

Mandates of the Working Group on Enforced or Involuntary Disappearances; 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE:
UA LAO 3/2016

25 July 2016

Dear Mr. Douangchak,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 27/1, 25/2, 24/5, 25/18 and 26/7.

In this connection, we would like to bring to the attention of your Government's information we have received concerning allegations of arbitrary arrest, detention and disappearance of human rights defenders, Mr. **Somphone Phimmasone**, Mr. **Soukane Chaithad**, and Ms. **Lodkham Thammavong**.

Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong are human rights defenders and members of **Free Laos and Human Rights**, a network of Lao nationals based in Thailand that campaign through social media and demonstrations for the promotion and protection of human rights in Laos, as well as to raise issues of alleged Government corruption and deforestation.

According to the information received:

On 2 December 2015, Mr. Phimmasone, Ms. Thammavong and Mr. Chaithad, along with twenty other activists, participated in a demonstration outside the Embassy of Lao PDR in Bangkok, Thailand protesting against the Laos Government's human rights record. They also posted numerous messages on facebook criticizing the Government of Laos in relation to alleged corruption, deforestation, and human rights violations.

On the evening of 16 February 2016, Mr. Phimmasone, Ms. Thammavong and Mr. Chaithad, travel from Bangkok to the Lao People's Democratic Republic (PDR) to renew their passports.

On 5 March 2016, at approximately 5 p.m., Mr. Phimmasone and Ms. Thammavong were allegedly arrested at the latter's home in Ban Vang Tay Village, Nongbok district, in Khammuane Province (Lao PDR), by five uniformed police officers from the local police station. The police officers reportedly told the family members of Mr. Phimmasone and Ms. Thammavong that they had been arrested for possession of drugs and had been transferred to Khamkhikai jail. In early May 2016, information received by relatives indicated that the two human rights defenders had been arrested for political campaigning and were allegedly detained in an unknown location in Vientiane.

On 22 March 2016, at approximately 3 p.m., Mr. Chaitad had an appointment to renew his passport at an office of the Ministry of Public Security in Savannakhet city, Savannakhet Province. A friend accompanying Mr. Chaitad briefly left the office and when he returned, he was told by a police officer that Mr. Chaitad had since left. According to the information received, a group of unidentified men took Mr. Chaitad away in a van.

In May 2016, the family of Mr. Chaitad was informed that he had been transferred to an unknown location in Vientiane. On 2 May 2016, the family filed a complaint at the police headquarters in Xayphouthong District, Savannakhet Province, and at the Ministry of Public Security's head office in Savannakhet Province.

On 25 May 2016, the Ministry of Public Security announced on a State television channel that "special police forces have suppressed a group of bad people who have campaigned to criticize the direction of the State and Communist Party through Facebook." During the announcement, Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad were shown sitting on chairs in prison uniforms with government officials standing behind them. Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad appeared to be apologizing for being traitors to the Communist Party, the Government and Lao people and for having protested against the country's policies. In the broadcast, the spokesperson of the Ministry also stated that anyone who took part in similar actions criticizing the Government's policies would be arrested and prosecuted.

To this date, Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad have not been formally charged of any crime, nor have they had access to a lawyer or their families. Their whereabouts also remain unknown.

Concern is expressed at the alleged arbitrary arrest, detention and disappearance of Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad, which appear to be in retaliation for their peaceful and legitimate human rights work and exercise of their rights to freedom of expression and freedom of peaceful assembly. Concern is further expressed that Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad have not been able to

challenge the lawfulness of their detention, have not been formally charged with any crime, and have not had access to a lawyer or their families.

We express our concern about authorities resorting to the criminalization of the rights to freedom of expression, association and peaceful assembly, notably as it may deter other individuals from exercising their human rights and fundamental freedoms. We call on the Government to respect and guarantee those rights and ensure a safe and enabling environment for human rights defenders to carry out their activities without fear of persecution.

While we do not wish to prejudge the accuracy of the allegations described above, we would like to draw the attention of your 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 refer your Government to articles 9, 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Laos (PDR) on 25 September 2009, which guarantee that no one shall be subjected to arbitrary arrest or detention; 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 freedom of association and peaceful assembly. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers (see in particular Principles 1, 2, 5, 7 and 8).

We would also like to bring to your attention the principle enunciated in Human Rights Council resolution 12/16, which calls on States, to refrain from imposing restrictions which are not consistent with article 19.3 of ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, 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.

We also wish to refer 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, 2, 5,6, and 12 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 States have a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We are further drawing your Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no State shall practice, permit or tolerate enforced disappearances (art.2). The Declaration also proclaims that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (art.7).

We wish to recall that, according to the Declaration, any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention (art.19). Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned (art.10).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad and explain how these measures are compatible with relevant international human rights norms and standards.
3. Please provide clear information on the location where Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad are currently detained. Is this location an official detention centre? Please explain why their families have not been informed of their whereabouts and able to visit them.
4. Please provide detailed information on the measures taken to ensure that Mr. Phimmasone, Ms. Thammavong and Mr. Chaitad have effective access to a legal counsel of their choice. If no measures have been taken, please explain why.
5. Please explain why the Ministry of Public Security aired the televised accusations of the three human rights defenders, in contravention of the fundamental

principle of presumption of innocence, and threatened anyone who criticizes the Government's policies with arrests and prosecution. Please also explain how such action is compatible with international norms and standards guaranteeing the exercise of the rights to freedom of association and freedom of opinion and expression in Lao PDR.

6. Please indicate what measures have been taken to ensure that human rights defenders in Lao PDR are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge your Government to inform the families of the above mentioned individuals about their whereabouts and the location of their detention. We further 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 responsible of the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Douangchak, the assurances of our highest consideration.

Houria Es-Slami
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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