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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
LAO 2/2013

9 December 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the on-going situation of Mr. **Sombath Somphone**, a human rights defender who has been working on issues of land seizing in the Lao People's Democratic Republic and assisting victims to speak out about their experiences. Mr. Somphone disappeared on 15 December 2012 following his active participation in the organizing committee of the Asia-Europe People's Forum held in November 2012, alongside the Asia-Europe Meeting Summit. At the Forum, some people from different areas of the Lao People's Democratic Republic spoke up against land seizing they suffered, and were subsequently threatened by officials. Mr. Somphone was involved in trying to address these threats, by calling for an investigation into them, when he was forcibly disappeared.

Mr. Somphone was the subject of an urgent appeal sent on 20 December 2012 by the Chair-Rapporteur 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, and the Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of the responses of your Excellency's Government dated 3 January 2013, 25 March 2013 and 10 June 2013.

According to the new information received:

Different sources confirmed that Mr. Somphone has been in police custody following his reported disappearance on 15 December 2012. It is reported that a couple of days after his alleged disappearance, Mr. Somphone was seen inside a police compound with his jeep parked inside the premises. Two days later, he was reportedly taken to a military camp outside Vientiane. A week later, it was reported that he had been moved one more time to an unknown location.

Furthermore, Ms. Shui Meng Ng (Mr. Somphone's wife) was denied the possibility to put up posters on walls in Vientiane requesting the public to contact the family in case they had any knowledge of his whereabouts. The police argued that such an action was against the law, whereas miscellaneous posters are reportedly allowed to be put up throughout the capital.

Grave concerns are reiterated that the enforced disappearance of Mr. Somphone may be related to his legitimate human rights activities. Similar concerns are expressed that his disappearance, owing to his high profile at the national and international levels, greatly deters human rights defenders in the Lao PDR from operating in the country.

Without in any way implying any conclusion as to the facts of the case, we would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights, which provides that "[e]veryone 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."

We would like to further refer to article 21 of the International Covenant on Civil and Political Rights, which provides that "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

Similarly, we would like to refer to article 22 of the International Covenant on Civil and Political Rights, which provides that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this connection, we would also like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and

including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In addition, we would like to 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In view of the urgency of the matter, we would appreciate a response on the next steps taken by your Excellency's Government to safeguard the rights of Mr. Somphone in compliance with the above international instruments.

Moreover, since 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 cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examination and judicial or other inquiries carried out in relation to the aforementioned new information brought to the attention of your Excellency's Government.
3. Please indicate the legal basis for preventing Ms. Shui-Meng Ng from putting up posters in Vientiane requesting the public to contact the family in case they have any knowledge of his whereabouts, bearing in mind that miscellaneous posters are allowed to be put up throughout the capital. Please indicate how this measure complies with international human rights norms and standards on freedom of opinion and expression.
4. Please provide the full details of any prosecutions which will be undertaken in relation to the present case. Will penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Somphone are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Given the seriousness and urgency of the allegations, we would like to inform your Excellency's Government that we intend to issue a press release on the issues contained herein.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders