

**Mandates of the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE:  
AL THA 9/2020

14 December 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 43/16, and 44/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **attempted killing of human rights defender Dam Onmuang**.

Mr **Dam Onmuang** is a human rights defender and head of the security and protection committee of the Santi Pattana community in the Bang Sawan Sub-District of Surat Thani Province. The community forms part of the Southern Peasant Federation of Thailand (SPFT), formed in 2008 in Surat Thani Province. Using the 1997 Official Information Act to identify expired and illegal concessions over State owned land, they have advocated for land reform, including the provision of community rights over land and community management of natural resources, as well as the protection of peasants' rights to adequate housing and food.

The Santi Pattana community to which Mr Onmuang belongs is one of five SPFT communities in the Bang Sawan Sub-District of Phra Sang District, Surat Thani Province. In 2006, the communities seized an area of land in the Bang Sawan Sub-District, which had formerly been under concession to several companies, in order to allocate it to landless farmers and peasants. This land included an area previously under concession to the United Palm Oil Industry Public Co. Ltd. (UPOIC), where the Santi Pattana community established itself. Since 2003, the primary shareholder of UPOIC has been Lam Soon Public Limited Company.

Several previous communications concerning the physical integrity of SPFT members in the Surat Thani Province, along with the situations of other human rights defenders working on issues linked to land and the environment in rural Thailand, have been addressed to your Excellency's Government by multiple Special Procedures mandate holders. These include communications sent on 13 June 2016, THA 2/2016, on the attempted killing of Mr Supoj Kansong; 19 February 2015, THA 2/2015, on the killing of Mr Chai Bunthonglek; and 9 January 2013, THA 1/2013, on the killing of Ms Montha Chukaew and Ms Pranee Boonrat. We thank your Excellency's Government for the replies received to the cited communications from 2013 and 2015, however, we regret that no response was received to the communication of 2016, in particular in light of the seriousness of the allegations communicated therein.

According to the information received:

On 13 September 2020, at approximately midday, a group of around 10 men suspected to be linked to local influential groups entered the land managed by the five SPFT communities in the Bang Sawan Sub-District of the Phra Sang District, Surat Thani Province, and attempted to seize land belonging to the Santi Pattana community. Mr Onmuang, along with other members of the community, unsuccessfully attempted to enter into peaceful discussions with the group, who proceeded to construct a hut on the land in question without the community's consent, before subsequently leaving the land.

On 20 October 2020, at approximately 1.00 a.m., Mr Onmuang was shot at by a man while on community guard duty, part of a self-protection programme developed by the Santi Pattana community for their own security. The shot missed Mr Onmuang, and the attacker subsequently fled. The shooter is allegedly involved in leading negotiations with the community on behalf of United Palm Oil Industry Public Co. Ltd.

Following the attack, Mr Onmuang and other members of the Santi Pattana community travelled to Bang Sawan Police Station to file a complaint concerning the attack. Later on the same date, a suspect was detained by the police.

On 21 October 2020, the suspect in the case was transferred to Wiang Sa Provincial Court in the Wiang Sa District of Surat Thani Province.

Without wishing to prejudice the accuracy of the information received, we express serious concern at the alleged attempted killing of Mr Onmuang, in particular given the history of violent attacks targeting human rights defenders from SPFT member communities in Surat Thani Province, including killings. Our concern is heightened by the history of impunity in these cases, giving rise to fears that the alleged attack in this instance may too go unpunished, with the related effect of further undermining the security of human rights defenders within the communities.

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

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 addition information and/or comment you may have in reference to the above-mentioned allegations.
2. Please provide information as to any investigations that may have been carried out subsequent to the complaint lodged by Mr Onmuang on 20 October 2020.

3. Given the history of killings and violent attacks targeting SPFT members and acts of intimidation against their communities, please provide information regarding concrete measures taken or planned to secure the safety of Mr Onmuang and the Santi Pattana community. If no such measures have been taken, please indicate why and how this complies with international human rights law and in particular article 6 of the International Covenant on Civil and Political Rights, protecting the right to life.

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

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.

Please be informed that a similar letter on the same above-mentioned case has been sent to the United Palm Oil Industry Public Co.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

## **Annex**

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

In connection with the above allegations, we would like to refer in detail to article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Thailand on 29 October 1996, which guarantees the rights to life.

In the Human Rights Committee's General Comment 36, adopted at the its 124<sup>th</sup> session, the Committee stated that the obligation of State parties to respect and ensure the right to life “extends to reasonably foreseeable threats and life-threatening situations” and that State parties may be in violation of article 6 of the Covenant “even if such threats and situations do not result in loss of life.”<sup>1</sup>

The Committee further stated that State parties are “under a due diligence obligation to take reasonable, positive measures that do not impose disproportionate burdens on them in response to reasonably foreseeable threats to life originating from private persons and entities whose conduct is not attributable to the State.”<sup>2</sup>

Concerning human rights defenders specifically, the Committee stated that the duty to protect the right to life requires State parties to take “special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or **pre-existing patterns of violence**” and that such persons “include **human rights defenders**”<sup>3</sup> (emphasis added).

The Committee also highlights that State parties to the Covenant have an obligation, “where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents.”<sup>4</sup>

We also 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, also known as the UN Declaration on Human Rights Defenders. In particular, articles 1, 2 and 9 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; that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms; and provide for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights. Article 12 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.

We would further like to make reference to the report of the former Special Rapporteur on the situation of human rights defenders on impunity, delivered at the 74<sup>th</sup>

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1 Human Rights Committee, *General Comment No. 36*, CCPR/C/GC/36, para 7.

2 Ibid., para 21

3 Ibid., para 23

4 Ibid., para 27

session of the UN General Assembly in July 2019 (see A/74/159), and in particular to the recommendations included therein.