

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

Ref.: AL THA 8/2024
(Please use this reference in your reply)

6 August 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 53/4, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the death in detention of young woman human rights defender Natiporn Sanesangkhom**.

Ms. Natiporn "Bung" Sanesangkhom was a 28-year-old woman human rights defender. She was a member of the youth-led Thalu Wang group, which conducts public opinion polls on issues such as monarchy reform and calls for the abolition of section 112 of the Thai Criminal Code, which criminalises the offence of lèse-majesté. She began advocating for students' and LGBTIQ+ persons rights in 2020 by fundraising for the youth-led pro-democracy movement in Thailand.

Special Procedures mandate holders have expressed concern on several occasions in the past regarding the use of lèse-majesté legislation to criminalise human rights defenders, activists and critics for exercising their rights to freedom of expression and peaceful assembly, most recently in [AL THA 3/2024](#). We thank your Excellency's Government for its [acknowledgement](#) of this communication and look forward to receiving a comprehensive response in due course. We nevertheless remain gravely concerned about this issue in light of the information received below.

According to the information received:

On 8 February 2022, Ms. Sanesangkhom and other activists participated in a peaceful protest outside the Siam Paragon shopping mall in central Bangkok. They conducted an opinion poll in which they asked members of the public whether they thought the royal motorcades caused inconvenience.

Following this opinion poll, Ms. Sanesangkhom and other activists went to the Sra Pathum Palace royal residence to hold a demonstration. The demonstrators allegedly removed barricades and metal fences that the police had put up to prevent the protest from taking place. The indictment against these protesters also alleged that some of them did a three-finger salute, which is symbolically associated with the pro-democracy movement in Thailand and other countries in the region. There were no reports of any violence in this demonstration.

On 10 March 2022, criminal proceedings were initiated against Ms. Sanesangkhom and other activists involved in conducting the public opinion poll outside the Siam Paragon shopping mall on 8 February. The charges against Ms. Sanesangkhom included lèse-majesté and sedition, under articles 112 and 116 of the Thai criminal code, respectively. However, the chargesheet against her allegedly did not substantiate how Ms. Sanesangkhom's conduct constituted either lèse-majesté or sedition.

Ms. Sanesangkhom was released on bail subject to several conditions, namely the prohibition on engaging in any activities that would tarnish the monarchy and the prohibition on posting any “provocative” messages on social media inviting others to join public assemblies.

On 13 March 2022, Mr. Sanesangkhom and other activists conducted another public opinion poll at the Victory Monument in Bangkok. This poll was carried out to gather the public's opinion on land expropriation by the royal family.

On 3 May 2022, Ms. Sanesangkhom's prior bail was revoked by the Bangkok South Criminal Court, on the basis that her organisation of, and participation in, the 13 March opinion poll violated the conditions of her bail and caused public disorder.

Ms. Sanesangkhom was detained in Bangkok Women's Central Correctional Institution from 3 May 2022 to 4 August 2022. During this time, on 30 May 2022, she was indicted alongside seven other defendants on charges of lèse-majesté, sedition, insulting a competent official, resisting or obstructing a competent official and failure to comply with an order from a competent official.

During her detention, she went on hunger strike for 64 days and submitted eight bail requests. Her eighth bail request was granted by Bangkok South Criminal Court on 4 August 2022 on the following conditions: that she would not cause further damage against the monarchy nor engage in further disturbance or similar action. She was also prohibited from leaving the country, from leaving her residence between 7 p.m. and 6 a.m. without court approval, and she was required to report to the court every 30 days.

On 6 September 2023, Ms. Sanesangkhom was charged, alongside 17 others, in relation to a peaceful protest which took place on 6 August 2023 outside the Ministry of Culture, during which Ms. Sanesangkhom allegedly spray painted a royal flag. The defendants in this case were charged with assembly with unlawful purposes, trespassing, destruction of public property, and public order offences. The chargesheet in this case made no allegations of injury or violence in relation to this protest.

As a result of her participation in this protest, on 26 January 2024, the Bangkok South Criminal Court once again revoked Ms. Sanesangkhom's bail from the first public opinion poll case, dating back to March 2022. The court held that she had violated the conditions of her bail and “tarnished the monarchy” by spray painting the royal flag. She was transferred to detention in Bangkok Women's Central Correctional Institution on the same day.

On 27 January 2024, Ms. Sanesangkhom began a second hunger strike, calling for a reform to the justice system and for an end to the Thai practice of imprisoning people for holding or expressing dissenting opinions.

Beginning on 6 February 2024, she was transferred back and forth several times between the detention facility and the Department of Correction Hospital due to her deteriorating health condition, including hypotension and anaemia.

On 4 April 2024, Ms. Sanesangkhom allegedly began eating and drinking again, but remained in a weakened state. On 14 May 2024, she suffered a sudden cardiac arrest at approximately 6.20 a.m. in the detention facility. Medical personnel at the prison hospital reportedly attempted revival but were unsuccessful. She was transferred to Thammasat University Hospital at 9.30 a.m. where she was pronounced dead at 11.22 a.m. A coroner's report noted that Ms. Sanesangkhom arrived at the hospital with no vital signs and had a "faulty intubation."

On 15 May 2024, a post-mortem examination was carried out into Ms. Sanesangkhom's death. According to the information received, a file of this post-mortem examination has not been completed and, as a result, the public prosecutor has not filed a motion with the Court of First Instance to request an investigation into her death. Ms. Sanesangkhom's lawyer and family have also reportedly faced issues in accessing information pertaining to the circumstances of her death, including access to CCTV footage from the time of her cardiac arrest.

On 18 June 2024, Ms. Sanesangkhom's lawyer submitted a letter to the chief justice of the Ratchada Criminal Court in Bangkok, requesting that the Court investigate Ms. Sanesangkhom's death in accordance with section 150 of the Criminal Procedure Code. At the time of writing, no progress has yet been made since this letter was submitted.

Without wishing to prejudge the accuracy of the information received, we express our grave concern about the death in detention of the young woman human rights defender and activist Ms. Natiporn Sanesangkhom, who died shortly after a period of hunger strike while promoting the rights to freedom of expression and freedom of peaceful assembly. Our concern is compounded by the fact that Ms. Sanesangkhom was in detention for her non-violent activism and advocacy for democracy and political reform. We urge the Government of Thailand to put an end to the use of the Criminal Code, and particularly its provisions on *lèse-majesté*, to target the peaceful and legitimate work of human rights defenders, activists and other dissidents in the country. We remind that when a state loss of life occurring in custody, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation and urge that any investigation into Ms. Sanesangkhom's death be carried out in accordance with international standards including the Minnesota Protocol on the investigation of potentially unlawful death.

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 detailed information on the factual and legal basis of the charges of lèse-majesté and sedition against Ms. Sanesangkhom.
3. Please provide detailed information on the current status of any ongoing inquiry or investigation into Ms. Sanesangkhom's death and the compliance of any investigations with the Minnesota Protocol. If no such inquiry or investigation is underway, please explain why.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Gina Romero
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 refer your Excellency's Government to articles 6, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, which guarantee the rights to life, freedom of expression and opinion and freedom of peaceful assembly.

We recall that the right to life is a supreme *jus cogens* norm, applicable to all persons at all times and that cannot be derogated under any circumstance under international law. As the Human Rights Committee has emphasized in its general comment no. 36, loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation that establishes the State's compliance with its obligations under article 6. Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent and should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

We would also like to draw the attention of your Excellency's Government to the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on deaths in prisons (A/HRC/53/29). In particular it states that "it is presumed that States are responsible for the deaths of prisoners. It follows that all such deaths must be investigated. The death of person under the control of prison authorities is a prison death. Further, deaths are prison-related when prisoners die outside prison, during transport or following admission to a hospital from prison and should be reported to investigating authorities...The main purpose [of investigations] is to discover the truth of the circumstances leading to the death. This includes identifying the deceased, determining the cause and manner of death, and thus distinguishing between homicide, suicide, accidental death and natural death, always remembering that what appears to be a natural death may well have been caused or contributed to by prison conditions. The investigation may inform prosecution and punishment of those responsible, lead to an effective remedy for the next of kin and prevent the recurrence of similar deaths.

With respect to hunger strikes, we would like to recall that the best way to respond to these demonstrations is to address the underlying human rights violations that are the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by a hunger strike, including through good faith dialogue about the grievances, and always respecting the rights of those who use this form of protest, including their rights to health and informed consent.

Article 19 of the ICCPR protects the rights to freedom of opinion and expression, including the "freedom to seek, receive and impart information and ideas of all kinds," as per paragraph 2 of article 19. Any restrictions placed upon this right must be provided for by law and necessary to respect the rights or reputations of others and for the protection of national security, public order (*ordre public*) or public health or morals. In its general comment no. 34, the Human Rights Committee further

noted that “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. Accordingly, the Committee expresse[d] concern regarding laws on such matters as, *lese majeste*, *desacato*, disrespect for authority, disrespect for flags and symbols, defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned” (paragraph 38).

Article 21 of the ICCPR protects the right to freedom of peaceful assembly and states that 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 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, articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realisation 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. In this connection, we also draw your attention to article 12, paragraph 2, of the Declaration, 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.