

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association
and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/5 and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged killing of Mr. **Masawee Masalae** and attempted killings of Mr. **Torlep Sapa-Ing**, Mr. **Rorsuwan Bu-Nae** and Mr. **Arsae Niseng**.

Mr. Sapa-Ing and Mr. Niseng are involved with the Justice for Peace Network (JOP), a network of individuals who were detained or have been charged with security-related offenses in southern border provinces of Thailand. Prior to his death, Mr. Masalae was also a member of JOP. The organization undertakes visits to the homes of former detainees and organizes events for them.

According to the information received:

Mr. Masawee Masalae

In December 2009, Mr. Masalae, a 41 year old rubber farmer from Krongpinang District, Yala Province, was arrested by the police in Krongpinang District Police Station, in Yala Province. He was detained there for one night and then brought before the Yala Provincial Court, where he was detained for three days before his release on bail on 21 or 22 December 2009. The police filed complaints against him for his alleged involvement in four security-related incidents, including a bomb explosion against military officers in Yaha district, Yala province in 2009.

In early 2010, the prosecutor indicted him in relation to only one incident but the trial was postponed a few times. He was released on bail again in 2010. After his release on bail, he became a member of the JOP network

On 23 January 2011, Mr. Masalae was shot dead (shots went to his head and ear) while riding his motorbike with his neighbor on Chonprathan Road in Panarae District, Pattani Province. The neighbor was also shot in his stomach. Prior to his murder, Mr. Masalae told his wife that he had been followed by somebody whom he could not identify. As the police did not initially investigate the case, Mr. Masalae's family reported the incident and urged the police to initiate an investigation. To date, no one has been brought to justice.

Mr. Torlep Sapae-Ing

In 2007, Mr. Sapae-Ing, a 44 year old rubber plantation owner in Pi Nang District, Yala Province, was arrested and charged for attempted murder and bomb explosion. He was later acquitted of all charges and became an active member of JOP since his release on bail in 2012. While in prison, he was told by other inmates that he had to be careful in case he was released on bail because security detainees had been often targets of assassinations. Prior to his release, he had heard of three other former detainees (Mr. Masawee Masalae, Mr. Abdulloh Jae-Teemae and Mr. Marorseh Kayiyu) who had been shot dead.

On 15 July 2013, Mr. Sapae-Ing was shot from behind when he was riding his motorbike on the main road between Yala city and Bannang Sata District. Mr. Sapae-Ing was in Yala city with other JOP members to attend a meeting with civil society groups. Mr. Sapae-Ing was injured and fell from his bike as a result of the shot and was subsequently transferred to a hospital. Mr. Sapae-Ing has been completely paralyzed below his waist as a result of the attack. A bronze pickup truck was allegedly involved in the incident, and it was alleged that the same vehicle was seen parked in a government compound in Bannang Sata District Office, under the 14 Special Task Force of the Royal Thai Army.

A member of the village defense corps reported himself to the police as the perpetrator of the shooting. However he was not charged with the crime, as the prosecutor argued that there was no eyewitness to the case and therefore not enough evidence to link him to the crime.

Mr. Rorsuwan Bu-Nae

In 2009, Mr. Bu-Nae, a 27 year-old rubber tapper from Ban Bannang Guwae village, Bannang Sata District, Yala Province, was taken together with Mr. Arsae Niseng to the base of the 41 Special Task Force Ranger Unit of the Royal Thai Army in Yala Province, where he was detained for seven days under martial law. He was interrogated about his involvement in bomb incidents on the road near Ban Bannang Guwae village, and was subsequently released. One year later, Mr.

Bu-Nae was detained again for allegedly being involved in another bomb incident and was released after three days. This time, he was detained at the 15 Special Task Force of the Royal Thai Army, in Yala Province. Subsequent to Mr. Bu-Nar's second arrest, military officers visited his home to check his whereabouts every two weeks. These regular visits continued for almost one year and sometimes included house searches.

Mr. Bu-Nae has never participated in JOP activities. However, he is on the list compiled by the Muslim Attorney Centre, a local human rights group, as a former detainee under the Emergency Decree.

On 29 June 2014, he was shot five times in his stomach while riding a motorbike at the entrance of Ban Bannang Guwae village. There was a CCTV at a shop nearby that captured the images of a white pickup truck from where the shot was reportedly fired. He has been completely paralyzed under his waist as a result of the attack and was in hospital for 61 days (51 days in intensive care). One week after Mr. Bu-Nae was released from hospital, the neighboring residents were subjected to intimidation, including bullets fired into the sky, rocks thrown into houses and doors being knocked. These incidents were believed to be warnings to other villagers not to visit or help Mr. Bu-Nae.

Although some police officers interviewed Mr. Bu-Nae at the hospital, there has been no progress in the investigation regarding his attempted murder and nobody has been arrested to date. A tripartite committee comprised of the police, military and the district administration office responsible to determine whether or not a case may be considered a "security incident", concluded that Mr Bu-Nae's attempted murder resulted from a personal conflict and was not security related. Although Mr. Bu-Nae could have appealed this decision if a local religious or village leader had agreed to sign the appeal petition (this is a requirement of the appeal process), such persons were too scared to get involved and consequently Mr. Bu-Nae could not file the appeal.

Mr. Arsae Niseng

In 2009, the military and police officers arrested Mr. Arsae Niseng, a 40 year old man from Ban Bannang Guwae village, Bannang Satar District, Yala Province. He was detained at the 41 Special Task Force Ranger Unit in Yala Province for seven days under martial law, and subsequently transferred to the interrogation facility of Southern Border Province Police Operation in Yala city for 28 days under the Emergency Decree. He was never informed of any accusations placed against him and was released without charges. A week after his release, Mr. Niseng was detained again by police officers under the Emergency Decree and taken again to the interrogation facility of Southern Border Province Police Operation in Yala city, where he was detained for 30 days. He was transferred to the Bannang Satar Police Station, where he was detained for one night, and brought before the Yala Provincial Court for the alleged killing of four

construction workers. He was detained at the Yala Central Prison for one year and several months. In June 2010, he was released on bail and in 2012, he was acquitted by the Yala Provincial Court.

Following his release on bail, Mr. Niseng became involved with the JOP network. He attended several trainings organized by the JOP and helped them organize religious and fund raising events. He also conducted visits to former detainees' houses.

On 6 December 2014, Mr. Niseng was sitting as a night watch in a location 15 meters away from the security check-point in Ban Bannang Guwae village, where village defense volunteers had set up a check point, when he was shot by persons in a white pickup truck. Shots were also aimed at the village checkpoint. He was shot in his leg and another person who had been sitting at the checkpoint was also injured. Mr. Niseng believes that the assailants targeted him because they opened fire at him rather than at the checkpoint. The attempted murder is currently with the Bannang Sata District Police Station but no suspect has yet been identified.

On 21 March 2015, approximately at 2.30 p.m., a gunshot was fired in Mr. Nise's direction when he was taking a bath outside the back of his house in Ban Bannang Guwae village. Mr. Nise was not injured during the attack, nor did he see the assailant. However, a bullet hole was found at waist level on the house's wall. He reported the incident to the Bannang Sata District Police. The police officers came to collect forensic evidence from the scene, but have not identified any suspect. Mr. Nise has been recently appointed as head of Ban Bannang Guwae village.

We are expressing grave concern at the killing of Mr. **Masawee Masalae** and the attempted killings of Mr. **Torlep Sapa-Ing**, Mr. **Rorsuwan Bu-Nae** and Mr. **Arsae Niseng**, as well as the reported failure of the police to protect them and other persons in a similar situation, and to investigate these acts. We express further concern that the attacks appear to target former detainees initially charged with security-related offenses but subsequently acquitted or released for lack of evidence, in Yala Province and Pattani Province, in Thailand, including three members of the Justice for Peace Network (JOP).

In view of the seriousness of the matter, we urge that all necessary measures be taken to provide Messrs. Torlep Sapa-Ing, Rorsuwan Bu-Nae and Arsae Niseng with adequate protection against the risk of further similar attacks and to effectively prevent their recurrence. We also urge your Excellency's Government to ensure thorough, prompt and impartial investigations on the aforementioned killing and attempted killings, and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of these acts.

While we do not wish to prejudge the accuracy of these allegations, they may constitute a prima facie violation of the rights to life, security and not to be arbitrarily deprived of life, as set forth in articles 3 and 6 of the Universal Declaration for Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR),

acceded to by Thailand on 29 October 1996. The above alleged facts and concerns also appear to be in violation of article 22 of the ICCPR on the right to freedom of association.

These allegations may also constitute violations of the obligations of States to provide, through judicial or other means, effective protection of individuals and groups who may be subject to extra-legal, arbitrary or summary executions, and to take measures to ensure thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions in accordance with Principles 4 and 9 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. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

As stipulated in paragraph 15 of General Comment No. 31 of the United Nations Human Rights Committee “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant” such failures lead to impunity which may encourage a repetition of the crimes by other actors in subsequent incidents.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the aforementioned killing and attempted killings. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate what measures have been taken to ensure protection of the right to life and security of Messrs. Torlep Sapa-Ing, Rorsuwan Bu-Nae and Arsae Niseng following the attempts to kill them.
4. Please indicate if compensation has been provided to Messrs. Torlep Sapa-Ing, Rorsuwan Bu-Nae and Arsae Niseng and to the family of Mr. Masawee Masalae.

5. Please explain what measures have been taken to ensure that members of associations in Thailand can carry out their peaceful and legitimate activities without fear of harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions