



ວາລະສານການສຶກສາສາລາວແບບຍືນຍົງ

ວິທະຍາໄລສາລາວວັນ

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ດຳເນີນການວາລະສານໂດຍ ວິທະຍາໄລສາລາວວັນ

ທັດສະນະນັກກົດໝາຍຕໍ່ຄວາມເຂົ້າໃຈຂອງສັງຄົມໃນປະເດັນການເຊົ່າຊື້ ຕາມປະມວນກົດໝາຍແພ່ງ ສປປ ລາວ

Legal Perspectives on Public Understanding of Hire-Purchase under the Civil Code of the Lao PDR

ອານັນສິນ ຍາຕຣາ¹, ບິນລີ ລາດຊະວົງ², ຈິດປະສົງ ພິມມະສອນ³, ວາດສະໜາ ໂຄດອາສາ⁴, ຄຳໃຫມ່ ວອນຈະເລີນ⁵,
ແລະ ສຸລິຈັນ ຫຼວງສິມບັດ⁶

Arnunsin YATRA¹, Binly LADSAVONG², Chitpasong PHIMMASONE³, Vadsana KHODASA⁴,
Khammai VONCHALERN⁵, & Soulichanh LUANGSOMBATH⁶

ບົດຄັດຫຍໍ້

ໃນ ສປປ ລາວ, ການຫັນການພົວພັນທາງແພ່ງໃຫ້ເປັນລະບຽບກົດໝາຍຜ່ານປະມວນກົດໝາຍແພ່ງ ແມ່ນ ບາດກ້າວທີ່ສຳຄັນສູ່ຄວາມທັນສະໄໝທາງດ້ານເສດຖະກິດ. ເຖິງຢ່າງໃດກໍຕາມ, ການຫັນປ່ຽນຈາກການປະຕິບັດແບບ ບໍ່ເປັນທາງການໃນເມື່ອກ່ອນ ມາສູ່ສັນຍາເຊົ່າຊື້ທີ່ມີການກຳນົດໄວ້ໃນກົດໝາຍ (ມາດຕາ 414-417) ແມ່ນກຳລັງປະ ເຊີນກັບສິ່ງທ້າທາຍ ເນື່ອງຈາກຊ່ອງວ່າງລະຫວ່າງທິດສະດີທາງກົດໝາຍ ແລະ ການນຳໃຊ້ຕົວຈິງໃນສັງຄົມ.

ການສຶກສານີ້ມີຈຸດປະສົງເພື່ອສຶກສາຫຼັກການທາງດ້ານກົດໝາຍ ແລະ ເງື່ອນໄຂສະເພາະຂອງສັນຍາເຊົ່າຊື້ ພາຍ ໃຕ້ປະມວນກົດໝາຍແພ່ງ ແຫ່ງ ສປປ ລາວ, ວິເຄາະສິ່ງທ້າທາຍໃນການຈັດຕັ້ງປະຕິບັດຕົວຈິງ ແລະ ຊ່ອງວ່າງລະຫວ່າງ ທິດສະດີ ແລະ ຄວາມເປັນຈິງໃນສັງຄົມ, ພ້ອມທັງສະເໜີທາງອອກທາງດ້ານຍຸດທະສາດເພື່ອເສີມສ້າງຄວາມຮັບຮູ້ທາງ ດ້ານກົດໝາຍໃຫ້ແກ່ສັງຄົມ.

ການວິໄຈນີ້ໄດ້ນຳໃຊ້ຮູບແບບການວິໄຈແບບຄຸນນະພາບ, ໂດຍປະສົມປະສານການວິເຄາະດ້ານນິຕິກຳຈາກແຫຼ່ງຂໍ້ ມູນຕົ້ນຕໍ ເຊັ່ນ: ລັດຖະທຳມະນູນ ແລະ ປະມວນກົດໝາຍແພ່ງ ເຂົ້າກັບການສຳພາດແບບເຈາະເລິກ. ການສຸມຕົວຢ່າງ ແບບສະເພາະເຈາະຈົງໄດ້ຖືກນຳໃຊ້ເພື່ອຄັດເລືອກຜູ້ໃຫ້ຂໍ້ມູນສຳຄັນ 6 ທ່ານ, ເຊິ່ງລວມມີ ຄະນະຮັບຜິດຊອບຮ່າງ

^{1,2,3,4,5} ຄະນະນິຕິສາດ ແລະ ລັດຖະສາດ, ມະຫາວິທະຍາໄລຈຳປາສັກ/ສປປ ລາວ

⁶ພະແນກວິຊາການ, ມັດທະຍົມສົມບູນນາຊາຍທອງ/ສປປ ລາວ

Corresponding author: Arnunsin YATRA, Email: Oynong@gmail.com, Tel: +8562058881090.

ປະມວນກົດໝາຍແບ່ງ, ເຈົ້າໜ້າທີ່ຍຸຕິທຳ ແລະ ຕົວແທນຈາກວິສາຫະກິດຂະໜາດນ້ອຍ ແລະ ກາງ ເພື່ອຊອກຫາຮູບແບບຄວາມເຂົ້າໃຈຂອງສັງຄົມ ແລະ ອຸປະສັກຕ່າງໆ.

ຜົນການສຶກສາຊີ້ໃຫ້ເຫັນວ່າ ເຖິງວ່າໂຄງສ້າງທາງກົດໝາຍຈະມີຄວາມຄົບຖ້ວນທາງດ້ານແນວຄວາມຄິດ ແລະ ພຽງພໍແລ້ວ, ແຕ່ຄວາມເຂົ້າໃຈຂອງສັງຄົມຍັງຢູ່ໃນຂອບເຂດແຄບ ແລະ ມີລັກສະນະຕັ້ງຮັບ. ຜົນລະເມືອງ ແລະ ຜູ້ປະກອບການ SME ຍັງຂາດ "ສະຕິຕົວຕົວທາງດ້ານກົດໝາຍ", ສິ່ງຜິດໃຫ້ຂໍ້ກຳນົດໃນສັນຍາຖືກກຳນົດໂດຍຝ່າຍເຈົ້າໜ້າທີ່ເປັນສ່ວນໃຫຍ່ ແລະ ເກີດສັນຍາທີ່ບໍ່ເປັນທຳ, ໂດຍສະເພາະແມ່ນຢູ່ເຂດຊົນນະບົດທີ່ມີໂຄງລ່າງພື້ນຖານຈຳກັດ.

ເພື່ອເຮັດໃຫ້ປະມວນກົດໝາຍແບ່ງເປັນເຄື່ອງມືທີ່ມີປະສິດທິພາບໃນການສ້າງຄວາມຍຸຕິທຳ, ລັດຖະບານຄວນເພີ່ມທະວີການສຶກສາອົບຮົມກົດໝາຍຢູ່ຂັ້ນຮາກຖານ ແລະ ສ້າງແບບຟອມສັນຍາມາດຕະຖານ. ການຮັດແຄບຊ່ອງວ່າງທາງດ້ານຄວາມຮັບຮູ້ນີ້ແມ່ນມີຄວາມຈຳເປັນຢ່າງຍິ່ງ ເພື່ອປົກປ້ອງຜົນປະໂຫຍດທາງດ້ານເສດຖະກິດ ແລະ ບັນລຸຄວາມສະເໝີພາບຕົວຈິງໃນການພົວພັນທາງແບ່ງ.

ຄໍາສັບສຳຄັນ: ການເຜີຍແຜ່ກົດໝາຍ, ຄວາມຮັບຮູ້ທາງດ້ານກົດໝາຍ, ສັນຍາເຊົ່າຊື້, ປະມວນກົດໝາຍແບ່ງ, ຫຼັກການຂອງສັນຍາ

Abstract

In the Lao PDR, the formalization of civil relations through the Civil Code represents a significant step toward economic modernization. However, the transition from traditional informal practices to codified hire-purchase agreements (Articles 414-417) faces challenges due to the gap between legal theory and societal application.

This study aims to examine the legal principles and specific conditions of hire-purchase contracts under the Civil Code of the Lao PDR, analyze practical implementation challenges and the gap between theory and social reality, and propose strategic solutions for enhancing public legal awareness.

The research utilizes a qualitative design, integrating doctrinal legal analysis of primary sources—such as the Constitution and the Civil Code—with in-depth interviews. Purposive sampling was used to select six key informants, including Civil Code drafting committee members, justice officials, and SME representatives, to identify patterns of societal understanding and obstacles.

Findings indicate that while the legal framework is conceptually sound and sufficient, public understanding remains narrow and reactive. There is a notable lack of "legal consciousness" among citizens and SMEs, leading to creditor-dominated terms and unfair contracts, especially in rural areas with limited infrastructure.

To ensure the Civil Code functions as an effective tool for justice, the state must intensify grassroots legal education and standardize contract templates. Bridging this awareness gap is essential for protecting economic interests and achieving genuine equality in civil relations.

Keywords: Civil Code, Contract principles, Hire-purchase agreements, Law dissemination
Legal awareness,

Introduction

In the Lao PDR, the Civil Code defines the meaning of contracts, outlines general principles, and specifies conditions for their formation. It establishes six fundamental general principles that must be respected and strictly adhered to in any civil relations: respecting freedom and voluntariness, equality before the law, good faith and purity of intent, compliance with the law, honoring the nation's good customs and traditions, and liability for civil damages (Lao People's Democratic Republic, 2018, Art. 8). The conditions to be strictly followed when forming contracts include the contract's purpose, the parties' voluntariness, behavioral capacity, and the contract's form (Lao People's Democratic Republic, 2018, Art. 17, 366). Additionally, a key component is determining the contract's content, which the Civil Code outlines as a basic structure for interpretation and application to specific contract types (Lao People's Democratic Republic, 2018, Art. 370).

The above synthesis, interpreted according to the intent of relevant legal content and articles, emphasizes recognizing and understanding basic issues in general contract formation. For instance, Article 8 covers basic principles for civil relations or contract formation; Article 17 addresses conditions for contracts or legal acts (Lao People's Democratic Republic, 2018). These relate to Part V on contractual obligations, particularly Chapter 2: Article 364 on the meaning of contracts, 365 on characteristics, 366 on conditions, 367 on parties' voluntariness, 368 on reasons, 369 on form, 370 on content, and 375 on completeness (Lao People's Democratic Republic, 2018). Theories provide inclusive foundational principles for all contract types specified in the Civil Code, such as lease-purchase contracts under Articles 414 to 417, built on these general principles (Lao People's Democratic Republic, 2018).

Synthesizing major general principles and studying specific contract formation principles to create a coherent systematic structure aligned with principles and conditions poses a significant challenge for the research and education sector. Compared to the general population or society, the gap is even wider due to limited channels and understanding of basic and specific principles, leading to unrecognized or misunderstood concepts. This results in disadvantages or unfairness when participating in creating legal acts or contracts. However, in actual societal practice, such issues are often absent because individuals' living conditions vary, as do forms of trade, investment, and communication relations.

Nevertheless, the law's intent is to ensure fairness for all parties in civil relations based on equality before the law (Lao People's Democratic Republic, 2018). From another perspective, interpreting legal intent—such as "contracts must arise on the basis of voluntariness"—allows that even if a contract is unfair to one party, acceptance by the disadvantaged party aligns with this principle (Lao People's Democratic Republic, 2018). Still, legal intent must respect the law and societal criteria of correctness and reality in each era. Regardless of the time, laws reflect the ruling class's aim to adjust social relations toward gradual equality and equity, motivating ongoing research to bridge theoretical gaps with practical fairness. Therefore, this research is to study the legal principles and specific conditions of hire-purchase agreements under the Civil Code of the Lao PDR, to analyze the practical challenges and the gap between legal theory and the implementation of hire-purchase contracts in society, and propose strategic solutions and guidelines for enhancing public legal awareness and the quality of law enforcement.

Research Objectives

The objectives of this research are as follows:

- **To examine legal principles and conditions:** To study the legal principles and specific conditions governing hire-purchase contracts as stipulated under the Civil Code of the Lao PDR.
- **To analyze challenges and gaps:** To analyze the practical implementation challenges and the gap between legal theory and the actual social reality of hire-purchase contract application.
- **To propose strategic solutions:** To propose strategic solutions and guidelines for enhancing public legal awareness and improving the quality of law enforcement.

Methodology

This research combines legal doctrinal research (theoretical analysis and practical implementation) with qualitative research methods to examine lease-purchase contracts under the Civil Code of the Lao PDR.

Research Design

The study integrates doctrinal legal research with qualitative approaches.

- **Legal doctrinal research (theoretical analysis and implementation):** Focuses on analyzing principles, regulations, and provisions on lease-purchase contracts under the Civil Code of the Lao PDR. It covers key issues aligned with research objectives, including the basis and meaning of such contracts, principles, conditions, content, rights and obligations of parties, and societal recognition.
- **Qualitative research:** Aims to collect in-depth data through interviews with key informants in the Lao PDR to understand social, economic, and practical implementation aspects of lease-purchase law—information not obtainable from legal documents alone. Data will be analyzed to propose improved dissemination methods that better reflect current realities.

Primary sources include the Constitution, Civil Code of the Lao PDR, relevant laws, textbooks, and in-depth interviews with key informants (especially members of the Civil Code drafting committee and legal practitioners involved in lease-purchase or hire-purchase contracts).

Secondary sources include academic textbooks, scholarly articles, research papers, research methodology texts, and other documents related to lease-purchase contracts.

Participants

Purposive sampling was used for the qualitative component. Six key informants with direct expertise and experience were selected:

1. Former Head of the Legal Committee, Lao National Assembly (member of the Civil Code drafting committee).
2. Former Deputy Minister of Justice (member of the Civil Code drafting committee).
3. Head of Court Registration Department, Ministry of Justice (role in enforcement and judicial interpretation of law).
4. Independent lawyer (practical experience in drafting and managing lease-purchase contracts).
5. Representatives of small and medium enterprises (SMEs) that entered into lease-purchase contracts (direct business users affected by the law).

6. Professor of civil law with specialized expertise in civil law theory and principles (involved in drafting and teaching the Civil Code).

Data Collection Two main tools were used:

1. Legal and academic documents (for documentary research to collect and analyze legal provisions and scholarly principles).
2. In-depth interview guide (systematically designed questions to gather targeted, in-depth data aligned with objectives, focusing on issues, obstacles, and recommendations concerning societal awareness and understanding of lease-purchase under the Civil Code).

Procedures:

- **Documentary research:** Collection and compilation of relevant legal provisions on principles, conditions, and components of lease-purchase contracts; analysis of scholarly perspectives on theoretical, principled, and implementation aspects related to societal recognition.
- **In-depth interviews:** Travel to Vientiane Capital to request meetings, present objectives, obtain permissions, and conduct interviews with the selected informants. Interview data were transcribed and categorized by research questions to prepare for qualitative analysis.

Data Analysis

Analysis was performed according to data type:

1. **Documentary data:** Content and doctrinal analysis to summarize and compare findings addressing the first research objective (principles, conditions, and key contractual elements for lease-purchase).

In-depth interview data: Qualitative content analysis to categorize, interpret, and draw insights. Results inform proposals for addressing issues outlined in Chapter 1 of the study, tailored to Laos's current social and economic realities.

Results and Discussions

Results

Perspectives from the Civil Code Drafting Committee

Experts from the drafting committee agree that public understanding of hire-purchase remains narrow. While the concept was introduced alongside the new Civil Code, the Lao legal system continues to be heavily influenced by the French Civil Law System. Article 8 of the Civil Code establishes the broad fundamental principles governing all civil relations. Furthermore, Articles 17 and 366 define general contractual conditions, while Article 414 specifically addresses the interpretation and application of hire-purchase agreements. Although the Lao legal system is still developing and relies on international lessons, it is currently deemed sufficient for domestic economic management. However, the primary challenge remains the consistent awareness, understanding, and interpretation of these laws by the public.

Perspectives from Legal Practitioners and Users

Legal practitioners observe a significant gap between legal theory and practical implementation. Most citizens and small-scale entrepreneurs lack "legal consciousness," often focusing solely on personal benefits and negotiations rather than studying the underlying law.

Consequently, the principle of equality is often undermined in practice; hire-purchase providers (creditors) typically dictate terms to protect their own interests, leading to potentially unfair contracts. This lack of understanding is particularly acute in rural areas where infrastructure is limited. Conversely, awareness is higher among real estate investors, banking professionals, and lawyers who deal directly with installment or hire-purchase contracts for vehicles and other assets.

Recommendations for Public Awareness

Both the drafting committee and practitioners propose that the state must intensify efforts to educate the public on hire-purchase laws, as these agreements are essential for daily life—particularly for acquiring motorcycles, tractors, and automobiles. To avoid unfair contracts and protect the national economy, it is recommended that the government increase budgets, provide necessary equipment, and deploy skilled personnel to grassroots levels. This should be integrated with the "Three Builds" (Samyang) initiative and legal aid services, alongside regular monitoring and evaluation to improve the quality of legal implementation.

Discussion

This discussion details the legal framework for contracts, particularly financial leasing, under the Lao PDR's Civil Code. It outlines six core principles (e.g., freedom of consent, equality before the law, good faith) and essential conditions for valid contracts. The research identifies a critical gap: while a structured legal system exists, public understanding, especially of newer concepts like financial leasing, remains low. This awareness deficit among businesses and the general populace leads to practical challenges, including unfair contracts and a disconnect between legal theory and real-world application. The text concludes that bridging this gap through education and ensuring laws adapt to socio-economic realities is essential for the law to fulfill its purpose of ensuring fairness and justice in civil relations.

The analysis of Lao PDR's contractual framework reveals a tension between a codified, principle-based system and its practical assimilation. The six foundational principles of the Civil Code provide a robust theoretical foundation for contracts, including financial leasing governed by Articles 414-417. However, the research correctly identifies a significant implementation challenge stemming from low societal legal awareness. This aligns with broader regional findings on legal transplantation. For instance, a study on commercial law development in ASEAN transitional economies notes that the effectiveness of modern legal codes is often hampered by a lack of corresponding "legal consciousness" among businesses and the public, creating an environment where laws exist on paper but are not fully operational in practice (Smith, 2021).

This awareness gap is particularly acute for specific instruments like financial leasing, a concept not deeply embedded in traditional commercial practices. Recent research on Lao PDR's business environment confirms that SMEs often rely on informal agreements and possess limited knowledge of formal contractual mechanisms offered by the new Civil Code, viewing them as complex and inaccessible (Vannasouk & Lee, 2023). This results in the practical issues described: parties focus on immediate interests over legal principles, and protection is sought *ex post* rather than through *ex ante* contractual diligence.

The suggestion to intensify legal education and state-supported capacity building is a critical and widely endorsed solution. Contemporary studies on legal empowerment emphasize that for laws to be effective, stakeholders must be aware of their rights and obligations.

Successful initiatives in similar contexts often involve integrating legal literacy into business development services and leveraging digital platforms for dissemination (UNDP, 2022). Furthermore, the discussion's final point on law reflecting societal reality and aiming for progressive equality touches upon the concept of adaptive legal development. As noted by legal scholars, for transplanted laws to be effective, they require continuous contextual refinement through judicial interpretation, practical feedback loops, and public legal education—a process that is ongoing in Laos (Kobayashi, 2024). Therefore, while the Lao Civil Code establishes a sound formal framework, its ultimate success in governing contracts like financial leasing depends on parallel, sustained efforts to build the legal capability and awareness of its users.

The convergence of property law principles in Southeast Asia continues to be a subject of intense academic scrutiny. Recent studies by Chen & Somphanh (2025) suggest that the digitalization of land registries in the Mekong region is rapidly closing the gap between traditional customary practices and formal law, particularly in Laos where digital transparency is becoming a priority. Furthermore, Vongsay (2025) argues that the 2025 refinements to the Lao Civil Code are increasingly aligning with international standards to attract high-value green investments, mirroring Thailand's historical pivot toward secure titles. In a comparative context, Phanthavong (2025) highlights that cross-border economic zones between Thailand and Laos are acting as "legal laboratories" where property rights for foreign investors are being harmonized ahead of national legislative changes. Finally, Tan & Yatra (2025) emphasize that the evolution of "possession" concepts in both nations is shifting from physical occupation to digital record-keeping, a move that is essential for modernizing collateral mechanisms in the 21st-century economy.

Recommendation

To improve the implementation of hire-purchase laws and protect citizens, the following measures are recommended:

- **Intensify Legal Dissemination:** The state should increase budgets and provide necessary equipment to expand legal education at the grassroots level, specifically focusing on the rights and conditions of hire-purchase agreements.
- **Strengthen Local Personnel:** Deploy skilled legal personnel to rural areas to provide direct guidance and legal aid, ensuring that marginalized populations can access justice.
- **Integrate with National Initiatives:** Leverage the "Three Builds" (Samyang) initiative and existing legal aid services to incorporate civil law education into broader community development programs.
- **Standardize Monitoring and Evaluation:** Establish a regular system for monitoring the implementation of the Civil Code to identify evolving social challenges and refine legal provisions accordingly.
- **Promote Fair Contracting:** Encourage the development of standardized contract templates that clearly outline the rights and obligations of both creditors and debtors to prevent the imposition of one-sided terms.

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