is this something that the project is trying to support?

7. What are the biggest challenges with the project?

8. What is left to be done?
   - How can the legal education be improved?

9. What are the obstacles for Lao PDR to be able to become a rule of law state?

10. Change through legal education takes time, how do you know that a project with the aim to strengthening the rule of law is efficient?
    - How do you make it sustainable after you leave?