

Mandates of 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 extreme poverty and human rights

REFERENCE:
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25 September 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 36/6, 34/18, 34/5 and 35/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged enforced disappearance of Mr. **Od Sayavong**.

Mr. Od is a Lao human rights defender and a refugee recognized by UNHCR living in Bangkok who has publicly engaged on issues relating to human rights, corruption, and deforestation in the Lao People's Democratic Republic, including through social media

According to the information received:

Mr. Od is a former member of "Free Lao," a group of Lao migrant workers and human rights defenders based in Thailand that advocates for human rights and democracy in the Lao People's Democratic Republic. Their activities include organizing human rights workshops and meetings, as well as participating in peaceful demonstrations, including outside the Lao Embassy in Bangkok in 2015 and 2018.

On 15 March 2019, Mr. Od met with the Special Rapporteur on extreme poverty and human rights, Professor Philip Alston, in Bangkok, prior to the Special Rapporteur's visit to the Lao People's Democratic Republic from 18 to 28 March 2019. On the same day, Mr. Od posted on Facebook a photo of himself in front of the UN office in Bangkok. In the photo, he wore a shirt with an image that is associated with the former Government of the Lao People's Democratic Republic and considered outlawed in the country, that of a three-headed white elephant standing on a pedestal. In 2018, a representative of the Lao Government justified the imprisonment of Lao citizens in part of the basis of their having raised a flag

with the same image during a peaceful demonstration in front of the Embassy of the Lao People's Democratic Republic in Bangkok.¹

On 16 July 2019, Mr. Od led a demonstration in Bangkok's Soi Seri Thai 12 calling for the release of three members of the "Free Lao" group who were imprisoned in the Lao People's Democratic Republic, for Lao authorities to cease issuing land concessions, and regarding the collapse of Xe-Pian Xe-Namnoy dam.

In early August 2019, there were reportedly rumors among Lao human rights defenders that the Government of the Lao People's Democratic Republic was seeking to find six Lao human rights defenders.

On 26 August 2019, around 5:30pm, Mr. Od was last seen departing his home in Bangkok's Bueng Kum District by one of his three housemates, Mr. Phetphouthone Philachanh. Around that time, he left the house and was expected to join two other housemates, Mr. Suea Saphachai and Mr. Bounsuan Kittiyano, at the restaurant where he worked as a cook. At 6:34pm, a Facebook message was sent from Mr. Od's account to Mr. Bounsuan, asking him to "cook rice" at the restaurant and wait for Mr. Od's arrival. This was the last Mr. Od is known to have been heard from, and he did not return home that night.

On 27 August 2019 around 5:00pm, Mr. Suea attempted to call Mr. Od, but his cell phone was out of service. A message sent at 5:06pm went unanswered and according to the application used to send the message, was not read. Mr. Od's cell phone appears to have been out of service since that time.

On the morning of 2 September 2019, another friend of Mr. Od's filed a report about his disappearance with the Bueng Kum police station in Bangkok. After leaving, he received a phone call from the police station requesting he return to meet senior police officials and provide additional information. He returned that afternoon, accompanied by Mr. Suea and Mr. Phetphouthone. The three were informed that the police would try to locate Mr. Od by reviewing his incoming and outgoing call records.

On 4 September 2019, Mr. Suea and Mr. Phetphouthone received a call from police to return to the Bueng Kum police station, and were informed that police had retrieved CCTV footage from the street on which they lived. Police officers showed Mr. Suea and Mr. Phetphouthone footage that was reportedly recorded by the CCTV camera at around 6:30pm on 26 August 2019, in which a white vehicle appeared to be parked in the lane in front of their home. According to Mr. Suea

¹ UN Human Rights Committee, 123rd session, Summary record of the 3505th meeting, 17 July 2018, UN Doc. CCPR/C/SR.3505, para. 56.

and Mr. Phetphouthone, police officers said that no person resembling Mr. Od could be seen leaving the house prior to the appearance of the white vehicle, that the vehicle's license plate was not visible in the footage, and that they would look into the matter. Mr. Suea and Mr. Phetphouthone were not shown any other footage.

On 8 September 2019, Mr. Suea and Mr. Phetphouthone returned to the Bueng Kum police station to provide more information and asked if they could view the CCTV footage from 5:30 to 7:30pm on 26 August 2019, but they were not permitted to do so.

On 9 September 2019, family members of Mr. Od met with the Deputy Spokesperson of the Royal Thai Police to inquire about his whereabouts. On 11 September, police officers brought Mr. Od's roommates to the Bueng Kum station and asked questions which were reportedly duplicative of the questions they had answered on prior visits to the police station.

As of the date of this communication, the fate and whereabouts of Mr. Od are unknown.

Mr. Od's disappearance occurs in an environment of unverified but persistent reports of threats to Lao human rights defenders. Several members of the "Free Lao" group have reported that they have been intimidated and surveilled. Rights groups report that the Government of the Lao People's Democratic Republic monitors the social media accounts of Lao human rights defenders abroad.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the alleged enforced disappearance of Mr. Od, which appears to be directly linked to his peaceful activities in defense of human rights. We express further concern that Mr. Od may be at risk of forcible repatriation to the Lao People's Democratic Republic.

We are concerned that Mr. Od may face significant risks were he returned to the Lao People's Democratic Republic, given persistent reports of arbitrary arrests, trial without due process, and criminal convictions for criticism of authorities or policies, as well as consistent reports of punishment amounting to torture and ill-treatment, a number of alleged victims of enforced disappearances, the lack of a legal framework criminalizing all acts of enforced disappearance, and a pattern of impunity for such acts.² UNHCR's recognition of Mr. Od's as a refugee indicates that he faces a well-founded fear of death or persecution in the Lao People's Democratic Republic.

² Human Rights Committee, Concluding observations on the initial report of the Lao People's Democratic Republic, 23 November 2018, CCPR/C/LAO/CO/1, paragraphs 19, 23, 33.

Furthermore, given that Mr. Od met with the Special Rapporteur on extreme poverty and human rights in Bangkok in March 2019, we are concerned that his cooperation with the Special Rapporteur may have possibly contributed to his alleged disappearance. Should this be the case, it may be considered an act of reprisal by Lao authorities.

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.

Should certain of these allegations be confirmed, they would raise concerns regarding violations of articles 6, 7, 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Thailand in 1996, as well as articles 3, 5, 9 and 19 of the Universal Declaration of Human Rights (UDHR). The ICCPR and UDHR guarantee the rights to life, to liberty and to personal security, to freedom from arbitrary arrest or detention, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, and freedom of expression, association and assembly. We would also like to remind your Excellency's Government of the absolute prohibition on acts of torture and its obligation to take effective measures to prevent acts of torture within its jurisdiction, under article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Lao People's Democratic Republic ratified in 2012.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearance sets out necessary protection by the State. In particular, articles 2 and 3 state that no State shall practice, permit or tolerate enforced disappearances and that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. Article 10 underscores that accurate information on the detention of individuals and their place or places of detention, including transfers, shall be made promptly available to their family members and counsel, and that article 14 states that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance.

Furthermore, the Government of Thailand has an obligation not to expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of torture or enforced disappearance, pursuant to article 3 of the CAT and article 8 of the Declaration on the Protection of All Persons from Enforced Disappearance.

We would also like to refer to 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 articles 1, 2, 5 (a) and c), 6 (b) and c), 9 paragraph 4 point a) and 12, paragraphs 2 and 3.

The full texts of the human rights instruments and standards recalled above are available at 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 abovementioned person 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 any information you may have concerning Mr. Od's current location and the progress of the investigation into his disappearance.
3. Please provide details of any specific measures taken by your Excellency's Government to locate Mr. Od and ensure his physical and psychological integrity and well-being.
4. If Mr. Od has been arrested and detained by Thai authorities, please provide the legal grounds of his arrest and detention, and indicate whether he has been provided access to a lawyer.
5. Please provide information about whether your Excellency's Government has initiated a process of deportation of Mr. Od, and if so, on what basis.
6. Please provide information on what measures are being taken to ensure the rights of Lao nationals who have been granted UNHCR protected status.
7. Please provide information as to what steps have been taken to ensure that human rights defenders in Thailand are able to carry out their peaceful and legitimate work in a safe and enabling environment, free from any physical, judicial or other harassment.

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 for the alleged violations.

We would like to inform your Excellency's Government that a similar letter has been transmitted to the Government of the Lao People's Democratic Republic.

We would also like to recall that the alleged enforced disappearance of Mr. Od Sayavong has already been treated under the humanitarian mandate of the Working Group on Enforced or Involuntary Disappearances, and transmitted to your Excellency's Government under the urgent action procedure on 16 September 2019. In accordance with the Methods of work of the Working Group, a copy was transmitted to the Government of the Lao People's Democratic Republic.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also be subsequently made available in the usual report to be presented to the Human Rights Council.

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 issues in question.

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

Bernard Duhaime

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye

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

Michel Forst

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