

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA KHM 5/2020

15 July 2020

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 36/6, 42/37, 35/15, 34/18 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government new information we have received concerning the alleged abduction and enforced disappearance in Cambodia of Mr. **Wanchalearm Satsaksit** and the lack of progress in the investigation.

Mr. Wanchalearm Satsaksit, 37 years old, is a Thai political activist affiliated with the United Front for Democracy against Dictatorship (UDD), also known as the "Red Shirts". He has been living in self-imposed exile in Cambodia from 2014 until the time of his reported disappearance. He previously worked as a campaigner for a former Minister from the Pheu Thai Party. Prior to his political activism, he worked on HIV/AIDS, including with the Youth Network on HIV/AIDS and the Asian Resource Foundation.

The alleged abduction and enforced disappearance of Mr. Wanchalearm Satsaksit on 4 June 2020 was previously raised in a communication sent on 12 June 2020 (KHM 4/2020). We would like to thank your Excellency's Government for the reply received on 19 June 2020. The reply indicated that Mr. Wanchalearm Satsaksit last entered Cambodia on 19 October 2015 and obtained a visa which was valid until 31 December 2017 and that no subsequent request has been made for renewal of his stay. It further indicated that the Cambodian authorities have neither knowledge nor any lead on the alleged abduction and that investigations are being conducted.

On 10 June 2020, the Committee on Enforced Disappearances also transmitted a communication under its Urgent Action procedure to Cambodia. Cambodia responded on the 19 June 2020.

According to the latest information received:

Mr. Wanchalearm Satsaksit had been travelling internationally after 2017 and had returned to Cambodia following his trip. On 3 June 2020, he was seen by multiple people in Phnom Penh, and there were witnesses to his abduction on 4 June 2020.

On 8 June 2020, the National Human Rights Commission of Thailand issued a public statement calling on the Thai Government to take appropriate action.

On 9 June 2020, the Cambodian National Police Commission confirmed that an investigation had been launched.

On 10 June 2020, the Minister of Foreign Affairs for Thailand responded to a question raised in Parliament on the case by indicating that as Mr. Wanchalearm Satsaksit did not have political refugee status, Thailand had to wait for Cambodia to finish its investigation.

On 17 June 2020, a meeting was held by the Thailand House of Representatives' Standing Committee on Legal Affairs, Justice and Human Rights (the Standing Committee). Family members and relevant officials from the Royal Thai Police, Ministry of Justice, Judge Advocate General Office, Attorney General's Office, and Ministry of Foreign Affairs were invited to provide information. The Standing Committee has issued a number of views and recommendations to various ministries and offices in order to trace the whereabouts of the Mr. Wanchalearm Satsaksit.

On 23 June 2020, persons associated with Mr. Wanchalearm Satsaksit and their lawyers filed a case with relevant Thai mechanisms including the Attorney General's Office, the National Interim Mechanism to Receive and Manage the Complaint of Torture and Enforced Disappearance of the Thai Ministry of Justice and the National Human Rights Commission of Thailand.

On 25 June 2020, the case was filed with the Thai Department of Special Investigation of the Ministry of Justice.

On 7 July 2020, persons associated with Mr. Wanchalearm Satsaksit, through their lawyer in Cambodia officially filed the case with the Phnom Penh Municipal Court.

On 8 July 2020, they were informed that the case had also been transferred by the Cambodian Attorney General to the Cambodian Ministry of Interior and the Ministry of Justice.

Also on 8 July 2020, the Thai Department of Special Investigation of the Ministry of Justice issued a public statement announcing the consideration of its Complaint Management Division. The consideration concluded that, given that Mr. Wanchalearm Satsaksit went missing outside of the Kingdom of Thailand, the Attorney General Office is responsible for this case under the Section 20 (para. 1) of Thailand's Criminal Procedure Code. Therefore, on the same day, the Director-General of the Department of Special Investigation transferred the case to the Attorney General Office to investigate the case.

Despite the registration number of the car involved being known and there being multiple witnesses, no further information is available on the progress of the investigation in Thailand or Cambodia.

At the date of this communication, the fate and whereabouts of Mr. Wanchalearm Satsaksit remain unknown.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the lack of progress in the investigation into the alleged abduction and enforced disappearance of Mr. Wanchalearm Satsaksit and are seriously worried for his safety. We underline the importance of urgent action to ascertain his fate and whereabouts.

With regard to the reply provided by Your Excellency's Government that no attempts were made to renew Mr. Wanchalearm Satsaksit's visa after the 31 December 2017, we note that information received indicates that he travelled internationally after this date and returned to Cambodia. We further highlight that the obligation to fully investigate an alleged enforced disappearance applies irrelevant of the legal status of the person in question.

We welcome the information that an investigation is being conducted, but are concerned that, more than one month on, no information is available on the progress of the investigation or identity of the perpetrators and that the fate and whereabouts of Mr. Wanchalearm Satsaksit remain unknown.

We underline that Cambodia should take all necessary measures to search for, locate and protect Mr. Wanchalearm Satsaksit including through a comprehensive strategy to search for him and investigate his disappearance (article 12 and 24 of Convention for the Protection of All Persons from Enforced Disappearance (CED), which Cambodia acceded to on 27 June 2013, the Guiding Principles for the search for disappeared persons (CED/C/7) and article 13 of the Declaration on the Protection of all Persons from Enforced Disappearance). We re-iterate that the investigation should be **prompt, thorough and impartial** (article 12 of CED and 13 of the Declaration).

Furthermore, we underline that Mr. Wanchalearm Satsaksit's family have a **right to truth**, which means the **right to know about the progress and results of an investigation**, the **fate or the whereabouts of the disappeared persons**, and the **circumstances of the disappearances**, and the **identity of the perpetrator(s)** (article 24 CED and the General Comment on the Right to Truth, A/HRC/16/48).

We highlight that the anguish and sorrow of the family may reach the threshold of torture. The right to truth is therefore an absolute right which cannot be restricted and there is an absolute obligation to take all the necessary steps to find the person (A/HRC/16/48). We further underline that his family should be protected from ill-treatment or intimidation if required (article 12 CED and 13 of the Declaration).

The Convention and Declaration further make it clear that no individual should be expelled, returned (refouler) or extradited to another State where there are substantial grounds to believe that he or she would be in danger of enforced disappearance (article 16 of CED and 8 of the Declaration).

We further highlight that states should cooperate with a view to searching for disappeared persons (article 15 of CED).

Should these allegations be confirmed, they would also appear to violate articles 6, 7, 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Cambodia on 26 May 1992, which guarantee the right to life, the right to personal integrity, the right to liberty and security of the person, and the right to freedom of expression.

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 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 detailed information on the investigations being conducted into Mr. Wanchalearm Satsaksit's abduction and alleged enforced disappearance. Please include information on;

- a. The steps taken to search, locate and protect Mr. Wanchalearm Satsaksit including through a comprehensive strategy of search and investigation.
 - b. The authorities leading and involved in the search and investigation and the extent to which they are independent, have access to all relevant information, have access to all relevant places where people are deprived of the liberty (official or unofficial) and have sufficient resources.
 - c. Any progress that has been made in the investigation since his abduction.
 - d. Any information available on Mr. Wanchalearm Satsaksit's current fate and whereabouts.
 - e. The steps taken to ascertain the identity and affiliation of the perpetrators and to hold them responsible.
 - f. The steps taken to ensure cooperation in the search and investigation between the Thai and Cambodian authorities.
3. Please provide information on how Mr. Wanchalearm Satsaksit's family and legal representatives are being kept informed of the progress of the investigation

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.

We would like to inform your Excellency's Government that the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have written a similar letter to the Government of Thailand.

We are extremely concerned by the alleged lack of progress in the investigation and that Mr. Satsaksit's fate and whereabouts remain unknown. We may publicly express our concerns in the near future as, in our view, the information upon which the press release would 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 would indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegation of enforced disappearance mentioned in this communication as a case to the Working Group on Enforced or Involuntary Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

We also would like to kindly request that a copy of this letter be shared with Samdech Krolahom Sar Kheng, Minister of Interior.

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 subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

Rhona Smith
Special Rapporteur on the situation of human rights in Cambodia

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
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Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment