

**Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; 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; 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 torture and other cruel, inhuman or degrading treatment or punishment**

Ref.: AL LAO 2/2025  
(Please use this reference in your reply)

22 August 2025

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 54/14, 51/8, 53/4, 52/9, 50/17, 52/4 and 52/7.

In this connection, we would like to bring to the urgent attention of your Excellency's Government information we have received concerning **a reported surge in human rights violations of a transnational nature in the Greater Mekong Subregion, including Cambodia, Lao Peoples' Democratic Republic, Thailand and Viet Nam, Malaysia and China.**

Concerns regarding the abovementioned allegations, including transnational transfers leading to enforced disappearances, were raised by Special Procedures mandate-holders on previous occasions ([LAO 1/2019](#), [LAO 2/2019](#), [LAO 4/2020](#), [LAO 1/2023](#) and [LAO 3/2023](#)).

In December 2020, several Special Procedures' mandate-holders raised concerns about the apparent pattern of cooperation among some Member States in the region (Cambodia, Lao People's Democratic Republic (Lao PDR), Thailand and Viet Nam) for the purposes of enforced disappearances, extra-judicial executions and rendition (LAO 4/2020). We regret that we have not yet received a detailed response to the concerns we highlighted.

According to the information received:

*Killings and enforced disappearances of Laotian human rights defenders*

On 17 May 2023, Mr. **Bounsuan Kitiyano**, a Laotian national, former member of the group "Free Laos" and affiliated to the Germany-based organization "Alliance for Democracy in Laos" (ADL), was found dead in Ubon Ratchathani province, in north-eastern Thailand. Mr. Kitiyano was a UNHCR-recognized refugee in Thailand and was about to be resettled to a third country. Between 2020 and 2025, three additional ADL affiliates, namely Mr. **Maythong**

**Sanbounkhounxay, Mr. Phouvong Sayaseng, and Mr. Leokham Losavath,** were also found dead in unclear circumstances in Lao PDR, while another member, **Mr. Saysomphone Chilikham,** has been missing since February 2024.

On 26 August 2019, **Mr. Od Sayavong** - a Laotian pro-democracy activist and human rights defender, member of Free Laos and one of the founders of the “Lao United Labour Federation” in Thailand - disappeared in Thailand. At the time of his enforced disappearance, he resided in Thailand as a UNHCR-recognized refugee. On 14 November 2019, **Mr. Phetphouthone Philachanh,** also a member of Free Laos and refugee in Thailand, also disappeared in unclear circumstances, reportedly after returning to Lao PDR. He was one of the founders and former Vice-President of the Lao United Labour Federation in Thailand, and the housemate of Mr. Od Sayavong at the time of Mr. Sayavong’s disappearance. He was the last person to see Mr. Sayavong before he disappeared. Their fate and whereabouts remain unknown.

*Killing and enforced disappearance of Thai political activists*

At least nine Thai political activists have disappeared in Cambodia, Lao PDR, and Viet Nam between 2016 and 2021. While all of them were politically active and critical of the authorities, several faced charges for *lese-majesté* or Strategic Lawsuits against Public Participation lawsuits; and most were also online journalists. Among them, two were found dead; two are suspected to be dead; four were presumably handed over to Thai authorities; and no information is available regarding the fate of the ninth person. None of them have ever been seen again, and the perpetrators remain unknown.

In January 2019, **Mr. Siam Theerawut, Mr. Chuchep Chewasut** and another Thai political activist affiliated with the United Front for Democracy against Dictatorship (UDD) in exile in Lao PDR, disappeared while attempting to cross from Lao PDR into Viet Nam. In February 2019, unconfirmed reports were received that they had been arrested and detained on charges of illegal entry into Viet Nam. All three men were reportedly handed over to Thai authorities on 8 May 2019, although the Thai authorities denied these claims. Their whereabouts remain unknown.

On 12 December 2018, **Mr. Surachai Darnwatthananusorn, Mr. Chatchan Bubphawan,** and **Mr. Kraidej Luelert,** Thai political activists affiliated with the UDD in exile in Lao PDR, went missing from their house in Vientiane. On 27 and 29 December 2018, the bodies of two unidentified men were found on the banks of the Mekong River in Nakhon Phanom Province, in Northeast Thailand. The bodies were wrapped in sacks and nets, tied up with nylon ropes. They appeared to have been handcuffed, disembowelled and filled with concrete. On 22 January 2019, the official report of a DNA test identified the two bodies as that of Mr. Chatchan Bubphawan and Mr. Kraidej Luelert. On 24 January 2019, the Thai police announced the launch of an investigation into the killing of the two activists. No progress has been reported since, and the fate and whereabouts of Mr. Surachai Darnwatthananusorn remain unknown.

On 14 December 2018, it was reported that the Governments of the Lao PDR and Thailand released a joint statement signed by their respective foreign ministries indicating that both countries would strengthen their collaboration and “stand firm on the policy to not allow any person or group of people plan for disorder or anti-government activities in another country on their land.” Under this agreement, Lao committed to locating members of the “Thai Federation” group, which included the three Thai dissidents who had disappeared in Lao just three days before the pledge. The Thai Government had reportedly made several requests, since 2016, for the extradition of Thai political activists from the Lao PDR.

*The Office of the Attorney General and the National Human Rights Commission of Thailand*

On 25 October 2022, Thailand adopted the first domestic law on the “Prevention and Suppression of Torture and Enforced Disappearance”, Act (B.E.2565, 2022). The law came into effect on 22 February 2023. Sections 14 and 19 of the Act allows the establishment of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance to monitor and suggest the amendment of laws and policies to prevent and end torture and enforced disappearance.

Despite the new law, several complaints submitted by the families of disappeared victims were dismissed by the Centre for the Prevention and Suppression of Torture and Enforced Disappearance established under the Office of the Attorney General of Thailand.

On 8 January 2024, the Centre informed Mr. Chatchan Bupphawan’s family that the complaint submitted on 1 June 2023 was not accepted, and that the case was closed. Regarding Mr. Chatchan Bupphawan, the decision was based on the reasoning that his enforced disappearance occurred prior to the entry into force of the Act and, therefore, the case fell outside the scope of their prosecutorial authority. As a result, the Public Prosecutor was not deemed to be an authorized investigator under the Criminal Code, in accordance with section 31, paragraph 1, of the Prevention and Suppression of Torture and Enforced Disappearance Act.

On 26 June 2024, the Centre also informed Mr. Siam Theerawut’s family that his case did not meet the criteria for an offense under the Prevention and Suppression of Torture and Enforced Disappearance Act, stating that there was insufficient proof to confirm the involvement of a State official. As a result, the Centre considered that the case did not fall under the jurisdiction of the Public Prosecutor pursuant to section 10 of the Act or section 20 of the Criminal Code for offenses committed outside of Thailand. The Attorney General therefore issued an order to terminate the case accordingly.

On 23 December 2024, the Centre informed Mr. Surachai Danwattananusorn’s family that their complaint requesting an official investigation to be launched over his disappearance was dismissed due to insufficient evidence.

On 24 March 2025, the Centre also informed Mr. Kraidej Luelert's family that there was insufficient evidence to support the belief that his death was an act of enforced disappearance, according to section 7 of the Prevention and Suppression of Torture and Enforced Disappearances Act. Therefore, an order has been issued to terminate the case.

Additionally, it was also reported that the Thai authorities denied several requests for registration of disappeared individuals due to outstanding arrest warrants. For example, on 20 December 2024, Mr. Siam Theerawut's mother was informed by the Samut Sakorn Provincial Court that her request to have him declared a missing person under Thailand's Civil and Commercial Code had been dismissed. The Court held that since he had an outstanding arrest warrant (under section 112 of Thailand's Criminal Code), he was likely to still be in hiding.

On 10 June 2024, the National Human Rights Commission of Thailand (NHRCT) presented its investigation report on the nine cases of enforced disappearances of Thai refugees residing in neighbouring countries (Lao PDR, Cambodia, and Viet Nam) between 2016 and 2021. The NHRCT concluded that the nine individuals are "believed to be cases of enforced disappearance" under the International Convention on the Protection of All Persons from Enforced Disappearance and related laws and that the officials may have been involved in the disappearances and deaths. The NHRCT also stated that "ineffective actions" of Thai Government authorities in the investigations and the lack of progress in prosecuting the perpetrators are considered negligent and a violation of human rights.

The NHRCT also pointed out that the Damages for the Injured Person and Compensation and Expenses for the Accused in Criminal Case Act (BE 2544, 2001) does not lay down criteria for compensation by the Government in cases of enforced disappearances and recommended to the Committee under the Prevention and Suppression of Torture and Enforced Disappearance Act to investigate these cases of enforced disappearances till the truth is established and take remedial measures for the families of the victims, including developing strategies and measures for physical and psychological rehabilitation and financial and psychological compensation for the victims. It also recommended that the Committee develop a guideline to investigate cases of enforced disappearances of Thai persons living abroad.

On 30 August 2024, the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance established a sub-committee to investigate the case of the nine Thai individuals disappeared abroad. However, no significant progress has reportedly been made so far.

On 21 March 2025, the Regulation of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance regarding Assistance, Remedies, and Rehabilitation for Victims (B.E.2568) was published in the Royal Gazette and came into effect on the following day. The Regulation, which took almost two years to be completed, lays down instructions on the criteria and procedures for victims to request for both non-monetary and monetary

compensation. A lump sum compensation will be granted to victims of enforced disappearance and torture, while those allegedly subjected to ill-treatment will be granted financial remedies in varying ranges.

Prior to the endorsement of the Regulation, none of the victims' families received compensation from the State, either by the Injured Person and Compensation and Expenses for the Accused in Criminal Case Act (B.E. 2544, 2001) or the Justice Fund Act (B.E.2558, 2015). For instance, the complaint submitted by Mr. Siam Theerawut's family in 2022 under the Damages for the Injured Person and Compensation and Expenses for the Accused in Criminal Case Act was dismissed by the Committee, on the grounds that she was not considered a victim under the Act, as it has not been clearly established that he has died or suffered physical or mental harm.

#### *Forced return of human rights defender to China*

In July 2023, Mr. **Lu Siwei**, a Chinese human rights lawyer, was forced to flee China irregularly after being imposed a travel ban and experiencing harassment and intimidation due to his legitimate human rights work. On 28 July 2023, he was detained and questioned by the Lao PDR police while preparing to board a train for Thailand at Thanaleng railway station in Vientiane, where he arrived with the aim of flying from Thailand to the United States to reunite with his family. He forcibly disappeared from July to September 2023, without any access to the outside world, including his lawyer. In October 2023, the Government of Lao PDR confirmed that Mr. Lu Siwei was deported back to China around mid-September 2023.

According to your Excellency's Government, the deportation was done based on the mechanism for bilateral cooperation between the countries. Upon deportation to China, Mr. Lu Siwei was released on bail, pending an investigation into the crime of "illegally crossing the national border". On 15 October 2024, Mr. Lu Siwei was arrested again on the basis of "sufficient evidence". On 18 April 2025, the Chenghua District People's Court sentenced Mr. Lu Siwei to 11 months in prison and a fine of 10,000 Yuan for "illegally crossing the national border".

Without prejudging the veracity of these allegations, we wish to express our profound concern regarding the reported rise in transnational repression, including acts conducted or directed by a State, or its proxy, to deter, silence or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory. This includes serious claims of extrajudicial executions, enforced disappearances, and the arbitrary detention of activists, dissidents, human rights defenders, for the purpose of rendition. We are deeply troubled by reports that many individuals are currently deprived of their liberty, frequently held incommunicado and denied contact with the outside world, simply for exercising their fundamental rights, such as freedom of opinion and expression, freedom of religion or belief, or for engaging in legitimate human rights advocacy. Such practices have a profound chilling effect, deterring individuals from freely expressing their views or pursuing their work as journalists, lawyers, or social activists.

We reiterate that, under international law, the failure or refusal to acknowledge a deprivation of liberty by state agents or persons acting with their authorization, support, or acquiescence constitutes enforced disappearance, regardless of the duration or type of concealment involved. State authorities are thus obliged to take all necessary measures to effectively protect the rights of persons deprived of their liberty, as they automatically assume responsibility for their lives, physical integrity, and wellbeing. State authorities are also obliged to promptly provide accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, to their family members, counsel, or any other persons with a legitimate interest. The State should also fully recognize the legal personality of disappeared persons and their families, thus protecting them, bearing in mind their special vulnerability. It should also respect their rights to reparation, including adequate compensation for any damage (physical or mental injury, lost opportunities, material damage and loss of income, damage to reputation, and costs incurred in obtaining legal or expert assistance) resulting from an enforced disappearance.

Moreover, we emphasize the profound and devastating impact that enforced disappearances have on the families of the disappeared individuals and their communities. Enforced disappearances not only cause immense personal suffering but also disrupt the social fabric and cohesion of communities. The enforced disappearances of religious believers and human rights defenders, in particular, violate the economic, social, and cultural rights of those involved in related activities; they harm the larger community that depended on the disappeared individuals to advocate for and defend their rights.

We further emphasize that the right to life gives rise to an obligation to investigate all cases of unlawful killings. Such investigations should comply with international standards including the [Minnesota Protocol on the Investigation of Potentially Unlawful Death](#) and must be independent, impartial, prompt, thorough, effective, credible and transparent. The failure of the State promptly to investigate does not relieve it of its duty to investigate at a later time: the duty does not cease even with the passing of significant time. States also have a duty to cooperate internationally in investigations of potentially unlawful death, in particular when it concerns an alleged international crime such as extrajudicial execution.

The Special Rapporteur on extrajudicial summary or arbitrary executions would like to convey his willingness to provide technical assistance to your Excellency's Government in relation to the investigation of potentially unlawful deaths in line with international standards including the Minnesota Protocol. Other mandate-holders remain available to offer technical assistance on matters falling within the scope of their respective mandates.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law and standards** 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. Regarding the cases of Mr. **Bounsouane Kittyano**, Mr. **Phetphouthone Philachanh**, Mr. **Maythong Sanbounkhounxay**, Mr. **Phouvong Sayaseng**, Mr. **Leokham Losavath**, and Mr. **Saysomphone Chilikhham**, please provide information as to whether any investigation and judicial or other inquiry has been undertaken in relation to their enforced disappearance and, in some cases, deaths. Please provide details as to how these inquiries were conducted in compliance with international standards including 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.
3. Please provide an update on the search and investigation conducted into the case of Mr. **Od Sayavong**. Please include information on whether his extradition was requested by your Excellency's Government prior to his enforced disappearance and any investigations undertaken into possible involvement of any branch of the Lao PDR State or individuals linked to them.
4. In relation to the cases of Mr. **Chatchan Bubphawan**, and Mr. **Kraidej Luelert**, please provide information on the steps taken to investigate their killings in compliance with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.
5. Please provide information on any measures undertaken to unveil the fate and whereabouts of Mr. **Siam Theerawut**, Mr. **Chucheap Chewasut** and Mr. **Surachai Darnwatthananusorn**, and to inform their families accordingly.
6. Please provide information on the steps being taken to investigate the apparent pattern of enforced disappearances of Thai activists last seen in Lao PDR, including the possible involvement of any branch of the Thai State or individuals linked to them, and to protect the rights of Thai activists living in Lao PDR, including in cases where the individual entered Lao PDR in an irregular manner.
7. In the case of Mr. **Lu Siwei**, please provide the legal basis for his deprivation of liberty, including the authority responsible for issuing the arrest and/or detention order, the charges brought against him (if any), and whether he was informed of the reasons for his detention at the time of arrest. Please also indicate whether Mr. Lu Siwei had access to legal counsel of his choosing and the ability to communicate with his family while in detention.

8. Please also provide details on the procedures followed in relation to Mr. Lu Siwei's deportation or removal from Lao PDR, including the legal basis, any bilateral agreements applied, and whether he was given an opportunity to contest the removal decision before a competent authority. Please clarify whether Mr. Lu Siwei was assessed for potential risk of torture, enforced disappearance, persecution, or other serious human rights violations upon return to the People's Republic of China, and whether the principle of *non-refoulement*, as enshrined in international human rights and refugee law, was considered in his case.
9. Please provide information on cooperation and extradition agreements with countries from the Greater Mekong Subregion, and the measures in place to prevent individuals being returned if they may be at risk of enforced disappearance, during or after their forced return. Please provide copies of the agreements.
10. Please provide information on measures taken to ensure protection against refoulement, torture or other cruel, inhuman or degrading treatment or punishment, or other irreparable harm, as required by international human rights law, and how they are being applied.
11. Please provide information on any measures taken to effectively, independently, impartially, and thoroughly investigate any allegations of serious human rights violations, including extrajudicial executions, enforced disappearance, arbitrary detention and torture and ill-treatment in the Lao PDR, and, if proven to be correct, prosecute those responsible.
12. 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 prevent any irreparable damage to the physical and psychological integrity of the abovementioned individuals, 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.

Further, 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 the case 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. Similarly, the Working Group on Enforced or Involuntary Disappearances may also consider the cases under its humanitarian procedure. The Government is required to respond separately to the present communication and the procedures of each Working Group.

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 note that similar letters were transmitted to the Association of Southeast Asian Nations, and the Governments of Cambodia, Thailand, Viet Nam and China. A copy of this letter was also transmitted to Germany.

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

Gabriella Citroni  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

## Annex

### Reference to international human rights law and standards

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international standards applicable to this communication, including under the International Covenant on Civil and Political Rights (ICCPR), ratified by the Lao PDR on 25 September 2009.

We would like to refer to articles 3, 6, 7, 9, 10, 14, 16, 18, 19, 21 and 22 of the ICCPR, read alone or in conjunction with article 2.3, which guarantee the right to non-discrimination; the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person and the prohibition on arbitrary detention, which includes the right to challenge the legality of the detention before the courts and to be released subject to guarantees to appear for trial; the right to be recognized as a person before the law; the right to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing; the right to be treated with humanity and with respect for the inherent dignity of the human person; the right to freedom of religion or belief, the right to freedom of opinion and expression; the rights to freedom of peaceful assembly and of association; and the right to an effective remedy.

We would like to remind your Excellency's Government of the obligation to investigate gross human rights violations, punish them and provide reparations to the victims. Article 2 of the ICCPR states that States must take measures to ensure that persons whose rights or freedoms are violated have an effective remedy and that competent authorities ensure the enforcement of such a remedy when it is granted. Similarly, article 12 of the [International Convention for the Protection of All Persons from Enforced Disappearance](#), signed by the Lao PDR on 29 September 2008, also states that every State party must take all appropriate measures to investigate enforced disappearances. We recall that, pursuant to article 18 of the Vienna Convention on the Law of the Treaties, Lao PDR has an obligation to refrain from any acts which would defeat the object and purpose of the International Convention.

As established by the Human Rights Committee in its general comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial executions and enforced disappearances ([CCPR/C/21/Rev.1/Add.13](#)). The failure to investigate and prosecute such violations is in itself a violation of human rights treaty norms (paragraph 18). Principle 2 of the Updated set of principles for the protection and promotion of human rights through action to combat impunity calls on States to undertake prompt, thorough, independent and impartial investigations into violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, judged and duly punished ([E/CN.4/2005/102/Add.1](#)).

#### Right to life

We stress that the duty to protect the right to life requires States parties to adopt special measures of protection for persons in situations of vulnerability whose lives are at particular risk due to specific threats or pre-existing patterns of violence. Such

persons include human rights defenders. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life ([CCPR/C/GC/36](#)). In this regard, enforced disappearance is a serious violation of the right to life, which involves the deprivation of liberty followed by concealment or denial, depriving people of any legal protection and exposing them to constant risk. It also violates other rights set forth in the ICCPR, including the prohibition of torture, liberty and security, and legal recognition. States must prevent such acts, investigate promptly and impartially, prosecute alleged perpetrators, and ensure that victims and families receive full reparations. Families should not be forced to declare the disappeared dead in order to access remedies and should be supported in regularizing their legal status after a reasonable period of time.

We would also like to highlight that, as stated in Human Rights Committee, general comment No. 36, an important element of the right to life 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. 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, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent.

#### Prohibition of torture

We reiterate the absolute and non-derogable prohibition of torture is an *erga omnes* and *jus cogens* norm, as expressed as a principle of customary international law, including article 7 of the ICCPR. The prohibition of other cruel, inhuman or degrading treatment or punishment is also a well-established rule of customary international law.

Furthermore, torture and cruel, inhuman or degrading treatment or punishment are prohibited in articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by the Lao PDR on 26 September 2012. Accordingly, pursuant article 2 of the CAT, the Lao PDR has undertaken to ensure to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

#### Prohibition of arbitrary detention

Furthermore, we would like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in general comment No. 35 ([CCPR/C/GC/35](#)), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of

reasonableness, necessity, and proportionality. According to the same General comment and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group on Arbitrary Detention has concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR, is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty.

#### The prohibition of enforced disappearance

We wish to reiterate that the prohibition of enforced disappearance has also attained the status of *jus cogens*. It is a particularly aggravated form of arbitrary detention, and it may amount to torture or other cruel, inhuman or degrading treatment or punishment both regarding the disappeared and their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved ones.

In this regard, we wish to recall that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearance](#) establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness” (article 4); “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance” (article 6). Furthermore, “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” (article 7), and “the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances” (article 9).

Additionally, the Working Group on Enforced or Involuntary Disappearances has noted the increasing practice of forced returns by States in violation of article 8 of the Declaration. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one's choice. The Working Group observes that transnational transfers embody a denial of justice insofar as individuals are deprived of liberty in the form of secret detention and are removed from the protection of the law. They are, as such, deprived of the rights to an effective remedy and fair trial, in denial of the presumption of innocence. In addition, the individuals concerned are unable to challenge the lawfulness of their detention, denied access to legal representation, and often induced

to forced confession of guilt under duress. The Working Group recalls that such practices can also facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment under certain circumstances ([A/HRC/48/57](#)).

The Declaration further sets out the necessary protection relating to the rights to “be held in an officially recognized place of detention”, and to “be brought before a judicial authority promptly after detention”; to “accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest”; and to “the maintenance in every place of detention of official up-to-date registers of all detained persons” (articles 10 and 12). The Declaration 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” (article 13), that “States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance” (article 14), and that “the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts” (article 16); “not benefit from any amnesty law” (article 18); and that “the victims or family relatives have the right to obtain redress, including adequate compensation” (article 19).

We also wish to recall that the [Guiding Principles for the Search for Disappeared Persons](#) establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); and be interrelated with the criminal investigation (principle 13).

In its General Comment on the right to recognition as a person before the law in the context of enforced disappearance ([A/HRC/19/58/Rev.1](#)), the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

In its report on standards and public policies for an effective investigation of enforced disappearances ([A/HRC/45/13/Add.3](#)), the Working Group recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received.

Additionally, in the study on enforced disappearances and economic, social and cultural rights, the Working Group observed that the enforced disappearance of journalists, religious leaders or persons actively promoting the enjoyment of economic,

social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights ([A/HRC/30/38/Add.5](#)). Similarly, in its General Comment on Women and enforced Disappearances, the Working Group also noted that States have an obligation to recognize the particular types of harm women suffer based on their gender and the resulting psychological damage and social stigma as well as the disruption of family structures ([A/HRC/WGEID/98/2](#)).

### Freedom of thought, conscience and religion

Article 18 of the ICCPR recognises the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. Furthermore, article 18(2) bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18(2). The same protection is enjoyed by holders of all beliefs of a non-religious nature (Human Rights Committee general comment No. 22, para. 5). According to article 18(3), freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

### Freedom of expression

Article 19 of the ICCPR guarantees the right to freedom of expression. Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” ([CCPR/C/GC/34](#)). The Committee asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks

should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress”.

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order, or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. While certain restrictions may be placed on freedom of expression, for the protection of national security or of public order, or of public health or morals, they may not be arbitrarily imposed on those sharing legitimate concerns, observations or opinions on health or Government policy.

In this regard, as indicated by the Human Rights Committee, attacks against individuals for exercising their right to freedom of expression, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and enforced disappearance is incompatible with the ICCPR. We would like to further remind Your Excellency’s Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR, is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty.

#### Discrimination against women

We would also like to reiterate to your Excellency’s Government the obligations of the Lao PDR through its ratification in 14 August 1981 of the International Convention on the Elimination of Discrimination against Women, and in particular article 7, which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

The Working Group on discrimination against women and girls, in one of its reports to the Human Rights Council ([A/HRC/23/50](#)), stated that stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group on discrimination against women and girls, recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women’s human rights and to improve the enabling conditions for women’s participation in political and public life.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. In its report on girls' and young women's activism ([A/HRC/50/25](#)), the Working Group on discrimination against women and girls expressed that girls and young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming societies towards social justice, gender equality and sustainability. The realization of girls' and young women's human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group on discrimination against women and girls has called on States to ensure that mechanisms are in place to solicit the views of girls and young women in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

Furthermore, in its thematic report on women deprived of liberty ([A/HRC/41/33](#)), the Working Group on discrimination against women and girls underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders. Women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including "complicity" laws, and "public order" laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

#### Human rights defenders

We would further like to recall 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, which state that everyone has the right to promote and 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. We would like to also refer to article 6, paragraph (b), which

guarantees the right to freely publish, impart or disseminate views, information and knowledge on human rights and fundamental freedoms. Furthermore, we would also like to make explicit reference to article 9 of the Declaration, which states that everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of their rights, and that “everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay”. Finally, we would like to reference article 11 of the Declaration, which states that everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession.

### The principle of *non-refoulement*

Interconnected with the issues raised above, *non-refoulement*, embodying the rule that refugee must not be sent back to areas where they might have a well-founded fear of persecution, is a long-established principle of international law and is considered binding on all States and other stakeholders as part of customary international law. It applies universally to all individuals, including migrants and refugees, at all times and under all circumstances, irrespective of their citizenship, nationality, statelessness, or migration status. The norm strictly prohibits the removal or transfer of any individual - regardless of their legal status - when there are substantial grounds to believe that such action would expose them to a real risk of irreparable harm. This includes, but is not limited to, risks of death, torture, cruel, inhuman or degrading treatment or punishment, persecution, enforced disappearance, or other serious violations of human rights in the destination country.

Moreover, the principle of *non-refoulement* interrelates with the ICCPR - to which several ASEAN countries are State parties, including article 13 which provides that “[an] alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.”

General comment No. 31 of the Human Rights Committee specifies that article 2 of the ICCPR entails ‘an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm’ (para. 12). General comment No. 36 adds that the duty to respect and ensure the right to life under article 6 of the ICCPR requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life would be violated (para. 30). In this regard, State parties to the ICCPR must adopt special measures and respond urgently and effectively in order to protect individuals who find themselves under a specific threat (para. 23).

*Non-refoulement* is an absolute rule under the CAT – to which several ASEAN countries are State parties – and this is underlined in article 3 which states that: “[no] State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”, and that “[for] the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

Moreover, article 16 of the International Convention for the Protection of all Persons from Enforced Disappearance, signed by the Lao PDR on 29 September 2008 – to which several ASEAN countries are parties – stipulates that “[no] State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.”, and that “[for] the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.”

Lastly, in the ASEAN region, there are two countries which are parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. This reiterates the universal significance of *non-refoulement* as part of customary international law, obliging States and other stakeholders to respect and abide by it as *lex lata* (existing, binding law) at the national and other levels.