

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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy

Ref.: AL THA 7/2024
(Please use this reference in your reply)

26 June 2024

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; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the right to privacy, pursuant to Human Rights Council resolutions 52/4, 51/8, 52/9, 50/17 and 55/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged surveillance of woman human rights defender and member of the Working Group on Enforced or Involuntary Disappearances Ms. Angkhana Neelapaijit, and Ms. Pranom Somwong of Protection International Thailand, during commemorative events for the families of individuals who have been forcibly disappeared.

Ms. **Angkhana Neelapaijit** is a woman human rights defender and former Commissioner of Thailand's National Human Rights Commission, who has for years advocated for the rights of victims and the families of disappeared persons. Ms. Neelapaijit's husband, human rights lawyer Somchai Neelapaijit, was allegedly forcibly disappeared on 12 March 2004, believed to be related to his legal work in the defence of Muslim minorities in southern Thailand. In 2005, Ms. Neelapaijit reported her husband's case to the Working Group on Enforced or Involuntary Disappearances, which transmitted the case to Your Excellency's Government on 15 April 2005. The case is still outstanding¹ and no one has been held accountable yet for his enforced disappearance. In the years she has sought the truth about her husband's fate and whereabouts and advocated for the perpetrators to be brought to justice, as well as for the rights of disappeared persons victims and their families, Ms. Neelapaijit has been subjected to threats and reprisals. She is the founder of the Justice for Peace Foundation, which provides support to victims of human rights violations, and, in 2019, she was awarded the Magsaysay Award for her contribution to human rights work in Thailand. In 2022, Ms. Neelapaijit became a member of the Working Group on Enforced or Involuntary Disappearances.

Ms. **Pranom Somwong** is the Country Representative of Protection International Thailand.

Reported acts of intimidation and harassment against Ms. Angkhana Neelapaijit in apparent connection with her human rights work have been the subject of three previous communications sent by Special Procedures mandate-holders to your Excellency's Government on 16 February 2011 (AL THA 5/2011), 2 January 2014 (AL THA 9/2013), 13 September 2017 (AL THA 6/2017) and 18 August 2023

¹ See E/CN.4/2006/56 para 526, and [A/HRC/WGEID/126/1 para. 135](#).

(AL THA 3/2023). We thank your Excellency's Government for its responses to these communications. However, we lament that Ms. Neelapaijit continues to be subjected to acts of intimidation presumably in connection with her legitimate human rights activities.

According to information received:

On 11 March 2024, a two-day event titled "Enforced Justice Instead of Disappearances: Commemorating the 20th Year of Human Rights Lawyer and Defender Somchai Neelapaijit" commenced at the Foreign Correspondent's Club of Thailand (FCCT). The event was organized by the family of Mr. Neelapaijit to mark the 20th anniversary of his enforced disappearance along with the families of other disappeared individuals and human rights organizations in Thailand. In addition to commemorating the enforced disappearance of Mr. Neelapaijit, the event was also intended to reassert the impact of this violation of multiple human rights on the disappeared and their families, and was attended by families of the disappeared, media, representatives from UN agencies and international organizations and students.

On 12 March 2024, the second day of the event taking place in the Political Science Faculty building of Chulalongkorn University, a man and a woman both wearing baseball caps were seen taking photographs of Ms. Neelapaijit and Ms. Somwong. The man and woman were asked to register for the event by the organizers, which they obliged with, registering with the names of [REDACTED] and [REDACTED].

The man was noticed taking photos of Ms. Neelapaijit, editing them so as to only include her, and then reportedly sending them to someone on his phone. Informed of this, Ms. Neelapaijit approached the man and woman and inquired as to their presence at the event. He reportedly informed Ms. Neelapaijit that they work for the Internal Security Operations Command, the political arm of the Royal Thai Armed Forces, and that he had sent the photos to his supervisor. Ms. Neelapaijit requested to see the photos they had taken during the event and found that photos had not only been taken of her and Ms. Somwong, but also of the relatives of other forcibly disappeared persons attending the event. The man and woman reportedly remained at the event following this interaction.

On 18 March 2024, Ms. Neelapaijit wrote to the Minister of Justice in his capacity as the Chair of the Committee on the Prevention and Suppression of Torture a letter titled "Urgent Request for Investigation into Alleged Surveillance and Intimidation Targeting Families of the Disappeared" in which she outlined the details of the incident on 12 March 2024 during the event. The letter outlined the international human rights law and national provisions, including section 32 and 19(3) of the Act on Prevention and Suppression of Torture and Enforced Disappearance B.E. 2565, and the corresponding obligations. In the letter Ms. Neelapaijit urged the Minister to "fulfil [his] duties and exercise [his] powers in ensuring the protection, well-being, and safety of the families of the disappeared by putting an immediate end to intimidation through surveillance and instilling fear by public agencies".

At the time of writing, Ms. Neelapaijit is yet to receive a response to the letter, despite the Ministry of Justice's reported assurances that complainants would receive a response within 15 days. According to available online updates to track the progress of the letter, it was reportedly designated on 1 May 2024 and is still being processed.

Without prejudging the accuracy of the information received, we wish to express our deep concern with regard to the reported surveillance of women human rights defenders Ms. Neelapaijit and Ms. Somwong by agents from the Internal Security Operations Command whilst attending a commemorative event to mark the 20th anniversary of the enforced disappearance of Mr. Somchai Neelapaijit. We are concerned that the presence of these agents at an event of this nature and on this subject matter, and their alleged photographing of Ms. Neelapaijit and Ms. Somwong may not only be considered an act of surveillance, but also an apparent attempt to intimidate the women human rights defenders and other persons attending the event, including the families of disappeared persons. We take this opportunity to recall, and particularly in the context of Thailand's recent ratification of the International Convention for the Protection of All Persons from Enforced Disappearance on 14 May 2024, that all victims of enforced disappearances and, critically, the relatives of the disappeared whose suffering is rooted in the primary violation against the disappeared person, have the right to know the truth, to obtain justice and reparations and the exercise their shall be enabled to exercise their rights without undue restrictions.

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. Please provide information as to the purpose of two employees of the Internal Security Operations Command (ISOC) attending the commemorative event on 12 March 2024.
3. Please provide information as to why these two individuals from ISOC were photographing Ms. Neelapaijit and Ms. Somwong during the event on 12 March 2024.
4. Please provide information as to whether an investigation has been opened into the reported surveillance of Ms. Neelapaijit and Ms. Somwong during the event on 12 March 2024, pursuant to Ms. Neelapaijit's letter to the Minister of Justice, dated 18 March 2024.
5. If such an investigation has been opened, please provide information as to its progress and findings, and if such an investigation has not been

opened, please provide information and explanation as to why.

6. Please provide information as to the status and findings of any investigation into the enforced disappearance of Mr. Somchai Neelapaijit and the actions undertaken to establish his fate and whereabouts.

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.

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.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit specific cases relating to the circumstances outlined in this communication through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and to the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and personal integrity of Ms. Neelapaijit and Ms. Somwong, to halt the alleged violations and to 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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska
Vice-Chair on Communications 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

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ana Brian Nougrères
Special Rapporteur on the right to privacy

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 articles 7, 17, 19, 21 and 22 the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, which guarantee that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, read alone and in conjunction with art. 2.3, the right to privacy, freedom of opinion and expression, freedom of peaceful assembly and of association, read alone and in conjunction with article 2.3.

With regard to article 19, the Human Rights Council has urged States to "refrain from imposing restrictions which are not consistent with paragraph 3 [of article 19 of ICCPR], including on discussion of government policies and political debate; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups" (A/HRC/RES/12/16, para. 5 (p) (i)). In its General Comment No. 34 (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of 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 referred to above as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. In paragraph 23, the Human Rights Committee has recognized that those "persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights related reports", are "frequently subjected to threats, intimidation and attacks because of their activities."

As per article 19(2), the freedom of expression includes the "right to seek, receive and impart information and ideas of all kind, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice". Intimidation or retaliation of any kind against a person for holding or expressing an opinion, such as an opinion critical of the government, is a violation of article 19(1).

Furthermore, we would like to refer your Excellency's Government to article 17 of the ICCPR, which provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, not to unlawful attacks on his honour and reputation, and that everyone has the right to protection of the law against such interference or attacks. Further, in its general comment no. 17 in relation to article 17, the Human Rights Committee asserted that surveillance, whether electronic or otherwise, should be prohibited.

Article 21 of the ICCPR states that "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." The Human Rights Committee previously affirmed that States "should effectively guarantee and protect the freedom of peaceful assembly and avoid

restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety” (CCPR/C/THA/CO/2, para. 40).

We also recall that article 22 of the ICCPR protects the right to freedom of association, including the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies.

We wish to further recall that the prohibition of enforced disappearance has attained the status of *jus cogens* under international law. In this connection, we wish to refer to article 7 of the International Convention on the Protection of All Persons from Enforced Disappearances, ratified by Thailand on 14 May 2024, which stipulates that “each State party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance”. Article 12, paragraph 1, further establishes that each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Moreover, article 24, paragraphs 1-3, stipulate that “any disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance”, has the right to truth, and that State authorities have the obligation to undertake search activities, and to “locate and release the disappeared persons, and in the event of death, to locate, respect and return the remains”.

In this connection, we wish to refer to the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearance which establishes in its paragraphs 3 and 5 of article 13, that “States shall ensure that all persons involved in the investigation of cases of enforced disappearance, including the complainant, counsel and witnesses, are protected against ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished”. Article 13 further stipulates that “any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority”. Ultimately, article 19 of the Declaration establishes 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”.

The Working Group on Enforced or Involuntary Disappearances has also noted that many women human rights defenders and activists are often victims of violence and enforced disappearance. In its General Comment on women affected by enforced disappearances,² the Working Group reminds that women suffer particular types of harm based on their gender, including instances of sexual violence, and forced impregnation, and the resulting psychological damage and social stigma, as well as the

² [A/HRC/WGEID/98/2](#)

disruption of family structures. (...) in addition, women from minority groups and women affected by poverty and social inequalities are particularly vulnerable and exposed to enforced disappearances.

In its study on enforced or involuntary disappearances and economic, social and cultural rights³ the Working Group has highlighted the chilling effect of the disappearance human rights defenders and called States to “ensur[e] the existence of and respect for cultural diversity and the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents against targeting of human rights defender”.

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 and whereabouts of the disappeared persons, and the circumstances of the disappearances, and the identity of the perpetrator(s) (A/HRC/16/48). We further recall that all victims of enforced disappearances have the right to know the truth and to reparation, including compensation (A/HRC/16/48, para. 39). The right to truth is therefore an absolute right which cannot be restricted and there is an obligation to take all the necessary steps to find the disappeared person (A/HRC/16/48, general comment, para. 4).

We further refer to Human Rights Committee, general comment number 36, which highlights that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and results in a violation of the right to life. It further observes 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 these cases thoroughly, by independent and impartial bodies leading to the identification of potential perpetrators. The obligation to carry out prompt, thorough and impartial investigations shall be conducted ex officio if required. To this purpose, adequate complaint mechanisms should be made available, which should be independent and committed to carrying out impartial and prompt investigations into all allegations of enforced disappearances (A/HRC/45/13/Add.3 paras. 16 and 17).

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 articles 1, 2 and article 5 (a), which provides for the right to meet or assemble peacefully. As per article 1, everyone has the right, individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. We also wish to refer to articles 6(c), 9 and 12, which state that everyone has the right, individually and in association with others, to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and

³ [A/HRC/30/38/Add.5](#)

to participate in peaceful activities against violations of human rights and fundamental freedoms.

We also recall the General Assembly Resolution 68/181, which urges States to acknowledge publicly the important and legitimate role of women human rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7). We also refer to the Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).