

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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

Ref.: AL LAO 3/2023
(Please use this reference in your reply)

13 September 2023

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; Working Group on Enforced or Involuntary Disappearances; 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 52/4, 51/8, 45/3, 44/5, 52/9 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary and incommunicado detentions, enforced disappearances, violations of fair trial, intimidation, extrajudicial killings and renditions in relation to eight human rights defenders. These include Mr. **Somphone Phimmasone**, Mr. **Soukane Chaithad**, Ms. **Lodkham Thammavong**, Mr. **Od Sayavong**, Mr. **Phouvong Sayaseng**, Mr. **Leokham Losavath**, Mr. **Phetphouthone Philachanh** and Mr. **Bounsuan Kitiyano**.

Special Procedures have, in the past, addressed violations of this nature in letters of allegation sent to the Lao PDR government, sent on 25 July 2016 (**LAO 3/2016**), on 30 June 2017 (**LAO 1/2017**), on 25 September 2019 (**LAO 2/2019**), and on 11 December 2020 (**LAO 4/2020**). We thank Your Excellency's government for the reply we received to the third of these communications (**LAO 2/2019**) on 17 January 2020. However, we regret that we have not received responses in regard to the other three communications. We look forward to hearing from Your Excellency in response to these remaining letters of allegation at your earliest convenience.

Additionally, the Working Group on Arbitrary Detention, in its Opinion 61/2017, has found the deprivation of liberty of Ms. Lodkham Thammavong; Mr. Somphone Phimmasone; and Mr. Soukan Chaithad to be arbitrary in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and of articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, falling under categories I, II, and III.

The Working Group on Enforced or Involuntary Disappearances also transmitted the cases of enforced disappearances of Mr. Soukane Chaithad, Ms. Lodkham Thammavong, Mr. Somphone Phimmasone and Mr. Od Sayavong to your Excellency's Government through its humanitarian procedure.

Mr. **Somphone Phimmasone** is a Lao pro-democracy activist and human rights defender, as well as a member of "Free Laos". He also worked as a security

guard at a factory and was previously resident in Bangkok before his arrest.

Mr. **Soukane Chaithad** is a Lao pro-democracy activist and human rights defender, as well as a member of “Free Laos”. He also worked as a delivery driver in Bangkok where he was previously resident prior to his arrest.

Ms. **Lodkham Thammavong** is a Lao woman human rights defender and pro-democracy activist, as well as a member of “Free Laos”. She also worked as a domestic worker and was previously resident in Bangkok prior to her arrest.

Mr. **Od Sayavong** is a Lao pro-democracy activist and human rights defender, member of “Free Laos” and one of the founders of the “Lao United Labour Federation in Thailand”, who disappeared in Bangkok, Thailand, on 26 August 2019. At the time of his disappearance, he was resident in Thailand as a UNHCR-recognized refugee. Mr. Od Sayavong was the subject of previous communications on 29 September 2019 (**LAO 2/2019**) and on 11 December 2020 (**LAO 4/2020**), and his case featured in the 2020 and 2021 reports of the Secretary-General on intimidation and reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/45/36, Annex I paras. 68-69; A/HRC/48/28, Annex II paras. 83-84). We note that in your reply on 17 January 2020, your Excellency’s Government provided details on the efforts taken to investigate the disappearance of the human rights defender, including liaising with the Government of Thailand. However, we lament that these efforts have not yielded any further information as to the whereabouts of Mr. Sayavong.

Mr. **Phetphouthone Philachanh** is a Lao pro-democracy activist and human rights defender, a member of “Free Laos” and one of the founders, and former Vice-President, of the Lao United Labour Federation in Thailand. His whereabouts have remained unknown since his arrest on 14 November 2019. In addition to this, Mr. Phetphouthone Philachanh was also the housemate of Mr. Od Sayavong at the time of Mr. Sayavong’s disappearance and was the last person to see Mr. Sayavong before he disappeared. At the time of Mr. Philachanh’s own disappearance in Vientiane, Lao PDR, Mr. Philachanh was registered as an asylum seeker with the UNHCR in Thailand and was awaiting the outcome of his Refugee Status Determination (RSD).

Mr. **Bounsuan Kitiyano** was a pro-democracy activist and human rights defender, as well as a member of the “Free Laos” movement and “the Lao United Labour Federation” in Thailand. He was found dead on 17 May 2023. As an active participant in these organisations, Mr. Kitiyano engaged in human rights activities in Thailand, where he attended peaceful demonstrations at the Embassy of Lao PDR in Bangkok in both 2015 and 2018. While living in Bangkok, Mr. Kitiyano also resided with two other members of “Free Laos”, namely Mr. Od Sayavong and Mr. Phetphouthone Philachanh, who were both victims of alleged enforced disappearances in 2019. At the time of his death, Mr. Kitiyano was a UNHCR-recognized refugee in Thailand, about to be resettled to a third country.

Mr. **Phouvong Sayaseng** was a human rights defender and pro-democracy activist who was found dead on 18 July 2020 following his disappearance. He was affiliated with the Germany-based organisation “Alliance for Democracy” (ADL) in Lao PDR. He was also among the organizers of the protests that were supposed to take place in Vientiane in November 2019 but which were called off at the last minute

due to arrests by Lao law enforcement authorities. In March 2020, Mr. Phouvong Sayaseng was nominated as the country representative of “ADL” in Lao PDR.

Mr. **Leokham Losavath** was a human rights defender, pro-democracy activist and car mechanic from Thin village, Xay City, situated in the Oudomxay province of Lao PDR. He died after being attacked on 12 June 2020. He was also a satellite member of the “Alliance for Democracy” (ADL) network inside the country. As part of his involvement in the group, Mr. Losavath provided transportation services to ADL members to facilitate their activities.

According to the information received:

Background information:

Between 2016 and 2023, at least eight members of the “Free Laos” movement (FL), and related organizations, have been subjected to multiple human rights violations. These have included alleged enforced disappearances, including alleged extra-territorial renditions, extra-judicial killings, arbitrary detentions, incommunicado detention, and long-term sentencings. Many of these victims may be characterised by their work in defence of human rights, both within Lao PDR and outside of it. These human rights defenders have, through their activism both online and offline, exercised their rights to freedom of opinion and expression, of peaceful assembly and of association, to denounce alleged wrongdoings by the Government of Lao PDR, and to voice criticisms in relation to this.

The Special Procedures’ mandate holders have in the past alerted the Government of Lao PDR to what appears to be a deeply concerning pattern of violations, whereby Vietnam and Thailand coordinate with one another to facilitate the extra-territorial abduction and rendition of activists and human rights defenders. Such alarming allegations were previously addressed to Your Excellency’s Government in a letter **LAO 4/2020**.

The case of Ms. Lodkham Thammavong, Mr. Soukane Chaithad and Mr. Somphone Phimmasone:

On 13 December 2015, Ms. **Lodkham Thammavong**, Mr. **Soukane Chaithad** and Mr. **Somphone Phimmasone** participated in peaceful protests outside the Embassy of Lao PDR in Bangkok with other “Free Laos” members.

On 18 February 2016 Ms. **Thammavong**, Mr. **Chaithad** and Mr. **Phimmasone** returned to Laos from Thailand to renew their passports.

On 4 March 2016, while in Lao PDR, Ms. **Lodkham Thammavong** and Mr. **Somphone Phimmasone** were arbitrarily arrested in the village of Ban Vang Tay, in the Nong Bok District, situated in the Khammuan Province of Lao PDR.

On 22 March 2016, Mr. **Soukane Chaithad** was subsequently also arbitrarily arrested at the Lao Ministry of Public Security head office (“Ko Po So”) in Savannakhet City, Lao PDR.

They were subsequently trialled in secret and found guilty of breaching articles 56, 65 and 72 of the Penal Law 2005. They received lengthy sentences, up to 20 years in prison.

We previously wrote to you to express our concerns about the incommunicado detention, and the ongoing incarceration of these human rights defenders on 25 July 2016 (**LAO 3/2016**), on 30 June 2017 (**LAO 1/2017**), and on 1 April 2021 (**LAO 2/2021**). Since, in all of these instances, Your Excellency's Government has not provided us with substantive answers to our questions on the cases of these human rights defenders, we wish to respectfully request an update on their situation while in custody.

The Working Group on Enforced or Involuntary Disappearances transmitted the cases of Mr. Soukhane Chaithad, Ms. Lodkham Thammavong and Mr. Somphone Phimmasone to Your Excellency's Government through its humanitarian procedure in 2016. Their fate and whereabouts were clarified by Your Excellency's Government the same year.

The case of Mr. Od Sayavong:

On 15 March 2019, Mr. Od Sayavong met with the Special Rapporteur on extreme poverty and human rights in Bangkok, prior to the Special Rapporteur's visit to the Lao People's Democratic Republic from 18 to 28 March 2019. In September and October 2019, the Special Rapporteur raised concerns that this cooperation may have possibly contributed to Mr. Sayavong's alleged disappearance (LAO 2/2019) and noted that everyone should have unhindered access to and communication with the United Nations in the field of human rights¹. On 17 January 2020, Your Excellency's Government responded to this communication, but it did not address the allegations of reprisals for cooperation with the United Nations.

On 26 August 2019, at around 5.30 p.m., Mr. Od Sayavong disappeared after he left his home in the Bueng Kum District of Bangkok to join two of his housemates for dinner at the restaurant where he worked as a cook. As per closed circuit television (CCTV) footage, no person resembling Mr. Sayavong was seen leaving the house before the appearance of a white van. Though it is suspected that Mr. Sayavong was a victim of enforced disappearance and extra-territorial rendition, Thai Police informed Mr. Sayavong's family in March 2022 that the investigation into his disappearance was being closed on account of no evidence having been found that could advance the case.

The Working Group on Enforced or Involuntary Disappearances transmitted the case of Mr. Od Sayavong to your Excellency's Government through the urgent procedure of its humanitarian mandate on 14 October 2019. To date, his fate and whereabouts remain unknown.

The case of Mr. Phouvong Sayaseng:

On 12 November 2019, at around 1 p.m., Mr. Phouvong Sayaseng was arrested by police authorities of Lao PDR in relation to peaceful protests that

¹ [Thailand/Lao PDR: UN experts concerned by disappearance of Lao human rights defender | OHCHR](#)

were scheduled to take place in Vientiane on 11 November 2019, due to coincide with the “That Luang” festival celebrations, of which he was an organiser. The demonstrations were ultimately called off when police became aware of the plan.

Mr. Sayaseng’s arrest was one of the eight organisers arrested following the planning of the event in question.

On 16 November 2019, Mr. Sayaseng, was released on account of a lack of evidence for any crime committed. His release coincided with that of six of the eight organisers who had previously been detained.

On 15 July 2020 Mr. Sayaseng, left his home in Thasi Village, Bolikham City, in the Bolikhamxay province of Lao PDR, to attend a funeral. This was the last time he was seen.

It is reported that around this time, Mr. Sayaseng told his friends that he had evidence that his life was in danger. According to the information received, screenshots from a Facebook conversation showed that he was being targeted by Lao Police and that certain officers were calling for him to be hunted down and killed.

On 18 July 2020, the body of Mr. Phouvong Sayaseng was discovered not far from his home. The body displayed multiple signs of gunshots.

Although the family reported the case to the Police at the time, to date the investigation into the disappearance and subsequent killing has not identified the perpetrators responsible.

The case of Mr. Phetphouthone Philachanh:

On 13 November 2019, Mr. Philachanh arrived in Vientiane to visit his family. He had previously relocated to Thailand as a result of purported persecution in his country of origin, Lao PDR. In Thailand, he was awaiting the outcome of his refugee status determination (RSD) by UNCHR.

According to witnesses, on 14 November 2019, Mr. Philachanh was arrested by representatives of the Lao PDR law enforcement while at an ATM machine in Vientiane. According to information received, his disappearance may be connected to his participation in the pro-democracy demonstrations that were planned to take place in Vientiane on 11-12 November 2019, which were eventually called off due to the police involvement.

It is further informed that persons associated with Mr. Phetphouthone Philachanh have not taken any formal steps towards denouncing his disappearance due to fear of reprisals.

At the time of this communication, Mr. Philachanh’s fate and whereabouts remain unknown.

The case of Mr. Leokham Losavath:

On 12 June 2020, at around 11 p.m., four unidentified men dressed in black visited the workshop of the human rights defender Mr. Leokham Losavath. They pulled up in front of the building driving a black Toyota Hilux Vigo.

The four unidentified perpetrators in question got out of the car and, unprovoked, began to beat the human rights defender, inflicting physical violence on him that may amount to inhuman and degrading treatment or torture.

On hearing the noise resulting from the beating, several of the neighbouring residents came out of their homes to see what the commotion was. Mr. Losavath was, at this point, left in an unconscious state.

Reportedly, Mr. Losavath suffered severe head and shoulder injuries as a result of the assault. He also had eight stab wounds. Mr. Losavath was subsequently taken to hospital.

Later that day, Mr. Losavath died while in hospital.

At the time of this communication, the police investigation has not succeeded in identifying any of the perpetrators responsible for the death of Mr. Losavath.

The case of Mr. Bounsuan Kitiyano:

In late 2019, following the disappearance of his former co-habitants Mr. Od Sayavong and Phetphouthone Philachanh, Mr. Bounsuan Kitiyano moved to the Ubon Ratchathani province in northern Thailand, located close to the border with the Democratic Republic of Lao.

On 17 May 2023, Mr. Bounsuan Kitiyano's body was discovered by villagers on the side of the road of the Non Chik, Village No. 4, Warin Subdistrict, Si Mueang Mai District, Ubon Ratchathani province in Thailand. His body showed signs of wounds from gunshots, including one in the left cheekbone, which had pierced his right temple, one in the chest and one in the abdomen.

At the time of this communication, it is reported that investigations into the death of Mr. Kitiyano have either been inadequate or ineffective.

Without prejudging the accuracy of these allegations, we wish to express our serious concern regarding the continued arbitrary detention of human rights defenders Ms. **Lodkham Thammavong**, Mr. **Soukane Chaithad** and Mr. **Somphone Phimmason** which appears to be in direct retaliation for their peaceful and legitimate human rights work, and whose ongoing detention, characterised by ill treatment and denial of rights to legal counsel and family visitations, is in contravention of international law, given the opinion issued by the Working Group on Arbitrary Detention which points to the deeply inadequate legal basis for their criminalisation.

Similarly, in regard to the allegations concerning the secret trial and incommunicado detention in the cases of Mr. **Soukane Chaithad** and Ms. **Lodkham Thammavong**, we wish to recall **article 43(3) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)** which establishes that Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as is strictly required for the maintenance of security and order. In addition, article 58 establishes that Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals. Likewise, principles 15, 16 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment establish that during arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify members of his family, or other appropriate persons of his choice, of his arrest, detention or imprisonment, or of the transfer, and of the place, where he is kept in custody and that a detained person shall have the right to be visited by members of his family and shall be given adequate opportunity to communicate with the outside world.

Furthermore, we wish to express our utmost concern at the killing of Mr. Leokham Losavath, as well as the disappearance and subsequent killing of Mr. Bounsuan Kitiyano. Should these allegations be confirmed, the facts alleged would violate the International Covenant on Civil and Political Rights (ICCPR), which Lao PDR acceded to on 25 September 2009, as well as the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (UNCAT), also ratified by Lao PDR on 26 September 2012. The ICCPR provides that every individual has the right to life and that no person shall be arbitrarily deprived of his or her life. The right to life is the supreme right from which no derogation is permitted, and it is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights.

We underscore the importance of conducting investigations into all suspected unlawful deaths in line with international standards, particularly the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)).

Moreover, we wish to express our alarm at the alleged enforced disappearances of of Mr. **Od Sayavong**, and Mr. **Phetphouthone Philachanh**. Should these allegations be confirmed, they would violate articles 6, 7, 9 and 19 of the International Covenant on Civil and Political Rights, ratified by the Lao PDR in 2009 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. We would also like to refer to the Declaration on the Protection of All Persons from Enforced Disappearance. Though Laos PDR signed the International Convention for the Protection of all Persons from Enforced Disappearance on 29 September 2008, it has still failed to take action to ratify this.

We are deeply concerned at the apparent pattern of cases described above, which appears to point towards countries in the region coordinating, assisting or

acquiescing to extraterritorially abduct human rights defenders and activists, leading to disappearances, a consideration previously highlighted by Special Procedures mandate holders in a communication sent on 11 December 2020 (LAO 4/2020). These rendition practices, if proven true, would constitute a gross violation of the principle of non-refoulement enshrined in Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), to which the Lao People's Democratic Republic is party since 26 September 2012. This rule, which may be inferred from article 7 of the International Covenant on Civil and Political Rights, to which Lao PDR is a party since 25 September 2009, and which is enshrined in article 33 of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, dictates that the prohibition of refoulement under international human rights law applies to any form of removal or transfer of persons, regardless of their status, where there are substantial grounds for believing that the returnee would be at risk of irreparable harm upon their return, on account of torture, ill-treatment or other serious breaches of human rights obligations

It appears that that the multiple gross violations exhibited here are illustrative of a greater shift towards the shrinking of civil society spaces in Lao PDR. This alarming trend is characterised, as per the accounts listed above, by the intimidation, surveillance detention and enforced disappearance of human rights defenders who voice criticism of the Government, including through their engagement with the United Nations, its representatives and mechanisms in the field of human rights. The enjoyment of rights to free expression and opinion, free of peaceful assembly and of association have been heavily curtailed for human rights defenders, inciting a culture of fear and inhibiting them from carrying out their work in defence of human rights, including their cooperation with the United Nations.

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 additional information and/or comment(s) you may have on the above-mentioned allegations.
2. In the reply by Your Excellency's Government from 17 January 2020, it is mentioned the adoption of over 140 laws by the National Assembly in compliance with the rights and obligations set forth in 7 core human rights Treaties that the Lao PDR is party to. Could you please elaborate on these laws and detail how they have been implemented in regards to the cases of the human rights defenders referenced in this letter of allegation.
3. Please provide information concerning the legal and factual grounds for the arrest and detention of the abovementioned persons and explain how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR. Please provide information on whether all detainees have access to family

members, legal counsel, and medical personnel.

4. Please provide information as to whether any investigation and judicial or other inquiry has been undertaken in relation to the deaths and enforced disappearances of the aforementioned human rights defenders. Please provide details as to how these inquiries were conducted in compliance with the Minnesota Protocol. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is compatible with your Excellency's Government international human rights obligations under the ICCPR.
5. We note that while Lao PDR signed the International Convention for the Protection of all Persons from Enforced Disappearance on 29 September 2008, it has still failed to take action to ratify this, which is necessitated under international law so as not to defeat the treaty's object and purpose. Please provide an action plan as to the signing of this Treaty, detailing measures that will be taken to implement the International Convention at the domestic level.
6. Please also indicate what measures have been taken in Lao PDR to ensure that human rights defenders and other civil society actors who voice criticisms of the government are able to carry out their legitimate work in a safe and enabling environment, without fear of threats, intimidation, criminal prosecution and harassment of any sort.

We would appreciate receiving a response within 60 days. Past 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.

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's to clarify the issue/s in question.

Please be informed that a copy of this letter was also sent to the Government of Thailand.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

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.

We would like to highlight that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life and that states are required to conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance and introduce prompt and effective procedures to investigate cases of disappearances thoroughly, by independent and impartial bodies (Human Rights Committee, general comment 36).

We would also like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance (the Declaration) which sets out necessary protection by the State, and in particular that no State shall practice, permit or tolerate enforced disappearances, States should take measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction and should cooperate to prevent and eradicate enforced disappearances (articles 2 and 3 of the Declaration). States should investigate all cases of enforced disappearance promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation including when there has not been a formal complaint (article 13 of the Declaration). We underline that an enforced disappearance continues until the fate and whereabouts of the individual concerned are established irrespective of the time passed, and that the family members 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) (A/HRC/16/48). We would also like to underline that enforced disappearances constitute a violation of article 9 (liberty and security of persons) of the ICCPR. Furthermore, we recall that the Human Rights Committee, in its general comment no. 35, paragraph 17, has qualified the enforced disappearance to be a particularly aggravated form of arbitrary detention.

We further emphasise that no State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance (article 8 of the Declaration). We underline that this applies irrelevant of the immigration status of the individual in question.

We would also like to remind your Excellency's Government that while enforced disappearance is a crime in itself, it may also amount to torture or other cruel, inhuman or degrading treatment or punishment, and is a serious violation of international law. The Committee against Torture² and the Human Rights Committee³

² See, for example, conclusions and recommendations on the second periodic report of Algeria (A/52/44, para. 79), on the initial report of Namibia (A/52/44, para. 247) and on the initial report of Sri Lanka (A/53/44, paras. 249 and 251).

³ CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.

have concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved-ones. The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, is an international norm of jus cogens, and as reflected inter alia, in Human Rights Council resolution 25/13 and General Assembly resolution 68/156. We further highlight that families of forcibly disappeared persons should be protected from ill-treatment or intimidation if required (article 13 of the Declaration).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "everyone shall have the right to hold opinions without interference" as well as that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers..." This right includes not only the exchange of information that is favorable, but also that which may shock or offend. In its general comment no. 34 on Freedoms of opinion and expression (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism', subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. Furthermore, Human Rights Committee, in its general comment no. 35 paragraph 53 has stated that detention purely due to peaceful exercise of right protected by the Covenant may be arbitrary.

Regarding allegations that the disappearance of Mr. Od Sayavong could have possibly be an act of reprisals against for his cooperation with the UN in the field of human rights, we would like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, and 42/28 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies as well as the issuance of appropriate guidance to national authorities in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims, and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

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 freedom.

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 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 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 4, point a), which provides for the right to unhindered access to and communication with international bodies;
- 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.