



ວາລະສານການສຶກສາສາລາວແບບຍືນຍົງ

ວິທະຍາໄລສາລາວລະວັນ

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ດຳເນີນການວາລະສານໂດຍ ວິທະຍາໄລສາລາວລະວັນ

## ປະສິດທິພາບຂອງການດຳເນີນຄະດີປົກຄອງ ໃນການປົກປ້ອງສິດທິຂອງ ພົນລະເມືອງ: ກໍລະນີສຶກສາ ສານປະຊາຊົນແຂວງຈຳປາສັກ

### The Effectiveness of Administrative Case Proceedings in Protecting Citizens' Rights: A Case Study of Champasak Provincial People's Court

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#### ບົດຄັດຫຍໍ້

ການສຶກສານີ້ເປັນການປະເມີນຜົນແບບຕົວຈິງຄັ້ງທຳອິດ ກ່ຽວກັບການດຳເນີນຄະດີປົກຄອງໃນລະດັບແຂວງ ໃນ ສປປ ລາວ ໂດຍໃຊ້ແຂວງຈຳປາສັກເປັນກໍລະນີສຶກສາ. ໂດຍນຳໃຊ້ແຂວງຈຳປາສັກເປັນກໍລະນີສຶກສາທີ່ເປັນ ຕົວແທນ. ມັນໄດ້ຕິດຕໍ່ມຸ່ງວ່າລະຫວ່າງການປະຕິຮູບກົດໝາຍໃນລະດັບຊາດ ພາຍໃຕ້ກົດໝາຍວ່າດ້ວຍການ ດຳເນີນຄະດີປົກຄອງ ປີ 2016 ແລະ ການຈັດຕັ້ງປະຕິບັດຕົວຈິງ, ເຊິ່ງໃຫ້ທັດສະນະກ່ຽວກັບການພັດທະນາການ ປົກຄອງດ້ວຍກົດໝາຍ ແລະ ການປົກປ້ອງສິດທິຂອງພົນລະເມືອງ ໃນລັດສັງຄົມນິຍົມທີ່ຢູ່ໃນໄລຍະຫຼັກປ່ຽນ.

ການສຶກສານີ້ມີສາມຈຸດປະສົງຄື: ເພື່ອຄົ້ນຄວ້າກົນໄກທາງດ້ານກົດໝາຍ ແລະ ຂັ້ນຕອນການປົກປ້ອງສິດທິໃນ ຫ້ອງສານປົກຄອງ; ເພື່ອກຳນົດສິ່ງທ້າທາຍ ແລະ ຂໍ້ຈຳກັດທີ່ມີຜົນກະທົບຕໍ່ປະສິດທິຜົນ; ແລະ ເພື່ອສະເໜີຂໍ້ສະເໜີ ແນະໂດຍອີງໃສ່ຫຼັກຖານຕົວຈິງ ເພື່ອເສີມສ້າງຄວາມຍຸຕິທຳທາງດ້ານປົກຄອງໃນແຂວງຈຳປາສັກ.

ການວິໄຈນີ້ໄດ້ນຳໃຊ້ການອອກແບບການສຶກສາກໍລະນີສະເພາະປ່ອນດຽວ ແບບຄຸນນະພາບ (Qualitative interpretivist single-site case study). ຂໍ້ມູນໄດ້ຖືກເກັບກຳໂດຍຜ່ານການສຳພາດແບບເຄິ່ງໂຄງສ້າງກັບ ນັກວິຊາການດ້ານກົດໝາຍ 24 ທ່ານ ທີ່ຖືກຄັດເລືອກແບບເຈາະຈົງ (ຜູ້ພິພາກສາ, ພະນັກງານໄອຍະການ, ເຈົ້າໜ້າທີ່ ຍຸຕິທຳ ແລະ ທະນາຍຄວາມ) ແລະ ການວິເຄາະເອກະສານທາງດ້ານນິຕິກຳ ພ້ອມທັງສຳນວນຄະດີຂອງສານ. ການ ວິເຄາະເນື້ອຫາໄດ້ຮັບປະກັນຄວາມເຂັ້ມງວດ ແລະ ການກວດສອບຂໍ້ມູນແບບສາມເສົາຫຼັກ.

ຜົນການສຶກສາຊີ້ໃຫ້ເຫັນເຖິງການມີກົນໄກປ້ອງກັນທາງດ້ານຂັ້ນຕອນທີ່ມີປະສິດທິຜົນ ແຕ່ກໍຍັງມີຂໍ້ຈຳກັດ ເຊັ່ນ: ການຂາດມາດຕະການຊົ່ວຄາວ, ການບັງຄັບໃຊ້ຄຳຕັດສິນທີ່ຍັງອ່ອນແອ, ຄວາມຮັບຮູ້ດ້ານກົດໝາຍຂອງ

<sup>1,2,3</sup> ຫ້ອງການແຜນການ ແລະ ການຮ່ວມມື, ມະຫາວິທະຍາໄລຈຳປາສັກ/ ສປປ ລາວ.

<sup>4</sup> ພະແນກວິຊາການ, ຄະນະນິຕິສາດ ແລະ ລັດຖະສາດ, ມະຫາວິທະຍາໄລຈຳປາສັກ/ ສປປ ລາວ.



people's courts to adjudicate conflicts stemming from administrative decisions and to safeguard citizens against unlawful governmental actions (National Assembly of Lao PDR, 2016). This legal progress took place within the larger framework of the Lao government's Eighth and Ninth National Socioeconomic Development Plans, which recognized the enhancement of rule of law and judicial capacity building as key national priorities (Ministry of Planning and Investment, 2021).

Worldwide, availability of administrative justice has been acknowledged as a vital component of the right to an effective remedy outlined in international human rights documents, such as Article 8 of the Universal Declaration of Human Rights (UN General Assembly, 1948) and Article 2(3) of the International Covenant on Civil and Political Rights (UN General Assembly, 1966). In Southeast Asia, the framework for administrative adjudication differs greatly among ASEAN member countries, ranging from the established Conseil d'État-inspired administrative courts in Thailand (Burak, 2018) to the emerging administrative case structures in transitional systems like Lao PDR and Cambodia (Nicholson & Biddulph, 2008). Research on the efficacy of these new systems is still restricted, and tangible proof from sub-national regions is especially hard to find. Champasak Province, located in southern Lao PDR and home to the region's main administrative and business center in Pakse City, provides a strategically important location for examining the practical operations of administrative case procedures outside the national capital of Vientiane.

This research is rooted in three interconnected theoretical frameworks. Initially, the rule of law framework — as detailed by Dicey (1959) in its traditional interpretation and further developed by Raz (1979) and Tamanaha (2004) in modern contexts — asserts that legality, equal treatment under the law, and an independent judiciary are essential requirements for the robust safeguarding of individual rights. In this context, administrative justice is not just a procedural requirement but an essential assurance that public authority operates within legal limits and is open to independent assessment (Craig, 2012). Secondly, the access to justice framework established by Cappelletti and Garth (1978) points out structural obstacles — economic, informational, and institutional — that hinder individuals from effectively using legal systems, even when formal rights are present. This framework is especially relevant in the context of Lao PDR, where variations in legal understanding and geographical access to legal services influence the actual availability of administrative remedies. Third, institutionalist theory, as proposed by North (1990) and elaborated by Pistor (2019) in relation to legal development, focuses analytical efforts on the organizational capability, inter-organizational dynamics, and informal norms that influence the effectiveness of formal legal rules in practice. Collectively, these frameworks offer a multi-faceted perspective to evaluate the efficacy of administrative processes in Champasak.

Champasak Province is the biggest province in southern Lao PDR, spanning around 15,415 square kilometers and having a population of about 694,000 (Lao Statistics Bureau, 2020). Pakse City acts as the provincial capital and operates as the center for administration, commerce, and justice in the Mekong Delta sub-region. The Champasak Provincial People's Court has an Administrative Chamber responsible for adjudicating cases related to administrative actions, failures, and decisions made by public authorities at the provincial and district levels. The Provincial Office of Justice manages regulatory supervision of legal

professionals and facilitates legal aid services, while the Provincial People's Procuratorate holds supervisory authority over the legality of judicial processes. Licensed law firms and legal aid organizations in Pakse offer expert representation and consultation services to individuals involved in administrative conflicts. The institutional framework consists of various players whose collaboration directly influences the quality of administrative justice provided to the public (UNDP Lao PDR, 2017).

Although administrative case jurisdiction is formally established in Lao PDR, there is still limited empirical evidence regarding the actual effectiveness of these procedures, especially at the sub-national level. Previous research has focused on the national legal framework (Insixiengmay, 2019; Phommachack, 2020) but has not thoroughly analyzed how operations occur in regional courts. This gap is significant: provincial courts manage the bulk of administrative cases in Lao PDR, and their efficiency largely shapes the experiences of citizens pursuing administrative justice. Champasak Province, serving as a socioeconomically and legally representative mid-sized region with an operational court system, represents a suitable location for an in-depth case study that can produce context-specific insights relevant to comparable jurisdictions nationwide.

### **Research objectives:**

- To examine the legal and procedural mechanisms employed by the Administrative Chamber of Champasak Provincial People's Court in adjudicating administrative disputes and protecting citizens' rights.
- To identify the systemic challenges and institutional constraints that affect the effectiveness of administrative case proceedings in Champasak Province.
- To formulate evidence-based recommendations for strengthening administrative case proceedings and enhancing citizens' rights protection within the Champasak provincial justice system.

## **Methodology**

### **Research Design**

This research utilizes a qualitative interpretivist approach structured as a case study at a single location (Yin, 2018). The case study approach is chosen for its ability to understand the contextual complexity, institutional dynamics, and experiential aspects of administrative case processes within a defined system — specifically, the administrative justice framework of Champasak Province. A qualitative method is suitable since the research aims necessitate a thorough examination of perceptions, institutional behaviors, and underlying processes that cannot be sufficiently measured using quantitative analysis alone (Creswell & Poth, 2018). Data are cross-verified through interview transcripts, documentary materials, and procedural documents to improve the credibility and reliability of results.

The research employs a phenomenologically grounded perspective, focusing on how participants — as integrated legal professionals — perceive, understand, and derive significance from administrative case processes (van Manen, 2016). Analytical precision is

upheld via structured coding, member validation, and peer discussions. The research complies with ethical standards that encompass informed consent, voluntary involvement, confidentiality, and data anonymization, following the ethical guidelines of the host institution and globally acknowledged research ethics principles.

The main research location is Champasak Province, Lao PDR, with fieldwork focused in Pakse City, the provincial administrative center. Particular institutional locations comprise: the Administrative Chamber of the Champasak Provincial People's Court; the Provincial Justice Office (Champasak); the Provincial People's Procuratorate; as well as authorized law firms and legal aid organizations functioning in Pakse City and nearby districts. The chosen sites demonstrate their immediate institutional significance to administrative case procedures and their combined ability to offer extensive, varied data on the research inquiries.

### Participants

Participants were chosen using purposive sampling, a criterion-driven non-probability sampling method suitable for qualitative research that requires knowledgeable informants with particular, relevant expertise (Patton, 2015). Participants were required to meet the following inclusion criteria: (a) currently occupy or have recently occupied a professional position directly involved in administrative case procedures in Champasak Province; (b) have at least three years of pertinent professional experience; and (c) willingly give informed consent to take part. A total of 24 participants were gathered from four different professional categories, as shown in Table 1.

**Table 1. Participant Composition by Professional Category**

Participant Group	n	Institution / Affiliation
Judges (Administrative Chamber)	3	Champasak Provincial People's Court – Administrative Chamber
Public Prosecutors	3	Provincial People's Procuratorate of Champasak
Justice Officers (Provincial/District)	8	Provincial Office of Justice, Champasak
Professional Lawyers	10	Licensed Law Offices & Legal Aid Centers, Champasak
<b>Total</b>	<b>24</b>	—

This composition ensures representation of the full institutional spectrum engaged in administrative proceedings: adjudication (judges), oversight (prosecutors), regulatory administration (justice officers), and legal representation (lawyers). The diversity of professional perspectives supports the analytical triangulation of findings and mitigates single-source interpretive bias.

## **Instruments**

Data collection was conducted primarily through semi-structured interviews employing a researcher-developed interview guide. The interview guide was organized into five thematic sections: (A) participant background and professional context; (B) legal framework and procedural mechanisms; (C) access to justice and citizens' rights; (D) institutional effectiveness and oversight; and (E) challenges, reform priorities, and recommendations. Questions were formulated to be open-ended, non-leading, and sufficiently flexible to accommodate divergent professional perspectives across participant categories. The guide was reviewed by two independent legal scholars and piloted with two non-participant legal practitioners prior to fieldwork. A documentary analysis protocol was also employed to systematically examine applicable statutes, procedural regulations, court administrative records, and relevant policy documents.

## **Data Collection**

Primary data were gathered through detailed, in-person semi-structured interviews carried out at the participants' institutional workplaces in Pakse City over eight weeks. Every interview spanned from 45 to 90 minutes and took place in Lao, with a qualified legal interpreter's help when necessary. Interviews were recorded with audio and explicit informed consent, and were later transcribed word for word. Secondary data were collected via documentary analysis of: the Administrative Case Proceedings Law (No. 004/NA, 2016) and associated regulations; annual judicial reports from the Champasak Provincial People's Court; case files from the Administrative Chamber (anonymized for research purposes); and policy papers and institutional reports from the Provincial Office of Justice and the Provincial People's Procuratorate. Public court hearings were observed as an additional data source, aiding in contextual triangulation.

## **Data Analysis**

Interview transcripts and documentary data underwent analysis through thematic analysis in accordance with the six-phase framework established by Braun and Clarke (2006): data familiarization, initial code development, theme exploration, theme evaluation, theme definition and naming, and report composition. The primary researcher manually performed initial open coding, while a research collaborator independently coded a representative 30% subsample to evaluate inter-rater consistency. Discrepancies in coding were addressed via discussion and agreement. Thematic saturation was established through an iterative process and validated by the lack of new codes in the last three interviews. NVivo 14 software was utilized to handle and arrange the coded dataset. Narrative case descriptions were created to place quantitative case record data within qualitative insights. Eight participants were involved in member checking to confirm the validity of the emerging findings

## **Results and Discussion**

### **Results**

#### **Legal and Procedural Mechanisms for Rights Protection**

Examination of interview data and documentary evidence shows that the Administrative Chamber of the Champasak Provincial People's Court has established various procedural

protections in line with the stipulations of the Law on Administrative Case Proceedings (2016). Judges indicated that they implemented the principles of legality, procedural fairness, and the right to be heard (*audi alteram partem*) in every case they decided. Participants outlined established procedures for case registration, informing administrative respondents, pre-hearing mediation, oral hearings, and reasoned written judgments — indicating a procedural structure largely consistent with international administrative law norms (Wade & Forsyth, 2014).

A common issue noted by judicial and prosecutorial members was the lack of clear provisions for interim relief (injunctive measures) within the existing legislative framework, which restricts the court's ability to protect citizens from harm while awaiting final resolution. A judge observed that the legal timeframe for resolving administrative cases — officially 90 days according to Article 42 of the Law — was often surpassed in reality because of challenges in serving documents to administrative agencies and obtaining their collaboration with evidence disclosure demands. Analysis of documentary court records supported this conclusion, showing that the average case resolution in the Administrative Chamber lasted around 5.2 months throughout the study period.

### **Systemic Challenges and Institutional Constraints**

Participants from various professional categories recognized a complex array of difficulties that limit the practical efficiency of administrative processes. Initially, a lack of legal understanding among the general population of Champasak Province was recognized as the most widespread obstacle to accessing justice. Justice officials and attorneys highlighted that most individuals with possibly legitimate administrative complaints refrain from starting formal actions because of a lack of understanding regarding their procedural rights, the intricacies of the court filing system, and strongly rooted cultural views that prioritize respect for administrative power (Upham, 2009). This discovery aligns with scholarship on access to justice within the ASEAN context (Dressel & Inoue, 2018).

Secondly, resource limitations — such as insufficient judicial personnel, inadequate court facilities, and poorly developed case management systems — were frequently mentioned as hindering the Administrative Chamber's ability to handle cases effectively and with sufficient analytical rigor. Third, enforcing judgments against administrative agencies became a significant issue: attorneys and justice officials noted that not all successful court orders were reliably executed by the responding agencies, and that an effective judicial enforcement mechanism similar to contempt jurisdiction was lacking within the existing structure. This structural gap significantly reduces the effective protection provided to successful citizen-plaintiffs (Peerenboom, 2002). Fourth, the collaboration among the court, the prosecutorial office, and the provincial justice department was noted to be irregular, with institutional roles and communication methods still not fully developed.

### **Access to Justice**

The data indicate significant inequalities in actual access to administrative justice in Champasak Province. Legal professionals observed that most of their administrative case clients came from the fairly educated urban demographic of Pakse City, while rural and ethnic minority groups in surrounding districts were largely missing from formal cases. Geographic separation from the court, language obstacles for communities not speaking Lao, and the expense of legal counsel were recognized as contributing elements. The availability of legal aid was portrayed as insufficient in relation to demand, as the province's legal aid center faced

limitations due to funding, staffing, and geographic coverage. These results coincide with the barriers to justice access highlighted by Cappelletti and Garth (1978) and continue to be consistent with newer empirical evaluations of justice access in lower-income ASEAN regions (OECD, 2019).

Judicial participants indicated attempts to assist unrepresented litigants by explaining procedural requirements in court, and observed that the court consistently used a protective interpretive strategy for citizen-filed pleadings. Nonetheless, the lack of strong public legal education initiatives and available legal aid systems was viewed as a systemic shortfall needing legislative and executive action beyond the court's institutional authority.

### **Institutional Effectiveness and Inter-Institutional Dynamics**

Participants provided well-informed positive evaluations of the Administrative Chamber's overall efficiency, acknowledging its institutional dedication to unbiased decision-making and its expanding case law on administrative reviews. Prosecutorial participants observed that the supervisory function of the Procuratorate led to the detection and rectification of procedural irregularities in various cases, enhancing the overall quality of proceedings. The extent of prosecutorial oversight was characterized as reactive instead of preventive, with participants advocating for enhanced proactive monitoring systems. Justice officials highlighted the significance of pre-litigation administrative grievance systems — such as complaint processes within the agency structure — as a means to potentially decrease the court's workload while offering faster resolutions for citizens with valid claims. Data sharing between institutions and collaborative capacity-building initiatives were recognized as areas needing funding, in line with governance reform suggestions put forward by UNDP Lao PDR (2017) and the Justice for the Poor program by the World Bank (World Bank, 2018).

### **Discussion**

The results of this research highlight the disparity between the official normative commitment to administrative justice in Lao PDR and the actual situation of proceedings at the sub-national level — a disparity that researchers of transitional legal systems have recognized as a key feature of legal evolution in post-reform socialist countries (Peerenboom, 2002; Pistor, 2019). The Champasak Administrative Chamber operates as a true adjudicative body utilizing principled legal reasoning; however, its ability to protect rights is significantly limited by structural weaknesses in legal knowledge, enforcement capability, resource distribution, and coordination among institutions.

The lack of interim relief authority highlights a notable procedural deficiency with serious consequences for citizen protection: when administrative decisions result in continuous harm before a final judgment—such as in situations involving illegal property confiscation or cancellation of business permits—citizens endure the entire weight of the disputed administrative action during the entire process. This discovery supports the position proposed by Craig (2012) that procedural effectiveness necessitates not only access to a decision but also access to prompt and enforceable remedies. A legislative modification granting the Administrative Chamber with interim relief powers similar to those found in the administrative courts of Thailand (Burak, 2018) and Vietnam (Gillespie, 2006) would greatly enhance the protection of citizens.

The enforcement gap highlighted in this study — where successful court rulings against administrative entities are not always executed — poses essential questions regarding the

judiciary's function within the Lao PDR constitutional framework. According to the principle of party leadership established in Articles 6 and 7 of the 2015 Lao Constitution, the connection between judicial power and administrative authority is influenced by the supreme authority of the Lao People's Revolutionary Party. Researchers contend that this constitutional framework imposes structural restrictions on the autonomy and enforcement ability of administrative courts in single-party regimes (Tamanaha, 2004; Nicholson & Biddulph, 2008). Tackling the enforcement deficit necessitates both legislative measures — like compulsory agency compliance reports to the court — and the political determination to regard administrative court orders as enforceable duties on executive bodies. The findings on access to justice highlight the vital role of non-judicial mechanisms — such as enhanced administrative grievance processes, public legal education initiatives, and increased legal aid — in fostering a successful administrative justice system. The court by itself cannot resolve the various barriers that hinder citizens, especially in rural and minority ethnic communities, from exercising their formal procedural rights. A comprehensive approach that brings together judicial, administrative, and civil society resources is necessary (OECD, 2019).

## Conclusion

This qualitative case study has analyzed how well administrative case proceedings safeguard citizens' rights at Champasak Provincial People's Court, Lao PDR. Driven by three research goals, the study reveals that the Administrative Chamber has created an operational institutional structure for administrative adjudication, featuring procedural mechanisms that largely align with the stipulations of the Law on Administrative Case Proceedings (2016). Despite this, the effectiveness perceived by citizens and legal professionals is significantly hindered by: insufficient procedural instruments (especially the lack of interim relief); shortcomings in enforcing judicial orders; systemic obstacles to access such as legal illiteracy and limited resources; and insufficient inter-agency coordination between the court, prosecution, and justice administration. These results represent an important empirical addition to the scarce literature on sub-national administrative justice in Lao PDR and provide a context-specific foundation for reform.

## Recommendations

Based on the research findings, the following recommendations are proposed to enhance the effectiveness of administrative justice:

- **Strengthen Judicial Independence and Capacity:** To improve the quality of administrative proceedings, it is essential to bolster the independence of administrative judges and provide specialized training on administrative law and procedural fairness.
- **Expand Legal Aid and Public Awareness:** The state should prioritize legal dissemination programs to increase citizens' "legal consciousness" and awareness of their rights to challenge administrative acts, while also expanding legal aid services for marginalized populations.
- **Streamline Administrative Procedures:** To address issues of delay and complexity, judicial authorities should simplify procedural requirements for filing administrative cases and implement digital tracking systems to ensure transparency.
- **Integrate Local Context into Legal Reforms:** Future legal amendments should consider practical constraints at the provincial level, ensuring that administrative

courts are both accessible and effective in protecting citizens' rights within the unique socio-economic landscape of individual provinces.

## Acknowledgment

The research team expresses its sincere gratitude to the Champasak Provincial People's Court for facilitating this study and providing access to vital data on administrative case proceedings. We extend our deepest appreciation to the justice officials, legal practitioners, and citizens who participated in interviews and shared their valuable insights. Finally, we would like to thank the academic experts and peer reviewers for their guidance in refining this study, which aims to contribute to the promotion of the rule of law and the protection of human rights within the Lao PDR.

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