

**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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL LAO 1/2021

5 February 2021

Excellency,

We have the honour to address you in our capacities 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 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 45/3, 43/4, 41/12 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government new information we have received concerning the alleged enforced disappearance of human rights defender Mr. **Sombath Somphone** since 2012.

Mr. **Sombath Somphone** is a human rights defender who has advocated against land-grabbing and defended the rights of those whose land has been illegally seized. Mr. Somphone is also the founder of the first indigenous non-profit association established in Laos PDR, the Participatory Development Training Centre (PADETC), which focuses on education and capacity building for communities to achieve social and economic development with a focus on environmental issues. The work of PADETC has received both national and international recognition and in 2001, Mr. Somphone was awarded the Human Resource Development Award for his contribution to empowering communities in rural Laos from the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP).

Ms. **Shui Meng Ng** is a woman human rights defender and the wife of Mr. Somphone. Since his disappearance, she has advocated for the government to thoroughly investigate his disappearance and other cases of enforced disappearance, and has spoken on the affects felt by the families of the disappeared and the lack of effective redress.

Mr. Somphone's disappearance has been the subject of two previous urgent appeals sent by a number of Special Procedures mandate holders to your Excellency's Government, sent on 20 December 2012 (LAO 3/2012) and 9 December 2013 (LAO 2/2013) respectively. We thank your Excellency's Governments for its replies to LAO 3/2012 dated 3 January 2013, 25 March 2013 and 10 June 2013, and its response to LAO 2/2013 dated 7 January 2014. However, we remain concerned that no further updates regarding the investigation into Mr. Somphone's disappearance have either been publicly disclosed or shared with his family.

The disappearance of a human rights defender and Lao PDR national in Thailand is also an issue that a number of Special Procedures mandate holders previously raised with your Excellency's Government in a communication sent on 11 December 2020 (LAO 4/2020).

We would also like to recall that the case of Mr. Sombath Somphone has been considered by the Working Group on Enforced or Involuntary Disappearance, through its humanitarian individual case procedure, and remains outstanding since it was first transmitted to your Excellency's Government on 11 September 2013.

According to the information received:

On the evening of 15 December 2012, Mr. Somphone was stopped at a police checkpoint in Vientiane whilst driving home. The police escorted Mr. Somphone to a police building on the roadside. Some time later, a man in civilian clothing on a motorcycle parked outside the police building and drove Mr. Somphone's vehicle away, leaving the motorcycle on the roadside. Shortly following this, a truck with flashing lights parked outside the police building. Two men dressed in civilian clothing reportedly pushed Mr Somphone into the back of the vehicle, where there were other persons sitting, and drove away.

The following day, Ms. Shui Meng Ng went to a police station to report her husband missing. Whilst there, Ms. Ng Shui Meng was shown CCTV footage of her husband's abduction, which she took a video of on her mobile phone. In the days following his reported disappearance, Mr Somphone's family repeatedly visited hospitals in the local area, and on 20 December 2012, the Government announced that it had launched an investigation into the disappearance of Mr Somphone.

However, a few days after his alleged disappearance, Mr. Somphone was reportedly sighted inside a police compound, and his vehicle parked on the compound's premises. Two days following this sighting, Mr. Somphone was then reportedly transferred to a military camp outside Vientiane and then seven days later it is reported that he was moved once again to an unknown location.

Prior to his disappearance, Mr. Somphone participated in and helped with the organisation of the Asia Europe People's Forum (AEPF) in November 2012, a biennial conference aimed at promoting dialogue and collaboration between civil society organisations in Asia and Europe. Mr. Somphone was co-chair of the National Organizing Committee for the Forum, which was the first international civil society event to be held in Lao PDR, and attended by delegates from over 40 countries. Mr. Somphone delivered a speech during the Forum, in which he emphasised the importance of cooperation and open dialogue between civil society organisations and actors, the Government, and corporations involved in large-scale development projects. During the Forum, delegates from different regions of Lao PDR gave testimonies on the illegal seizure of their land. Following the event, a number of the individuals who spoke on this topic during the Forum reportedly received threats from officials. At the time of his disappearance, Mr. Somphone was allegedly involved in addressing these threats and calling for an investigation into them.

The government have reportedly denied Ms. Shui Meng Ng's repeated requests since 2012 to provide information or updates on its investigation into her husband's disappearance, or his possible fate. The government has denied any involvement in the abduction, despite the CCTV footage of the abduction,

which shows that police officers were present. Ms. Shui Meng Ng has also not received any official documentation from the government regarding her husband's disappearance. Despite alleged assurances from government officials that they would meet with her and provide regular updates on the investigation into his disappearance, Ms. Shui Meng Ng last met with the Lao PDR authorities in December 2017 and has not been provided with any updates since.

Without prejudging the accuracy of these allegations, we wish to express our deepest concern with regard to the alleged enforced disappearance of Mr. Somphone eight years ago, and the absence of evidence to indicate that efforts have been made to further the search for his fate and whereabouts, and progress the investigation into his disappearance and bringing the perpetrators to justice. We reiterate that enforced disappearance is a serious violation of human rights and is unequivocally prohibited under international law. We also wish to express our utmost concern regarding the information which would indicate that police officers were allegedly present during the abduction and that the abduction took place at a police checkpoint.

The timing of Mr. Somphone's alleged abduction in 2012, shortly preceded by his organization of and participation in an emblematic international conference of civil society organisations, the first of its kind to be held in the country, is particularly concerning as it appears to be an attempt to incite fear amongst other human rights defenders for carrying out their legitimate work, and also preclude similar civil society events from taking place due to fear of the possible consequences. Whilst we are aware that some factions of your Excellency's Government were involved in the planning of this conference, we remain concerned that this does not eliminate the possibility that other government factions or government officials may have been involved or complicit in his alleged enforced disappearance. We are further concerned that Mr. Somphone's enforced disappearance, as a nationally and internationally recognised human rights defender and development worker, is an attempt to deter other human rights defenders in Lao PDR from exercising their rights to freedom of expression and association, and their fundamental freedoms.

We remain seriously concerned by the alleged inaction of your Excellency's Government to meet with Ms. Shui Meng Ng, despite her repeated requests, and provide her with information and relevant documentation regarding the enforced disappearance of her husband and the status of the investigation into his disappearance in the eight years since he was abducted. We are concerned that as a result of such inaction on the part of your Excellency's Government, Ms. Shui Meng Ng and her family have been denied adequate redress and compensation.

Finally, we wish to reiterate our concern in relation to reports of repeated cases of alleged enforced disappearances of human rights defenders, in Laos PDR and in neighbouring countries. We are concerned that such alleged abductions and enforced disappearances, in violation of international human rights law, are being carried out in response to their legitimate and peaceful efforts to further human rights and fundamental freedoms in Laos PDR. We reiterate that enforced disappearance is a serious violation of human rights which may amount to torture or other cruel, inhuman or degrading treatment or punishment and unequivocally prohibited under international law.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to the alleged enforced disappearance of Mr. Somphone. If no such investigation or inquiries have been carried out, please provide an explanation.
3. In your response to a communication sent by a number of Special Procedures mandate holders to your Excellency's Government, dated 30 December 2013, reference is made to findings of an investigation, which were shared with the media. Please provide the details of these findings, and any relevant findings related to Mr. Somphone's disappearance since.
4. Please provide information as to the reasoning for allegedly denying Ms. Shui Meng Ng access to relevant documentation relating to the alleged enforced disappearance of her husband, and updates as to the progress of any investigation into his abduction.
5. Please also indicate what measures have been taken to ensure that human rights defenders, journalists, activists and other civil society actors are able to carry out their legitimate work in a safe and enabling environment in Lao PDR, without fear of threats or acts of intimidation and harassment of any sort.

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 accept, Excellency, the assurances of our highest consideration.

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

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

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

## **Annex**

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

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to articles 6, 9, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Lao PDR on 25 September 2009, which guarantee the inherent right to life and that no one shall be arbitrarily deprived of their life, the right to liberty and security of person, the right to freedom of opinion and expression and the right to freedom of assembly and association. These rights are also provided for under articles 3, 6, 19 and 20 of the Universal Declaration of Human Rights (UDHR).

We would further like to refer to the Declaration on the Protection of all Persons from Enforced Disappearance adopted by the General Assembly Resolution 47/133 of 18 December 1992. The Declaration establishes the prohibition to practice, permit or tolerate enforced disappearances (Article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (Article 3); the obligation to criminalize enforced disappearances as autonomous offense in domestic legislation (Article 4) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Article 7). In addition, the Declaration stipulates the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (Article 10). Ultimately, the Declaration establishes the obligation to bring perpetrators of enforced disappearances before competent civil authorities for the purpose of prosecution and trial (Article 14) and that victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible (Article 19).

We also refer to the Working Group's General Comment on the right to recognition as a person before the law in the context of enforced disappearances, which highlights that the right to be recognized as a legal person entails the obligation of the State to fully recognize the legal personality of disappeared persons and thus respect the rights of their next-of-kin and as well as others. The Working Group highlights that any declaration of absence or disappearance should not be contingent on the end of the investigations, rather such a declaration should be granted with the consent of the family after a certain period, not longer than one year, has elapsed. The search and investigation should continue at all points including after the grant of such a declaration.

We would like to 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, 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 each State has 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 Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 points b) and c), which provides 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 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;
- and 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.

Finally, we would also like to refer to the recommendations recently issued to your Excellency's Government in the 35th session of the Third Cycle of the Universal Periodic Review (UPR). In particular, we wish to refer to recommendations No. 70, 71, 73, 74, 75, 76, 77, 78 and 79, which made recommendations to your Excellency's Government to ensure impartial and independent investigations and prosecution, as well as bring all perpetrators of enforced disappearance to justice; establish an independent body to investigate deaths and enforced disappearances in the country and provide this body with the investigative powers by law that are necessary to conduct free, independent and reliable investigations; continue taking measures to improve investigations into cases of enforced disappearance; ensure independent and impartial investigations into cases of enforced disappearance and hold perpetrators to account; undertake full, independent investigations into all unresolved cases of alleged enforced disappearances, including that of Mr. Sombath Somphone; undertake impartial, thorough and transparent investigations into enforced disappearances, including that of Sombath Somphone; conduct independent, impartial and transparent investigations into all alleged cases of enforced disappearance, including that of Sombath Somphone, ensuring family members are regularly informed of any progress; conduct credible and in-depth investigations into all alleged cases of enforced disappearance, including the disappearance of Sombath Somphone and other human rights defenders; conduct thorough, independent and impartial investigations to clarify all unexplained enforced disappearances of human rights defenders in Lao PDR; and to Undertake domestic independent investigations into the disappearances and deaths of democracy and human rights activists. We regret however, that in its Addendum to these recommendations, your Excellency's Government noted these recommendations, despite its expression of recognition that "the search for missing Lao citizens, including Sombath Somphone, is the duty of the Lao government".