

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 freedom of religion or belief

Ref.: AL THA 13/2024
(Please use this reference in your reply)

27 November 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 freedom of religion or belief, pursuant to Human Rights Council resolutions 52/4, 53/4, 52/9 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the charges brought against journalist and human rights defender Mr. Asmadee Bueheng, which appear to be linked to his work on documenting and denouncing extrajudicial killings.**

Mr. Asmadee Bueheng is a freelance independent journalist, writer and researcher from Pattani province and a human rights defender, who has been working on documenting the challenges faced by Thai Malay ethnic group and exposing reported human rights violations in the southern provinces of Thailand. It has been reported that due to his human rights work, Mr. Asmadee faced intimidation and threats to his safety in the past.

According to the information received:

On 2 December 2023, Mr. Asmadee was charged with "resisting or obstructing officials in the due exercise of their functions" under sections 83, 138 and 140 of the Criminal Code of Thailand, as amended by Revolutionary Council Order No. 41 of 1976. The charges relate to the retrieval of the body of a victim of an alleged extrajudicial killing from a hospital in Pattani on 28 April 2023, which according to the prosecutor prevented officials from completing the identification and fingerprinting needed to investigate the killing of the victim. The body was recovered from the hospital to allow for burial rites within 24 hours from the death, in line with the Islamic tradition. Mr. Asmadee was reportedly documenting the incident of alleged extrajudicial killing when the body was retrieved.

On 2 September 2024, the Pattani Provincial Court held a hearing and took testimony from Mr. Asmadee and the other parties involved. At the hearing, the human rights defender denied the charges, arguing that he did not commit any wrongdoing and his work on observing and documenting the incident of alleged extrajudicial killing was conducted in accordance with the law.

Mr. Asmadee's trial is scheduled for 11-13 December 2024. Both the plaintiff and the defendant will present witnesses in court to testify.

Without prejudging the accuracy of these allegations, we would like to express our concern about the charges faced by Mr. Asmadee, which we fear might be linked to his human rights work, including his journalistic activities on documenting reported human rights violations, and his coverage of cases of potential extrajudicial executions as a journalist. The criminalization of Mr. Asmadee might have a negative impact on the right to freedom of expression and the right to access information of public interest, and it might have a chilling effect on the broader civic space, hindering human rights defenders' work in the southern provinces of Thailand. We trust that a prompt and fair trial will determine the innocence of Mr. Asmadee and will allow him to continue his work free of harassment and intimidation.

Independent and impartial investigations and a fair trial must also be conducted in relation to alleged extrajudicial killings in order to seek justice for the victims and their families, without further targeting them. We note in this regard that investigations should be conducted in line with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), which observes that investigators should endeavour to respect the culture and customs of all persons affected by the investigation, as well as the wishes of family members, while still fulfilling their duty to conduct an effective investigation (para. 43).

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 brought against Mr. Asmadee.
3. Please indicate the measures taken to ensure Mr. Asmadee's right to a fair trial. Please explain how these measures comply with the due process and fair trial standards and applicable judicial guarantees, following Thailand's obligations to respect international human rights law.
4. Please provide information as to the specific measures that have been put in place to ensure that human rights defenders and journalists, in particular those working in the southern provinces of the country, can carry out their legitimate work in a safe and enabling environment, without fear of harassment and criminalization.

5. Please provide information on the measures in place to ensure suspected unlawful deaths are investigated in line with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016). Please include specific information on the steps taken to endeavour to respect the culture and customs of all persons affected by the investigation, as well as the wishes of the family members.

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

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to recall articles 2 and 19 of the Universal Declaration of Human Rights (UDHR), which respectively state that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” and that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

We would like to draw the attention of your Excellency’s Government to articles 2 and 19 the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, which recognize the enjoyment of rights without distinction of any kind and guarantee the right to freedom of opinion and expression. In particular, article 19 paragraphs 2 and 3 of the ICCPR recalls 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, either orally, in writing or in print, in the form of art, or through any other media of his choice”; and that any restrictions shall be provided by law and respect the principles of necessity and proportionality.

In its general comment no. 34, the Human Rights Committee emphasized that under no circumstance can an attack on a person because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. The Committee also noted that individuals 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. According to the Committee, States shall put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression and all such attacks should be vigorously investigated in a timely fashion, the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress. The Committee further noted that prosecuting journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated information of legitimate public interest that does not harm national security is not compatible with paragraph 3 of article 19 of the ICCPR.

We would also like to bring to your attention the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular we would like to refer to articles 1 and 2 of the Declaration, which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Additionally, 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 (b), which states that everyone has the right, individually and in association with others, to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- Article 11, which provides that everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession;
- Article 12, paragraphs 2 and 3, which provide 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.

We would further like to draw the attention of your Excellency's Government to articles 6 of the ICCPR which protects the right to life. In general comment 36, the Human Rights Committee has observed that an important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences.

Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death. In addition to paragraph 43 referenced above, the Protocol also observes that "wherever it is feasible, a specific and suitably trained and experienced family liaison expert should be appointed to offer the family of the deceased information and support... The expert should meet the family at the earliest opportunity, should provide regular updates about the investigation, its progress and results, and should address any concerns the family may have as the investigation progresses" (para. 67).

General comment 36 further emphasizes that states parties must also take the necessary steps to protect victims and their relatives from threats, attacks and any act of retaliation.