

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

REFERENCE:
AL OTH 81/2020

14 December 2020

Dear Ms Suebchantasiri,

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

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandateholder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention 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.

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 the human rights defender, 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 prejudge 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 human rights due diligence or impact assessment measures taken by United Palm Oil Industry Public Co. Ltd to identify, prevent, mitigate and remedy adverse human rights impacts throughout its operations, and in particular in connection with its operations in the Surat Thani Province of Thailand, in line with the UN Guiding Principles on Business and Human Rights.

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 subject has been sent to the Government of Thailand.

Please accept, Ms Suebchantasiri, 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 alleged facts and concerns, we would like to remind your Company of its responsibilities under the Guiding Principles on Business and Human Rights (A/HRC/17/31). The Guiding Principles have established themselves as the authoritative global standard for business to prevent and address negative human rights impacts related to their activities. The responsibility to respect human rights is a global standard of conduct applicable to all businesses, wherever they operate. It exists independently of the ability and/or willingness of States to meet their own human rights obligations and does not diminish these obligations. It is an additional responsibility to that of complying with national laws and regulations protecting human rights.

Principles 11 to 24 and 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and provide remedies where they have caused or contributed to adverse impacts. “The responsibility to respect human rights requires that businesses: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) **Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts**”. (Guiding Principle 15)

In this context, we would like to highlight that international human rights law protects the right to life under article 6 of the International Covenant on Civil and Political Rights (ICCPR). The right to life is of crucial importance for both individuals and society, constituting a fundamental right which is a prerequisite for the enjoyment of all other human rights. (Human Rights Committee, General Comment No. 36).

We would also like 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 highlight articles 1 and 9, 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 everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights.