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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27) Toxic waste (1995-14)
THA 3/2013

2 April 2013

Excellency,

We have the honour to address you in our capacities as Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes pursuant to Human Rights Council resolution 19/10, 16/4, 15/21, 16/5, 17/5, and 18/11.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **killing of environmental human rights defender Mr. Prajob Nao-opas**.

Killings of environmental and land rights defenders were the subject of a joint allegation letter sent to your Excellency's Government on 9 January 2013 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women. We acknowledge receipt of a response from your Excellency's Government to this communication on 20 March 2013.

According to the information received:

Mr. Prajob Nao-opas, aged 43, was leading a campaign of local villagers in the districts of Phanom Sarakham-Ban Sang and Plaeng Yao in Chachoengsao province, initiated in February 2012. Several ponds in the area were allegedly filled with dangerous chemicals from industrial estates along Thailand's eastern seaboard. Reportedly, water sources and farmland have been contaminated by a wide number of toxic substances, including carcinogenic phenol, at a level 30 times the safety limit. Many dumpsites are located on high ground, resulting in toxic waste running off and entering waterways and ponds.

Sources indicate that Mr. Prajob Nao-opas led local communities in their protests at the alleged pollution of their water sources and farmland, and that he managed to attract national media attention to the issue in August 2012. Following such exposure, the Department of Special Investigations (DSI) reportedly prioritised its investigation of the case.

In December 2012, Mr. Prajob Nao-opas allegedly received warnings from the Chachoengsao police that there might be an attempt on his life. It has been reported that since then, he was frequently followed and photographed by unidentified men on motorcycles. Sources inform that he reported these incidents to the police, without any visible measures having been taken by the police to ensure his security.

On 25 February 2013 at approximately 2:00 p.m., Mr. Prajob Nao-opas was at a garage on the Phanom Sarakham-Ban Sang in the Chachoengsao province's Phanom Sarakham district, waiting for mechanics to repair his pick-up truck.

As he was waiting, he was shot four times with 11mm bullets by an unknown gunman who escaped in a getaway car. Villagers reportedly rushed him to hospital, but Mr. Prajob Nao-opas died on the way.

Deep concern is expressed that the killing of Mr. Prajob Nao-opas may have been motivated by his peaceful work as an environmental human rights defender, especially his efforts to denounce the harmful effects of toxic waste on local communities in Chachoengsao province. Grave concern is expressed at recent information received of killings of environmental and land rights defenders in Thailand, as also conveyed to your Excellency's Government in the joint allegation letter sent on 9 January 2013.

While we do not wish to prejudge the accuracy of these allegations, we wish to remind your Excellency's Government of article 19 of the International Covenant on Civil and Political Rights (ICCPR), that Thailand acceded to on 29 October 1996, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, we would like to refer your Excellency's Government to article 22 of the ICCPR, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

Furthermore, we would also like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

With respect to the information on the killing of Mr. Prajob-opas, after a series of warnings on his life, we would like to refer to article 6 of ICCPR, which provides that every individual has the inherent right to life, that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. Furthermore, Principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

We would like to further draw the attention of your Excellency's Government to the duty to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. In particular, Principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice".

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?

2. Has a complaint been lodged by or on behalf of the victim's relatives?
3. Please provide details, and where available the results, of an investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrator(s)?
5. Please explain whether compensation has been made available to the victim's family.
6. Please indicate what protection measures were provided to Mr. Prajob Nao-opas following reports of death threats against him and any action undertaken to assess the effectiveness of any such measures.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of environmental and land rights defenders in Thailand are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

John Knox

Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

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