

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

REFERENCE:  
AL LAO 2/2021

1 April 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 42/22, 43/4 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary detention and continued imprisonment of human rights defenders Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED].

Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] are human rights defenders and members of Free Laos and Human Rights, a network of Lao nationals based in Thailand who campaign through social media and demonstrations for the promotion and protection of human rights in Lao PDR, including raising issues of alleged Government corruption and deforestation.

Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] were the subject of two previous communications sent by several Special Procedures mandate holders to your Excellency's Government; on 25 July 2016 a joint urgent appeal (LAO 3/2016) was sent regarding the arbitrary arrest, detention and disappearance of the three human rights defenders and on 30 June 2017, a joint allegation letter (LAO 1/2017) was sent with regard to the arbitrary detention, disappearance and sentencing of the three human rights defenders. Furthermore, in 2017 the UN Working Group on Arbitrary Detention found that the deprivation of liberty of the three human rights defenders violates articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and 9, 14 and 19 of the International Covenant on Civil and Political Rights (A/HRC/WGAD/2017/61). We acknowledge the reply of your Excellency's Government to the regular communication of the Working Group on Arbitrary Detention, received on 29 May 2017. However, we regret that at the time of sending the present communication, no response has been received from your Excellency's Government to the joint urgent appeal LAO 3/2016 or a joint allegation letter LAO 1/2017.

According to the information received

On 2 December 2015, Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] were among a group of 30 people who took part in a demonstration outside the Lao Embassy in Bangkok, Thailand to express their concern over the Government's alleged human rights violations. The three human rights

defenders had previously held gatherings to discuss and criticise the Government on alleged cases of corruption, deforestation and enforced disappearances, and posted public messages on social media raising concerns over the human rights obligations of State authorities on these issues.

In March 2016, upon their return to Lao PDR from Thailand, Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] were arrested by Lao police. They were held in incommunicado detention for the first part of their pre-trial detention and once transferred to Vientiane, they were denied family visitations. According to information received, they were not informed of the charges against them and no arrest warrants were presented at the time of arrest or subsequently. On 25 May 2016, the Ministry of Public Security announced on State television that special forces had suppressed a group who had campaigned and criticised the Government and the Communist Party on Facebook.

Before appearing in court, Ms. [REDACTED], Mr [REDACTED] and Mr. [REDACTED] were allegedly forced to make a confession which was broadcast on State Television, in which they apologised for being traitors to the Lao People's Revolutionary Party, the Government and the Lao People. The UN Human Rights Office at the time noted "this practice of forced confession, extracted during incommunicado detention and publicised on national television, is disturbing and in contradiction with the right to fair trial."<sup>1</sup> Due to their lengthy pre-trial incommunicado detention, the three human rights defenders were denied legal representation or legal assistance.

On 22 March 2017, Ms. T [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] were found guilty under Articles 56 (treason to the nation), article 65 (propaganda against the state) and article 72 (gatherings aimed at causing social disorder) of the Criminal Code and were sentenced to 12, 16 and 20 years in prison respectively.

The verdict was not made publicly available until the end of May 2017. The Vientiane People's Court reportedly ruled that the verdict was related to the human rights defenders' involvement in activities critical of the Government between September 2014 and February 2016, including membership of Facebook groups critical of the Government, protesting outside the Lao Embassy in Bangkok and calling for the the Government to respect and implement human rights in the Lao PDR. The human rights defenders were also accused of attempting to set up organisations in Thailand to protect the rights of Lao workers and of flying the now disused flag of the Royal Lao Government at various locations in the Savannakhet Province. To date, the three human rights defenders remain in detention.

On the date of this communication, Ms. [REDACTED] and Mr. [REDACTED] are currently being held in Tan Piao prison, located around 60km from Vientiane city making family visits more difficult. They are said to be lacking water, while Mr. [REDACTED] remains confined in a restricted area of the prison. Mr. [REDACTED] has since been transferred to Savannakhet prison, located in his

---

<sup>1</sup> <https://bangkok.ohchr.org/news-release-un-human-rights-office-concerned-by-the-harsh-sentencing-of-three-activists-in-lao-pdr/>

home province some 490km south of Vientiane. To date, none of the three defenders have had access to legal counsel.

Without prejudging the accuracy of these allegations, we wish to express our serious concern with regard to the continued arbitrary detention of human rights defenders Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], which is in direct retaliation for their peaceful and legitimate human rights work. Concern is expressed that these human rights defenders have been criminalised for raising awareness of the Government's alleged human right violations with the public and for exercising their rights to freedom of expression and peaceful assembly in Lao PDR. We are concerned that the charges the above mentioned human rights defenders were convicted of "acts of betrayal to the nation" "propaganda against the State" and "gatherings aimed at causing social disorder" equate the imparting of information on the human rights situation in their country with serious criminal offences and characterise their legitimate human rights work as illegal.

We are deeply concerned by the circumstances surrounding the arbitrary arrest and detention of Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED]. We are particularly concerned that prior to their trial, the three human rights defenders were forcibly disappeared and held in incommunicado detention for over a year. Furthermore, we are seriously concerned that during their pre-trial incommunicado detention the human rights defenders were not given access to their lawyers, thus breaching their right to a free and fair trial. We also highlight with concern the inconsistencies surrounding their trial, most notably that it was held in secret and the verdict was not made public immediately. It appears that the continued imprisonment and arbitrary detention of these human rights defenders is illustrative of the shrinking space for civil society in Lao PDR, and may incite fear amongst other human rights defenders in the country and deter them from carrying out their peaceful and legitimate human rights work and engaging with UN Human Rights Mechanisms for fear of reprisals.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the factual and legal basis for the arbitrary arrest and detention and conviction of Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED]. and explain how these are compatible with relevant international human rights norms and standards, including articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and 9, 14, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which the Lao PDR ratified on 25 September 2009. In particular, please explain

how the exercise of fundamental rights amounts to “treason against the nation”, “propaganda against the State”, and “gatherings aimed at causing social disorder” and charges brought under articles 56, 65, and 72 of the Penal Code.

3. Please provide further information on the conditions of detention and the well-being of Ms. [REDACTED] [REDACTED] Mr. [REDACTED] [REDACTED] and Mr. [REDACTED] [REDACTED] since their sentencing on 22 March 2017 and the measures taken to ensure their psychological integrity and respect for their health as detainees during the COVID-19 pandemic.
4. Please explain the incommunicado detention of Ms. [REDACTED] [REDACTED] Mr. [REDACTED] [REDACTED] and Mr. [REDACTED] [REDACTED] without a warrant, without informing them of the reasons for their arrest and without disclosing their location since these allegations are in contradiction with the obligations of Lao PDR under international human rights law. Please also explain why the three individuals have allegedly not had access to a legal counsel during their detention and trial.
5. Please provide full information on what avenues are available for Ms. [REDACTED] [REDACTED], Mr. [REDACTED] [REDACTED] and Mr. [REDACTED] [REDACTED] to appeal the court’s decision and to have their conviction reviewed by a higher tribunal. If no such possibility exists, please explain why.
6. Please also indicate what measures have been taken to ensure that human rights defenders 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, intimidation, criminal prosecution and harassment of any sort.

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.

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.

We may 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 to clarify the issues in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

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

## **Annex**

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

In connection with above alleged facts and concerns, 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. In this regard, we would like to refer your Excellency's Government to articles 9, 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Lao PDR on 25 September 2009, which guarantees that everyone has the right to liberty and security and anyone who is arrested shall be informed the reasons of the arrest and charges faced at the time of the arrest; the right to a fair hearing before a competent, independent and impartial tribunal established by law, which includes the right to have access to counsel and to be presumed innocent until proven guilty; the right to freedom of opinion and expression and the right to peaceful assembly and to freedom of association. These rights are also provided for under articles 3, 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights (UDHR).

We would like to draw your Excellency's particular attention to article 9 of the ICCPR which states that "everyone has the right to liberty and security. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release." With regard to the arbitrary detention and continued imprisonment of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED], we refer to the above mentioned articles, underlining that all individuals should be informed of the reason for their detention and allowed the right to access a lawyer and to a fair, public and impartial trial. The right to have access to a lawyer is also embedded in the UN Basic Principles on the Role of Lawyers (see in particular Principles 1, 2, 5, 7 and 8).

We would furthermore like to recall the the prohibition of incommunicado detention as a priori violating article 9 (4) of the Covenant. Enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention. We also recall that Human Rights Committee's General Comment no. 35 affirms that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21) and freedom of association (art. 22), freedom of religion (art. 18) and the right to privacy (art. 17).

With regard to the alleged violations of due process guarantees, we would like to recall article 14 of the ICCPR, which provides inter alia for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defense, and the right of accused persons to communicate with counsel of their own choosing. We also refer to General Comment No. 32 (2007) by the Human Rights Committee (CCPR/C/GC/32) and the UN Basic Principles and Guidelines on Remedies and

Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), which provide for the right to legal assistance, and for the prompt access and consultation with counsel from the moment of detention and throughout the proceedings without intimidation, hindrance, harassment or improper interference.

We would like to draw the attention of your Excellency's Government to the Human Rights Council resolution 12/16, which calls on States to recognise the right to freedom of opinion and expression as an essential human right. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the ICCPR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

Furthermore, 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:

- article 5 points a), b) which provide for the right to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups;
- article 6 point a) which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provide 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 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.