

**Mandates of 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 and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL LAO 1/2017

30 June 2017

Excellency,

We have the honour to address you in our capacities as 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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18, 32/32 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the criminal charges against, and sentencing of human rights defenders Mr. **Somphone Phimmasone**, Mr. **Soukane Chaithad**, and Ms. **Lodkham Thammavong**.

Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong are human rights defenders and members of Free Laos and Human Rights, a network of Lao nationals based in Thailand who campaign through social media and demonstrations for the promotion and protection of human rights in Laos, including raising issues of alleged Government corruption and deforestation.

Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong were the subject of a previous communication, sent on 25 July 2016 by the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the independence of judges and lawyers. We regret that at the time of sending the present communication, no response has been received from your Excellency's Government to the urgent appeal.

The three individuals concerned were arrested on 5 March 2016 upon their return to the Lao DPR from Thailand, and detained at an unknown location. On 25 May 2016, the Ministry of Public Security announced on State television that special forces have suppressed a group who have campaigned to criticize the Government and the Communist Party on Facebook.

According to the new information received:

On 22 March 2017, Mr. Somphone Phimmasone, Mr. Soukane Chaithad and Ms. Lodkham Thammavong were reportedly found guilty under article 56 (treason to the nation); article 65 (propaganda against the state); and article 72 (gatherings aimed at causing social disorder) of the Penal Code. It has been reported that

between the time of their arrest on 5 March 2016 and their conviction on 22 March 2017, the three activists were detained at an unknown location.

Mr. Somphone Phimmasone was sentenced to 20 years of imprisonment and to a fine of 210,000,000 Lao Kip (approximately \$25,500). Ms. Lodkham Thammavong was sentenced to 12 years of imprisonment and to a fine of 11,000,000 Lao Kip (approximately \$ 1,300). Mr. Soukane Chaithad was sentenced to 16 years of imprisonment and to a fine of 106,000,000 Lao Kip (approximately \$ 12,900).

While the verdict was delivered on 22 March 2017, it was not publicly available until the end of May 2017. In its verdicts, the Vientiane People's Court reportedly ruled that the three activists concerned were involved in social media work from September 2014 to February 2016, (i.e. they were members of Facebooks groups critical of the Government); criticizing the Lao Revolutionary People's Party as being undemocratic; engaged in activities such as demonstrations in front of the Lao Embassy in Bangkok, Thailand, and calling for democracy and human rights to be respected in the Lao PDR. The three human rights defenders were also accused of trying to set up organizations in Thailand to protect the rights of Lao workers. Finally, they were allegedly also accused of displaying the flag of the now defunct Royal Lao Government at various locations in Savannakhet Province.

Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong are reported to be currently detained at Samkhe Prison, on the outskirts of Vientiane Province.

Concern is expressed at the arrest, the incommunicado detention and sentencing of Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong, which appear to be in retaliation for their peaceful and legitimate human rights work. Further concern is expressed at the basis of these measures, which represents a criminalization of the legitimate exercise of the rights to freedom of expression and peaceful assembly, and which unduly limits civil society space in the country and may deter other individuals from exercising their human rights and fundamental freedoms.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to my attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide the legal basis for the charges against, and the conviction of, Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong, and explain how these are compatible with relevant international human rights norms and standards, including the International Covenant on Civil and Political Rights, which the Lao DPR ratified on 25 September 2009. In particular, please explain how the exercise of fundamental rights amounts to “treason against the nation”, “propaganda against the state”, and “gatherings aimed at causing social disorder” and charges brought under articles 56, 65, and 72 of the Penal Code.
3. Please also provide information on that the conditions of detention of Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong following their arrest on 5 March 2016. Please explain how the incommunicado detention complies with international human rights law. Please also explain if the three individuals had access to a legal counsel during their detention and trial.
4. Please provide information on what avenues are available for Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong to have their conviction reviewed by a higher tribunal. If no such possibility exists, please explain why.
5. Please indicate what measures have been taken to ensure that human rights defenders in the Lao PDR are able to carry out their legitimate human rights work in a safe and enabling environment, without fear of threats, intimidation or criminal prosecution.
6. Please provide information about measures taken to revise provisions of the Penal Code to ensure compliance with Lao’s obligations under international human rights law.

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

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(s) responsible for the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

David Kaye

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

Annalisa Ciampi

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Laos PDR on 25 September 2009, which guarantee the right to a fair hearing before a competent, independent and impartial tribunal established by law, which includes the right to have access to counsel and to be presumed innocent until proven guilty; the right to freedom of opinion and expression and the right to peaceful assembly and to freedom of association. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers (see in particular Principles 1, 2, 5, 7 and 8).

We would also like to bring to your attention the principle enunciated in Human Rights Council resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19.3 of ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We also wish to refer 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that States have a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 points a), b) which provide for the right to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provide for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;

- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.