

Missed Opportunities:

Recommendations for investigating the disappearance
of Sombath Somphone



International Commission of Jurists

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the rule of law, using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952 and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.



© Copyright December 2014

All photographs in this report were taken from <http://sombath.org/>. The picture of a map was taken from Google Maps.

The ICJ permits free reproduction of extracts from any of its publications provided that due acknowledgment is given and a copy of the publication carrying the extract is sent to its headquarters at the following address:

P.O. Box 91
33 Rue des Bains,
Geneva, Switzerland
E-mail: info@icj.org
www.icj.org

Missed Opportunities:

Recommendations for investigating the disappearance of
Sombath Somphone

This report was written by Kingsley Abbott, ICJ International Legal Adviser and Michael Taylor QPM, Consultant International Investigator. It was reviewed by Jill Heine, ICJ Senior Policy and Legal Adviser, Sam Zarifi, ICJ Regional Director for Asia and the Pacific, and Leong Tsu Quin, ICJ Associate International Legal Adviser.

Michael Taylor QPM

Michael Taylor QPM spent thirty years as a police officer in the Metropolitan Police, London, United Kingdom. He was an investigator for 26 years at all ranks to Chief Superintendent and investigated a variety of offences including, murder, rape, sexual assault, kidnapping, blackmail and terrorism.

Taylor also served as Chief of Investigations at the Special Tribunal for Lebanon for four years, leading a 75-person team investigating the circumstances of the murder of the former Lebanese Prime Minister Rafik Hariri.

The law and the facts are stated as on 3 December 2014.

The ICJ acknowledges Ng Shui Meng's courage and perseverance and thanks her for her openness and ongoing work to support civil society in Lao PDR.

Background



Sombath Somphone receives the Ramon Magsaysay Award for Community Leadership in 2005

Sombath Somphone, born in Khammouane Province, Lao People's Democratic Republic (Lao PDR) on 17 February 1952, is the founder and former Director of the Participatory Development Training Center (PADETC), an organization registered with the Ministry of Education of Lao PDR and known for supporting holistic education and youth development.

He received two regional awards recognizing his work: the Human Resource Development Award from the United Nations Economic and Social Commission for Asia and the Pacific (2001), and the Ramon Magsaysay Award for Community leadership (2005).

Closed Circuit Television (CCTV) footage taken by police cameras near a police checkpoint on 15

December 2012, in Vientiane, Lao PDR, appears to show that Sombath Somphone was abducted at the checkpoint by, or with the consent or acquiescence of, agents of the State. He has not been seen since.

Since Sombath Somphone disappeared, the Laotian authorities have neither acknowledged the deprivation of his liberty nor provided information as to his fate and whereabouts. Although the authorities have reportedly taken some measures to investigate the case, they have released very little information concerning the progress of the investigation into his abduction, despite repeated requests to do so.

The last police report on the investigation was issued more than 18 months ago, on 8 June 2013.

Accordingly, his wife, Ng Shui Meng, and the public are no closer to knowing the truth about what happened to him or his whereabouts.

In light of the publicly available information the ICJ considers that Sombath Somphone appears to have been the victim of enforced disappearance.

Concern about the fate and whereabouts of Sombath Somphone and the lack of information about the investigation has been voiced within and outside the country,¹ including most recently by the ASEAN Parliamentarians for Human Rights (APHR).²

Following a series of meetings with the Laotian Authorities between 15 and 20 September 2014, the APHR reported that they met a "brick wall of silence" with regard to the status of the investigation from which they conclude that "the only intelligent conclusion is that there is in fact no investigation taking place at all and that the obstinacy is part of a cover up for state officials implicated in his abduction".

Purpose of the report

The ICJ consulted a leading international expert on forensic investigations, Michael Taylor QPM, to review the publicly available material about Sombath Somphone's case, including the circumstances of his disappearance and the government's response, and analyze them in light of relevant international standards and best practice.

The aim of this report is to provide recommendations on a range of investigative steps that should be carried out in this case in order for the investigation to meet international standards.

The recommendations are based on Michael Taylor QPM's experience and international best practice as set out in the Istanbul Protocol³ and the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (which contain principles relevant also to a case of suspected enforced disappearance).⁴

Expert conclusion

Despite the challenges set out in the report, this case remains eminently solvable.

Strong lines of enquiry exist that, if fully exploited, provide a realistic prospect of establishing the truth into the whereabouts and fate of Sombath Somphone and the identification of those responsible for his apparent enforced disappearance.

If the recommendations contained in this report are professionally and vigorously pursued, this would likely result in a human rights compliant investigation that could lead to the identification of Sombath Somphone's whereabouts and would support the prosecution of those responsible for any wrong-doing.

Even allowing for the time lapse and missed opportunities, there is plenty of precedent, particularly in cold case reviews, for a successful judicial outcome in this type of case. However, much depends on the position and attitude of the Laotian authorities.

As the hypothesis is that agents of the State were involved in the commission of the offence of enforced disappearance, it is likely that real progress will depend on the existence of a strong determination on the part of the investigating, prosecuting, judicial and other authorities to expose the truth about the fate and whereabouts of Sombath Somphone and to bring to justice those responsible for any wrong-doing. In doing so, the State must ensure that authorities tasked to investigate are provided the "*necessary powers and resources to conduct the investigation effectively*".⁵

Key recommendations

The ICJ considers that the recommendations set out below and in Annex 1, provide a benchmark for the authorities in Lao PDR to fulfil their obligations under international law to carry out a thorough, independent and impartial investigation into the apparent enforced disappearance of Sombath Somphone.

Key recommendations to Lao PDR include:

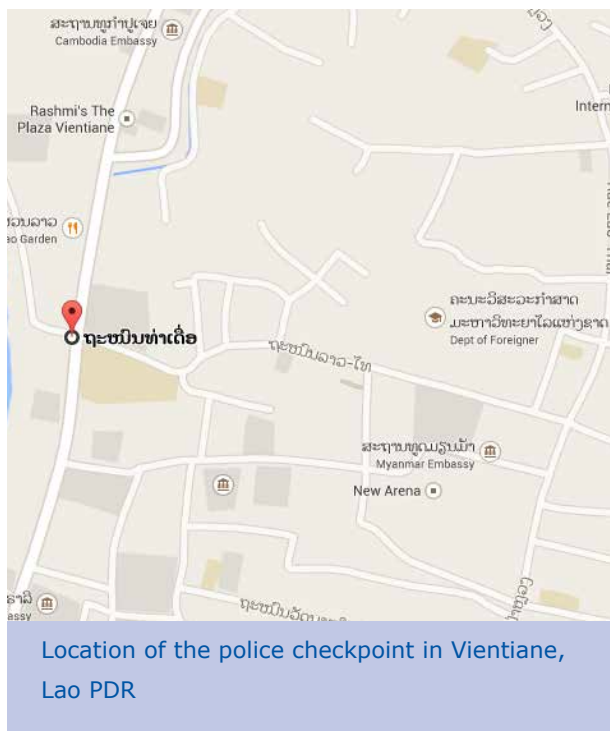
- Formulate a sensitive family liaison strategy that ensures that their right to be regularly provided with information about the progress and results of the investigation are respected in a manner that also ensures the effectiveness of the investigation.
- Implement an investigative strategy that ensures the capture and systematic analysis of all relevant material, including CCTV data, and, ideally, the submission of it to accredited, independent and expert laboratories.
- Seek the assistance of appropriate agencies in other countries in the forensic examination and analysis of crime scenes, vehicles, any biological evidence, phone and CCTV data, and other evidence.
- Ensure an independent comprehensive review of the scope, methodology and results of the investigation to date is carried out by a competent, independent and relevantly expert body. Such a body should have the authority to request and receive all relevant information, question individuals and make recommendations. All officials and experts who have been involved in the investigation to date should cooperate and provide information to the independent body carrying out the review.

Summary of events⁶

In October 2012, Sombath Somphone helped to organise the Asia-Europe People's Forum (AEPF) and, as co-chair of the Lao National Organising Committee, played a major role in coordinating the event. During the course of the event, a number of speakers were openly critical of the human rights situation in Lao PDR.

On 15 December 2012, at about 17.30 hours, Sombath Somphone and his wife, Ng Shui Meng, left their office in separate vehicles to drive the short distance home. Sombath Somphone never arrived and has been missing ever since. On 16 December 2012, Ng Shui Meng filed a missing person's report with the authorities.

On 17 December 2012, officers of the Vientiane Municipality Police showed family members a CCTV video taken by police cameras near a police checkpoint in Vientiane on the evening of 15 December 2012. The family members and staff of PADETC were allowed to record the CCTV using their cell phones and cameras.⁷



The CCTV footage appears to show Sombath Somphone's vehicle stopping at a police checkpoint on KM 3 Thadeua Road at about 18.00 hours. The recording shows him getting out of his vehicle and walking towards uniformed policemen stationed at the checkpoint.

A motorcyclist is then seen to arrive at the scene, park the motorcycle in front of Sombath Somphone's vehicle and run towards the checkpoint. The motorcyclist is then seen getting into Sombath Somphone's vehicle and driving it away. A pickup truck then arrives at

the checkpoint, and Sombath Somphone is seen getting into the pickup truck with other males and being driven away, followed by two males on a motorcycle.

Legal framework: Lao PDR's obligation to investigate⁸

The four statements of the Government of Lao PDR and the three reports issued by the police to date on the case deny state involvement in Sombath Somphone's disappearance.⁹ Rather, they speculate that his disappearance could be due to "personal conflict or a conflict in business"; claim that no persons or vehicle could be identified from the CCTV footage; and state that witnesses at the police checkpoint reported that there were no unusual occurrences at the checkpoint on the evening Sombath Somphone appears to have been abducted.

Notwithstanding the official position of Lao PDR, based on the publicly available information described above, the ICJ considers there are reasonable grounds to believe that Sombath Somphone has been the victim of an enforced disappearance, as defined in Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED):¹⁰

Article 2 of the ICPPED:

For the purposes of this Convention, "*enforced disappearance*" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Enforced disappearance is recognized as a crime under international law in and of itself. An enforced disappearance also involves other serious human rights violations. Among other things, it violates the right to liberty and the prohibitions of arbitrary detention and torture and other cruel, inhuman or degrading treatment or punishment; violates the right to recognition as a person before the law; and in some cases can involve the violation of the right to life.

As a State Party to the International Covenant on Civil and Political Rights (ICCPR) and Convention Against Torture and Other, Inhuman or Degrading Treatment or Punishment (CAT), the Government of Lao PDR has the duty to conduct effective investigations in cases of alleged or suspected violations of the rights guaranteed under those treaties, including cases of suspected enforced disappearance; torture or other ill treatment; summary, arbitrary or extrajudicial executions; and arbitrary detention.¹¹ Under these international human rights treaties, the authorities in Lao PDR have the "*obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.*"¹²

These duties are also set out in Articles 3, 5, 12 and 24 of the ICPPED. As a signatory, but not yet a party to this treaty, the authorities of Lao PDR are under a duty not to take action that is contrary to the object and purpose of this treaty; to prevent, criminalize, and bring to justice those responsible for enforced disappearance; and to ensure effective remedies and reparation to victims of enforced disappearance:

Article 3 of the ICPPED:

Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.

With regard to the purpose of an investigation into torture, paragraph 77 of the Istanbul Protocol states that:

A. Purposes of an investigation into torture

77. The broad purpose of the investigation is to establish the facts relating to alleged incidents of torture, with a view to identifying those responsible for the incidents and facilitating their prosecution, or for use in the context of other procedures designed to obtain redress for victims. The issues addressed here may also be relevant for other types of investigations of torture. To fulfill this purpose, those carrying out the investigation must, at a minimum, seek to obtain statements from the victims of alleged torture; to recover and preserve evidence, including medical evidence, related to the alleged torture to aid in any potential prosecution of those responsible; to identify possible witnesses and obtain statements from

them concerning the alleged torture; and to determine how, when and where the alleged incidents of torture occurred as well as any pattern or practice that may have brought about the torture.

Investigations of enforced disappearance and other serious human rights violations should not be limited to persons whose direct conduct is at issue. Rather, as the Committee against Torture, among others, has clarified, *"the responsibility of any superior officials, whether for direct instigation or encouragement of torture or ill-treatment or for consent or acquiescence therein, be fully investigated through competent, independent and impartial prosecutorial and judicial authorities"*.¹³

Likewise, under the ICPPED, States must ensure that necessary measures are taken to hold superior officials criminally responsible.¹⁴ Furthermore, no order from any public authority may be used to justify an enforced disappearance, torture or other ill-treatment.¹⁵

Working hypothesis for the investigation

On the basis of an objective assessment of the available information on the case it is reasonable to suggest the following hypothesis as a basis for investigation:

Officials of the State or people acting with their authorization, support or acquiescence detained or otherwise deprived Sombath Somphone of his liberty and officials of Lao PDR subsequently have refused to acknowledge the deprivation of liberty or have concealed his fate or whereabouts, placing him outside the protection of the law.

Objectives of the investigation

Applying the above hypothesis, a number of questions can be formulated as the basis upon which the investigation should be conducted. It is by answering these questions that the Laotian authorities can fulfil the objectives of the investigation:

- Who perpetrated the enforced disappearance of Sombath Somphone on 15 December 2012?
- Who ordered the enforced disappearance?
- Who planned the enforced disappearance?
- Who was aware of the intention to subject Sombath Somphone to enforced disappearance and/or the substantive details of the crime?
- Why was Sombath Somphone the subject of enforced disappearance?
- Who continues to authorize and control Sombath Somphone's disappearance and fate?
- Where is Sombath Somphone currently?

The strategy for carrying out such an investigation should be:

- To methodically and transparently investigate and pursue all legitimate lines of enquiry into the circumstances of the enforced disappearance of Sombath Somphone, through an effective investigation that is capable of leading to the discovery his fate and whereabouts and the identification and prosecution of those responsible.

- To facilitate procedures designed to obtain redress for the victims.
- To ensure that the investigators - who must be independent of the suspected perpetrators and the agency they serve, and be competent and impartial - have access to all information and be empowered to commission investigations by impartial medical or other experts.
- To ensure that the methods used to carry out these investigations meet the highest professional standards, and the findings are made public.

Although the principal aim of the investigative strategy is to locate and gather material, there are two other important aims:

- To provide the victim's family with a level of assistance that helps them to learn the truth and to come to terms with the disappearance of Sombath Somphone. An open, sensitive and transparent relationship built on trust between investigators and the victim's family can also benefit the investigation through the sharing of information and ensuring the cooperation of family and the wider community to achieve the aims of the investigation.
- To satisfy legitimate requests for information about the fate and whereabouts of Sombath Somphone from domestic and international interlocutors.

The Officer in Charge (OIC) should record all his or her investigative strategies. All critical policies should be recorded in a Policy File including overall and secondary strategies as well as decisions on the financial and human resources required to deliver the investigative strategy.

The Policy File is a definitive record upon which the OIC will rely when asked to account for his or her decisions including at any judicial hearings and to the family of the victim.

Family liaison

One of the most important considerations in the investigation is providing information and support to the family of Sombath Somphone, in particular to his wife, Ng Shui Meng.

It is her right to know the truth of the fate and whereabouts of Sombath Somphone, and to be kept up to date on the progress and status of the investigation. Viewing Ng Shui Meng as a partner in the investigation is central to its success.

The overall objectives of the family liaison strategy are to:

- Analyze the needs, concerns, and expectations of the family and to identify relevant and realistic action in the context of the respect and protection of their human rights.
- Ensure respect for the right of the family to receive all relevant information connected with the inquiry, in a manner that is consistent with ensuring the effectiveness of the investigation.
- Assist the investigation by gathering information and evidence from the family in a way that is consistent with their rights to privacy and family life.



Sombath Somphone and Ng Shui Meng

- Ensure that they are protected from harm and intimidation, in a manner that is consistent with their needs and wishes.

The ICPPED identifies Ng Shui Meng as a victim and her rights as a victim:

Article 24

1. For the purposes of this Convention, "*victim*" means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.
2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

Article 18

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:
 - (a) The authority that ordered the deprivation of liberty;
 - (b) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;
 - (c) The authority responsible for supervising the deprivation of liberty;
 - (d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;
 - (e) The date, time and place of release;
 - (f) Elements relating to the state of health of the person deprived of liberty;
 - (g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.
2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

These principles should be reflected at all levels within the investigative structure and be given due regard in relation to any subsequent investigative action which may impact on the family, as required by article 20 of ICPPED.

After two years, Ng Shui Meng has received very little information from the Government of Lao PDR. Her last contact with the police was in August 2013.

According to the information available, it appears that the Lao Government has so far failed in its obligation to ensure that Sombath Somphone's family are informed of his fate and whereabouts, they receive regular information about the progress of and all relevant information connected with the investigation, and are treated with respect - a situation that must be remedied.

Lifestyle enquiries

The Laotian authorities should conduct lifestyle enquiries about Sombath Somphone to test the hypothesis of the case and to assist in generating investigative opportunities where other lines of enquiry have been exhausted.

This process is particularly important in the case of Sombath Somphone, where authorities have publicly posited alternative theories such as the possibility that his disappearance was due to a personal dispute. For example, in a report published in the Vientiane Times on 4 February 2013, the Ministry of Public Security stated:

If the disappearance of Mr Sombath Somphone really happened, it might be due to personal conflict or business conflict or any other conflicts.

Such inquiries could be particularly important in establishing - or ruling out - any possible motive for his disappearance in that his professional and other activities might have made him vulnerable.

Witnesses should be asked if they are aware of information that indicates that Sombath Somphone may have received any threats, or that indicates that he or others felt that he was being watched, or that he or others expressed concerns regarding his personal safety.

Basic areas of inquiry include:

- The way he lived his life
- The people this brought him into contact with
- His hobbies and habits
- His means of travel
- Routes taken regularly
- Salary and other income, details of expenditure, and debts including to whom
- Precursor events including his role in the Asia Europe People's Forum in October 2012
- His day-to-day routine
- Personality traits

- Expected response in certain circumstances
- Vulnerability
- Unique behaviour patterns

This information could be obtained from sources including:

- Family
- Friends
- Colleagues
- Partners
- Associations with people who may have had a motive to disappear Sombath Somphone
- People that he came into contact with

The Laotian investigative authorities should clarify the extent to which they have pursued such information.

Hi-tech

Working with the family, all of Sombath Somphone's personal and professional electronic communication devices and systems should be viewed and analyzed for material that could assist the inquiry.

This could include appointments and expressed fears regarding personal safety or activity after 15 December 2012 suggesting either proof of life or suspicious activity.

CCTV strategy

So far, CCTV footage has been one of the most productive tools for establishing the events of 15 December 2012.



CCTV: Sombath Somphone exits his vehicle at the police checkpoint



CCTV: Sombath Somphone's vehicle is driven away



CCTV: Sombath Somphone enters pickup

Potentially, CCTV footage could also play an important role in shedding light on the fate and whereabouts of Sombath Somphone.

Investigative authorities in Lao PDR must show if, and how, they have used this line of enquiry and exhausted its potential as a source of information.

Police had CCTV footage showing Sombath Somphone's apparent abduction on 15 December 2012.

The original, which was viewed and filmed by family members, was last known to be in the custody of the police. A copy of the original was recorded by family members and staff of PADETC on their cell phones and cameras.

Care must be taken to ensure preservation of the quality of the original tape. If there is a risk that repeated copying of the original may degrade the quality of the tape, it should be avoided.

It is recommended that the tape be submitted to an accredited independent and expert laboratory for a full forensic assessment and examination. There exists the possibility of enhancing the tape to a degree that important evidential features may be identified e.g. licence plates of vehicles. This is

particularly likely if the material is recorded on an old video system and not on a digital system.

Though it is not a substitute for the original, advice should also be sought from experts on the prospect of results in the event of the submission of the copy of the CCTV footage for examination. If there is a prospect of results, the original video should also be submitted for independent, expert forensic analysis.

It is important to note that to avoid disappointment, caution should be exercised in managing expectations as to what can be achieved by a forensic examination of CCTV footage. Although a worthwhile action, experience shows that positive results do not always follow.

Search for other relevant footage or images

The Laotian authorities should clarify whether they have conducted a search for any other relevant CCTV footage or images apart from the footage referred to above. This includes any material gathered separately as part of investigations into other incidents/crimes.

Based on the information on the website, "*Sombath Somphone, 'Help us Find our Friend'*",¹⁶ it appears that there are at least five other cameras in the vicinity of the police checkpoint. The Laotian authorities should explain if they have investigated whether any of these cameras were in operation at the relevant times, if they have examined the tapes from these cameras, and the results of any such investigations.



Other possible locations of CCTV cameras near the site of the police checkpoint

Action should also be taken to map the entire Vientiane city area and entry together with exit points to the city. This will identify the most probable routes through the city and routes to and from the location of the checkpoint. Then a visual trawl on the ground should be undertaken to identify the relevant CCTV sites.

Inquiries should also be made to identify other possible CCTV sites at the following locations:

- Locations where suspect vehicles potentially lay in wait close to the police checkpoint area, for example nearby car-parks
- Routes to, and sites of, military, police and other bases where Sombath Somphone, any identified suspects and their vehicles, his vehicle, and the transporting vehicle might have travelled to
- The locations of Sombath Somphone, suspects or witnesses identified from cell-phone site analysis
- The home and work address of Sombath Somphone to establish possible surveillance

If Sombath Somphone was being observed in the period leading up to his abduction there could be other evidence of surveillance teams operating in the area and this information should be sought, gathered and examined.

Laotian authorities should have by now gathered all recovered CCTV footage, and had it catalogued, exhibited and systematically reviewed for evidence, including details as to the make, type, colour and licence plates of relevant vehicles and with reference to the chronology of events.

The objective of the viewing would be to identify those interacting with Sombath Somphone, including the driver and owner of the pick up vehicle and the person who drove Sombath Somphone's vehicle away, and others in the vehicle. The footage also has the potential to identify the route taken from the checkpoint and also witnesses to the events.

Telecommunication strategy

The Laotian authorities should clarify whether they have tested the hypothesis that there was communication between police at the checkpoint and those who abducted Sombath Somphone and, if so, how and to what result.

It is possible that such communications occurred via radio transmitters. However, experience shows that even police, security forces and sophisticated terrorist cells depend heavily on cell phones rather than radio transmitters, which are less reliable, and often of poor quality.

The Laotian authorities should be asked if they have sought records of telephonic and radio transmissions and, if so, whether they have obtained and examined any material that may be relevant.

Cell “dumps”

The Laotian authorities should clarify whether they have requested relevant cell phone service providers to download or “dump” information from telephone cells or towers.

This process allows authorities to request all the phone numbers that connect to a specific cell tower within a given period of time. The investigation can then match the cell numbers with a specific customer’s name, address and other account information potentially putting individuals at locations at specific times (the utilization of this technique is an accepted investigative tactic in a number of countries including the United Kingdom, United States, France and Australia).

An obvious significant finding would be the identification of numbers called by police working on the checkpoint at about 18.00 hours on 15 December 2012. This has the potential to identify those interacting with the police and driving Sombath Somphone away from the scene.

Cell dumps should be at least considered at the following locations:

- Police checkpoint at KM3, Thadeua Road for 15 December between 16.00 and 19.00 hours
- Car-parks and other areas where suspects might have laid in waiting pending Sombath Somphone arriving at the checkpoint for 15 December between 16.00 and 19.00 hours
- Military, police and other sites considered most likely locations for Sombath Somphone and/or his vehicle to be taken to on 15 December between 18.00 and 21.00 hours
- Home and work addresses of Sombath Somphone

Information required from service providers

The Laotian authorities should explain if they have identified any relevant cell phones, and whether they have gathered certain material from these phones’ service providers.

Possibly relevant telephones include those attributed to Sombath Somphone, his wife, and police staff working on the checkpoint as well as any other cell phone numbers that appear significant from the analysis of the cell dump.

Service providers should be requested to provide subscriber details, method of payment, all in-and-out call data with cell site locations as well as any other data providers can offer including Multi Media Messaging Service (texts and other data including photographs), Short Message Service (texts) and International Mobile Station Equipment Number (IMEI – the unique number for handsets). The IMEI would identify the type, model and capability of the handsets used.

Smartphones

Smartphones used by Sombath Somphone or any suspects or persons present at the checkpoint at relevant times should be examined for Wi-Fi locations activated and internet sites visited. For example suspicious suspect activity could be identified by persistent and regular interest in media and pressure group internet sites dealing with the case.

Forensic strategy

Article 100 of the 2012 Criminal Procedure Code (CPC) of Lao PDR stipulates that law enforcement authorities are obliged to maintain comprehensive case files.

Based on information available to the ICJ, as of December 2014, Laotian authorities have not clarified whether they have met this requirement.

Investigating authorities should keep records that include:

- All testimonies given related to the case
- Results of face to face meetings
- Photographs
- Sound recordings
- Police and other relevant documents and files
- Policy file
- CCTV footage
- Minutes of meetings
- Results of forensic or other investigations

Management of material

The Laotian authorities should clarify whether, during the investigation, they have collected material that may be in a physical, documentary, electronic or biological format.

Any such material should be referred to as exhibits and will require collation, examination and safe and secure storage to maintain. For each exhibit recovered during the investigation, a record should be compiled detailing the:

- precise description of the material recovered
- precise location of recovery
- time, day and date of recovery
- individual who produces it if other than the individual who recovered it
- individual who recovered it
- location and method of storage

If the material is subsequently removed from storage this should also be recorded, detailing the date, time and reasons for this and the name of the person who removed it. If the material is returned, the date, time and name of the person should also be recorded.

Forensic strategies should be put in place to manage the recovery of Sombath Somphone's and all suspect vehicles, any crime scenes and the possible recovery of a body.

Ideally, the examinations would be conducted by accredited, suitably trained and experienced Scenes of Crime staff and/or other independent specialists - and exhibits submitted to accredited independent and suitably expert laboratories.

Vehicles & scenes

The Laotian authorities should describe any forensic examination they have undertaken of relevant scenes any suspect vehicles - including those identified in the CCTV footage - utilized for the transportation of Sombath Somphone, and Sombath Somphone's vehicle, if recovered.

Full forensic examination would mean, for instance:

- Sequential examination of vehicles for DNA/hair and blood not only just on visible surfaces but also in foot wells
- Recovery of cigarette butts, drink bottles, and forensic examination of the seats and head rests as well as sweepings from the carpets, along with fibre taping and reference samples taken of all carpets for later possible fibre comparison
- Tyre-well recesses and behind panels, underneath seats, areas protected such as gear stick, seat belt clips and door cards etc. should be removed and examined for DNA and fingerprints (areas not always cleaned by suspects)
- Once completed a full fingerprint examination utilizing powders and CNA (superglue process) should be carried out. This should be both internal and external (regardless of the time frame involved)
- All relevant articles in the vehicle such as maps, paper, clothing, and personal effects should be retained and examined
- Clothing should be sent for DNA analysis, especially any matching last known clothing worn by Sombath Somphone, as well as any personal effects believed to be or matching those Sombath Somphone was in possession of at the time of his disappearance
- Once a fingerprint examination is completed the entire car internally and externally should be sprayed with Luminol (luminescent blood reagent), and luminescence noted (for both location and pattern of blood staining), and photographed (using a specialist technique)
- Vehicles should be swabbed for DNA and mud and any particulate should be recovered from wheel arches and underneath the vehicle. Tyre treads should be printed and retained together with the entire vehicle
- Full photographic and contemporaneous notes with measurements and sketch plans should be undertaken of the examination. Full protective equipment should be worn, including scene suit, boots, facemask hair net and gloves - and gloves should be changed between DNA sampling

For crime scenes, for example location of a body or site of incarceration, the same process should be adopted.

Forensic identification

Unfortunately, many cases of enforced disappearance are resolved through the discovery of remains of the disappeared person.

In the event that the Laotian authorities have to identify remains or a body, it may be possible to make identification from fingerprints or DNA. To prepare for this eventuality, Laotian authorities should:

- Obtain any fingerprint records or reference set. These are sometimes required for employment (especially in US led organizations and compulsory for some NGOs)
- Personal effects and sequential treatment for DNA of known personal effects would be a last resort i.e. contact paperwork or personal effects only handled by Sombath Somphone, such as his passport etc.
- Obtain reference samples (mouth buccal swab or blood sample) from known family members, i.e. mother, father or siblings. Then a comparison should be made from DNA samples against reference samples for familial DNA. This can provide strong evidence to state any person or remains recovered are the victim from the DNA familial linkage (this can be done now for expedited identification should a body be discovered)
- If remains are located, DNA samples should be recovered from bone sample, teeth, femur, etc. It is important that this is undertaken by an accredited laboratory. Storage of the reference DNA samples should be such as not to deteriorate the DNA sample.

Post-mortem

In the unfortunate event a body or remains are found, it is recommended that a post-mortem to determine the circumstances and cause of death be conducted by an internationally accredited pathologist and in a manner that is consistent with international standards.

In particular, it is recommended that any post mortem be conducted in accordance with the Protocol for Post Mortems as set out in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.¹⁷

Financial information

The Laotian authorities should clarify whether they have developed a financial profile of Sombath Somphone.

Such a profile could assist in determining whether he is still alive (proof of life) if there is continued activity on his financial accounts after 15 December 2012, particularly if they are consistent with his normal financial history.

Further financial data has the potential to identify new lines of enquiry. For example, in-person transactions conducted by the victim at Automatic Teller Machines could assist in tracking his movements pre and post December 2012.

Also comparing the financial activity of the victim against the cell site activity of any suspects has the potential to identify surveillance on him prior to his abduction.

The following specific enquiries should be made:

- Financial institutions where Sombath Somphone holds accounts or has credit card debit facilities
- Accounts where any salaries were paid into
- Search desk and home address to identify financial documents
- Since the date of his disappearance, identify demands for payments in unopened letters at home and work
- Interview Ng Shui Meng to establish his financial pattern
- Identify any will in existence and lawyer acting on his behalf
- Identify loans that require servicing, for example vehicle
- Identify assets that he controlled that have 'on-going' liabilities such as mobile phone and land line, utilities and internet to see if these are being paid and identify underlying additional accounts or credit facilities
- Obtain details of rental agreement or mortgage to identify underlying financial accounts
- Check email addresses for financial information
- Check SMS content for details of credit card transactions

Suspect financial strategy

Conduct financial investigations on any suspects identified to see whether there is any evidence of uncharacteristic financial payments or an extravagant lifestyle.

It might be possible to link the payments or improved lifestyle through corrupt relationships to those ordering the offence.

Witness identification and protection strategy

A witness identification and protection strategy should consider a range of actions that would generate maximum publicity of the investigation and will encourage witnesses to come forward in the knowledge that their information will be dealt with sensitively and that measures aiming to protect them from reprisals are available.

The purpose of these interviews is to:

- Establish the truth
- Allow individuals an opportunity to say what they wish about the events
- Put relevant evidential matters to those individuals
- Identify possible witnesses
- Identify possible suspects

The Laotian authorities should clarify which of the following actions it has taken to identify and interview all potentially relevant witnesses:

- Notice Boards
- Leaflet drop
- House-to-house enquiries including local businesses, restaurants, etc.
- Enquiries of those who have legitimate access to the area of the checkpoint
- Scene reconstructions

Immediate priorities

From what is known publicly, the Laotian authorities have identified a number of significant witnesses.

A significant witness may be defined as a witness who has directly seen or heard of the offence being investigated, i.e. the abduction of Sombath Somphone.

The officers engaged at the checkpoint, other persons who were at the scene during relevant times, and Ng Shui Meng would certainly fall within this category.

Points to be covered when taking statements from those officers working on the police checkpoint on 15 December 2012 should include:

- Purpose of the checkpoint
- The command structure of the authorities attending the checkpoint
- Orders or instructions received
- Hours of duty
- Each witness to separately provide the names of the officers engaged at the checkpoint
- Identification of all documents linked to their duty, for example, booking on and off duty, log books, note books
- Identification of all methods of recording events at checkpoint (including photographic and CCTV etc)
- Methods of communication
- Cell phone details of all those who were working on the checkpoint
- All vehicles utilized
- Any knowledge that the persons engaged at the checkpoint may have of the abduction

Consideration should be given to interviewing the attendees of the AAFP Forum, held on October 2012, for any evidence of intimidation or monitoring of the event by the Laotian authorities.

Scene reconstruction

A scene reconstruction of the events of the enforced disappearance could generate maximum publicity for the investigation. Consideration could be given to holding the reconstruction on or soon after the second anniversary of the incident, on 15 December 2014.

House-to-house enquiries in the vicinity of the police checkpoint

The Laotian authorities should clarify what steps they have taken to identify potential witnesses in the area immediately adjacent to the police checkpoint at which Sombath Somphone was last seen.

There are three main reasons for carrying out house-to-house (or shop-to-shop) enquiries:

- Identify suspects
- Identify witnesses
- Gather local information and intelligence
- Raise publicity

House-to-house enquiries have the potential to identify witnesses living or working in a specific location. These can include people who have witnessed the following:

- Events at the Police checkpoint on 15 December 2012
- Sightings of Sombath Somphone or offender(s) before or after the event
- Sightings of relevant vehicles
- Sightings of potential witnesses

Media appeal

The Laotian authorities should clarify whether they have requested the media to ask for information relevant to establishing the fate and whereabouts of Sombath Somphone.

The objectives of the appeal would be to identify and locate people with material that could be useful to the investigation notably:

- Witnesses to the initial incident on 15 December 2012
- Information of the location where Sombath Somphone was taken and subsequent location(s) of detention
- Information on his fate since his abduction
- Information on the lifestyle, movement and habits of Sombath Somphone
- Information on any concerns he might have expressed on his personal security

Consideration should be given to the creation of a confidential telephone hotline where callers have the option of providing information anonymously. This could be via telephone, email, or a social media webpage.

The location of Sombath Somphone's vehicle for example could be revealed. This in itself would be a significant breakthrough in the case.

Consideration should also be given to making provision for advertising a reward for information including the location of Sombath Somphone's vehicle, and advertising that such a reward is available.

Witness protection

Persons who are most likely to have incriminating information are the Laotian authorities, in particular police, military and internal security personnel, including those officials who were present at the checkpoint and their superiors.

Steps should be put in place to ensure that any inside agent coming forward is protected against all ill-treatment or intimidation as a consequence of providing information or evidence.

Article 12 of ICPPED stipulates the rights of victims and witnesses:

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

Laotian authorities should ensure that strategies and adequate human and financial resources are in place to ensure a range of protective measures in order to ensure the protection of all witnesses in the case.

Depending on the level of risk, measures could include:

- Protecting the identity of the witness within the parameters of the law and the rights of the defence guaranteed under international fair trial standards
- Personal alarm
- Other measures of physical protection and psychological support
- Relocation

Chronology of events

As material is gathered from the various inquiries the Laotian authorities should create a chronology of overlapping events.

A chronology should be extracted from amongst other sources:

- Witness statements
- Known movements of Sombath Somphone
- Known movements of any suspects
- Call and other communication data
- Documents, including among others, police reports, logs and notebooks
- Cell site data
- Financial transactions
- CCTV footage and photographs
- Lifestyle data

A chronology of events can assist in understanding the overall events, identifying gaps in knowledge and generating new lines of inquiry.

Technical assistance

The Laotian authorities should consider seeking the assistance of other law enforcement agencies in some technical aspects of the case. It appears that some strong lines of enquiry have not been fully exploited. For example the US Federal Bureau of Investigation, the Australian Federal Police and the Counter Terrorism Command, New Scotland Yard, London have considerable expertise in the following areas and might, on request, be able to assist:

- Forensic examination of crime scenes, vehicles and any body
- Analysis of all phone material including call data and cell sites
- Enhancement and analysis of CCTV footage

Interpol

Lao PDR has been a member of Interpol since 1956. The Interpol National Central Bureau, based in Vientiane, is part of the national police and has a staff of about twenty officers.

Sombath Somphone was circulated on a Yellow Interpol notice as a missing person.

As Lao PDR has a number of borders including China, Vietnam, Cambodia and Thailand, consideration should be given to tasking Interpol to coordinate the search for Sombath Somphone in neighbouring countries.

Review of the investigation

The Laotian authorities should give serious consideration to a comprehensive review by an independent, competent authority or expert(s) of the scope, methodology and results of the investigation to date.

Any agreed review would require the absolute cooperation of the investigative authority with complete access to all material and files.

The objectives of the review would be to constructively evaluate the conduct of the investigation with a view to ensuring:

- It conforms to the objectives of the investigation
- It conforms to national and international standards
- It is thorough, independent and impartial, effective and non-discriminatory
- It has been conducted with integrity and objectivity
- That no investigative opportunities have been overlooked
- That good practice is identified

Set against these objectives is the fundamental need for the review to be carried out in a spirit of cooperation between the review body and Laotian authorities. The review should be regarded by the Laotian Government as being of assistance to the investigation.

The review should be independent and impartial, and should outline clearly the timeframe of the review and to whom the results will be made available.

The reviewers should be persons who have the appropriate skills and experience in investigating complex crimes of an international nature.

Any independent investigation would require the appropriate human and financial resources to be effective and should be based away from the operational incident room where possible. This would protect the integrity of both the investigation and the review.

The reviewing staff must be supplied with all relevant information including copies of the Policy File, chronology of events, statements obtained from the main witnesses and exhibits schedules. The log of events and the current situation reports should be made available. This enables the officers involved in the review to be fully informed before commencing it.

The methods being used by the investigation team to pursue the major lines of enquiry should be identified. This includes those relating to the main suspects, staffing levels, briefings, publicity, exhibits, unidentified persons and vehicles, house-to-house enquiries and actions directed at seeking information.

The review team should also provide advice on technical and forensic strategies.

Annex 1 – Key recommendations to Laotian authorities

Based on a hypothesis that Sombath Somphone is the victim of an enforced disappearance, the following key recommendations are made to the Laotian authorities carrying out the investigation:

Recommendation 1

Establish an overall strategy that sets the direction of the investigation.

Recommendation 2

The Officer in Charge (OIC) of the investigation should open a Policy File and record all (a) operational and investigative strategic decisions with (b) justifications including resource issues. The Policy File should be available for inspection and review by appropriate authorities, any independent review body and the family of Sombath Somphone and their representatives.

Recommendation 3

The OIC should ensure that effective management systems are in place for the collection, safe and secure storage and analysis of all material collected during the investigation.

Recommendation 4

Formulate a sensitive family liaison strategy that ensures that their rights to be regularly provided with information about the progress and results of the investigation are respected in a manner that also ensures the effectiveness of the investigation.

Recommendation 5

Develop a comprehensive lifestyle profile of Sombath Somphone.

Recommendation 6

Implement an investigative strategy that ensures the capture and systematic analysis of all relevant material, including CCTV data, and, ideally, the submission of it to accredited independent and expert laboratories that will provide the best opportunity for enhancement of critical detail.

Recommendation 7

Implement a telecommunication strategy that captures and analyzes all relevant material and data capable of generating further lines of enquiry and proving the case hypothesis.

Recommendation 8

Ensure robust systems are in place to guarantee the integrity of all exhibits including collection, storage and chain of custody.

Recommendation 9

Ensure forensic strategies are in place to manage the discovery of any identified crime scenes, vehicles and any body.

Recommendation 10

Specialist forensic examination is to be conducted by accredited Scenes of Crime Officers or other specialists, where appropriate.

Recommendation 11

Any post-mortem to establish the cause and circumstances of death, if remains are found, should be conducted by an internationally accredited pathologist, in a manner consistent with international standards.

Recommendation 12

Conduct a financial profile of Sombath Somphone.

Recommendation 13

Conduct a financial profile of any suspect(s) identified in the investigation.

Recommendation 14

Develop a witness strategy that provides the best opportunity to identify witnesses who can provide information about the fate and whereabouts of the Sombath Somphone and those involved or responsible for it.

Recommendation 15

Prioritize taking statements from Ng Shui Meng, the police officers engaged at the checkpoint and any other witnesses the OIC considers imperative.

Recommendation 16

Produce a chronology of events.

Recommendation 17

Seek the assistance of appropriate agencies in other countries in the forensic examination and analysis of crime scenes, vehicles, any physical evidence, phone and CCTV data, and other evidence.

Recommendation 18

Consider tasking Lao PDR Interpol to coordinate the search for Sombath Somphone across Southeast Asia.

Recommendation 19

Ensure an independent comprehensive review of the scope, methodology and results of the investigation to date is carried out by a competent, independent and relevantly expert body. Such a body should have the authority to request and receive all relevant information, question individuals and make recommendations. All officials and experts who have been involved in the investigation to date should cooperate and provide information to the independent body carrying out the review.

Annex 2 – Chronology of key events

On 15 December 2012, at around 17.30 hours, Ng Shui Meng and Sombath Somphone were preparing to leave the PADETC office together. They left the office in separate vehicles. Ng Shui-Meng drove her car ahead and Sombath Somphone followed in his jeep, with plate number 2624.

Ng Shui Meng reached their house at 18.00 hours and waited for her husband. He, however, did not return that night. Concerned for his well being, she drove around looking for him and checked different hospitals, but still could not find him.

On 16 December 2012, Ng Shui Meng filed a missing persons report with local village authorities and the Vientiane Municipality Police Station.

On 17 December 2012, the Vientiane Municipality Police showed family members CCTV footage at the police station which had been recorded on a police camera. Family members were able to see from the footage, Sombath Somphone driving his jeep on Thadeua Road on 15 December 2012.

The CCTV footage appears to show Sombath Somphone's jeep being stopped by traffic police at the police outpost on KM 3 on Thadeua Road, at around 18.03 hours. Sombath Somphone turned his headlights off and stepped out of his vehicle. He walked towards the traffic policemen stationed at the outpost. Shortly thereafter, an unidentified man riding a motorcycle arrived at the scene. The unidentified man parked his motorcycle in front of Sombath Somphone's jeep and ran towards the police outpost. After a few minutes, another unidentified man coming from the police outpost can be seen getting into Sombath Somphone's jeep and driving it away.

Thereafter, a white pick-up truck with flashing hazard lights is seen pulling up in front of the police outpost. On the footage, some unidentified men and Sombath Somphone can be seen hurriedly entering the white pick-up truck. After the men and Sombath Somphone boarded, the white pick-up truck is seen speeding away, followed by two unidentified men on a motorcycle.

Family members and staff of PADETC made copies of the CCTV footage with their cellular phones and cameras.

Since reporting her husband's enforced disappearance to the Vientiane Police Department, Ng Shui Meng has only been called to the police department on approximately four occasions. However, during each visit, the interrogating officer did not ask anything pertaining to the enforced disappearance of her husband. He merely asked about unrelated matters, such as details of her marriage to her husband and how many children they have.

Since Sombath Somphone's enforced disappearance, the Government of Lao PDR has issued four formal statements and three police statements, informing the public on the progress of the case. They are as follows:

Formal statements made by the Government of Lao PDR, as of 3 December 2014:¹⁸

- 19 December 2012 - A spokesperson for the government informed the public that investigations are underway and expressed the view that the incident could have been due to "*personal conflict or a conflict in business.*"

- 4 January 2013 – Lao PDR’s Ambassador to the United Nations in Geneva stated that investigations are being accelerated, but did not elaborate whether there have been leads or findings on the case.
- 17 January 2013 – Mr. Phongsavath Boupha, Lao PDR’s Minister and Head of the Presidential Office, responded to queries from parliamentarians from ASEAN Member States (Philippines, Malaysia, and Indonesia), denying any state involvement.
- 30 December 2013 – Mr. Thongphane Savanphet, Lao PDR’s Ambassador and Permanent Representative to the UN in Geneva, clarified that assertions made by the UN Special Rapporteurs, Mr. Frank La Rue, Mr. Maina Kiai and Ms. Margaret Sekaggya, on sightings of Sombath Somphone’s jeep and his whereabouts, were inaccurate.

Police reports issued on this case, as of 3 December 2014:¹⁹

- 11 January 2013 - The first police report summarized that no persons or vehicles from the CCTV footage could be identified. The traffic police at the outpost were also interrogated but they claim that nothing beyond the ordinary happened on the evening of 15 December 2012. No witnesses were reported to have been approached by the police.
- 2 March 2013 - The second police report contained an explanation by Colonel Pingsavanh Thiphavongxay that they did not find Sombath Somphone’s jeep. He also said that there have been further developments on the case but did not elaborate what these are. He emphasized that Lao PDR will not be seeking foreign assistance in the investigations.
- 8 June 2013 - The third police report contained updates on local and international coordination, which included a written request to INTERPOL to issue a yellow notice on Sombath Somphone as a missing person, and responses received from Japan, India, France, the Republic of Korea, the United States of America and Spain on the whereabouts of Sombath Somphone. No leads or progress were noted in this report.

On 4 September 2013, Ng Shui Meng filed an application with the Office of the Supreme People’s Prosecutor to have the case heard before the Provincial Court of Vientiane, seeking relief from acts of “*bureaucratism and harassment*” by law enforcement authorities who refuse to provide her a copy of the results of the investigation of Sombath Somphone’s case.²⁰

In January 2014, Ng Shui Meng followed-up on the status of the application but was advised by the Office of the Supreme People’s Prosecutor that it has been misplaced.²¹ The ICJ wrote a letter, dated 22 July 2014, to the President of the People’s Supreme Prosecutor, requesting information on the status of the application. Regrettably, the ICJ has yet to receive a response.

Between 15 and 20 September 2014, the ASEAN Parliamentarians for Human Rights (APHR) travelled to Lao PDR to carry out a fact-finding mission and to follow-up on the investigation of Sombath Somphone’s whereabouts. It was concluded that, “*the Lao authorities have erected a brick wall of silence on this investigation, so much so that the only intelligent conclusion is that there is in fact no investigation taking place at all and that the obstinacy is part of a cover up for state officials implicated in his abduction.*”²²

Endnotes

- 1 See: <http://sombath.org/global-concern/statements/>
- 2 APHR, 'Lao government's deceptive game on Sombath investigation must end', 23 September 2014, <http://www.aseanmp.org/?p=3101> (Accessed 3 December 2014).
- 3 The Istanbul Protocol is the name commonly used for The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <http://www.ohchr.org/documents/publications/training8rev1en.pdf>
- 4 United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, UN Doc E/ST/CSDHA/.12, 1991, http://www.unrol.org/files/UN_Manual_on_the_Effective_Prevention_and_Investigation%5B1%5D.pdf
- 5 Article 12 para 3(a) of the ICCPED and Article 13; para 2 of the Declaration on the Protection of All Persons from Enforced Disappearances.
- 6 See chronology of key events under Annex 2. Much of the relevant publicly available information is gathered at: <http://sombath.org/category/lao-government-statements/>
- 7 A video of the CCTV footage can be seen on YouTube at: <http://www.youtube.com/watch?v=VB29Jr0O748> (Accessed 2 December 2014).
- 8 For a full analysis of the legal framework as it applies to Sombath Somphone's enforced disappearance, see ICJ publication: *Legal Memorandum on the case of Sombath Somphone*, 2013, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/12/Legal-Memorandum-annex-on-the-case-of-Sombath-Somphone.pdf>.
- 9 See Annex 2.
- 10 ICJ, *Legal Memorandum on the case of Sombath Somphone*, 2013, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/12/Legal-Memorandum-annex-on-the-case-of-Sombath-Somphone.pdf>, paras. 8-12.
- 11 Articles 2(3), 9, 7, 6 of the ICCPR, and Article 12 and 13 of the CAT; Human Rights Committee, General Comment 31, 'Nature of the general legal obligation imposed on State parties to the Covenant', UN Doc. CCPR/C/21/Rev.17/Add.13, 26 May 2004, paras. 15 and 18, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/419/56/PDF/G0441956.pdf?OpenElement>; Human Rights Committee, General Comment No.20, Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, UN Doc. HRI/GEN/1/Rev.9 (Vol.1), 1992, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6924291970754969c12563ed004c8ae5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6924291970754969c12563ed004c8ae5?Opendocument), para. 14; Committee Against Torture, General Comment No. 2, Implementation of article 2 by States parties, UN Doc. CAT/C/GC/2, 24 January 2008, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en, paras. 9 and 26; Committee against Torture, General Comment No. 3, Implementation of article 14 by States parties, UN Doc. CAT/C/GC/3, 13 December 2012, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f3&Lang=en, para. 46(i).
- 12 Human Rights Committee, General Comment 31, Nature of the general legal obligation imposed on State parties to the Covenant, UN Doc. CCPR/C/21/Rev.17/Add.13, 26 May 2004, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/419/56/PDF/G0441956.pdf?OpenElement>, para. 15; Articles 12 and 13 of CAT.

- 13 Committee against Torture, General Comment No. 2, Implementation of article 2 by States parties, UN Doc. CAT/C/GC/2, 24 January 2008, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en, para. 26.
- 14 Article 6 (1)(b) of the ICCPED; Article 2 (3) of the CAT.
- 15 Article 6 (2) of the ICCPED.
- 16 Sombath Somphone, 'Lao Government statements', <http://sombath.org/category/lao-government-statements/> (Accessed 3 December 2014)
- 17 United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, UN Doc E/ST/CSDHA/.12, 1991, http://www.unrol.org/files/UN_Manual_on_the_Effective_Prevention_and_Investigation%5B1%5D.pdf, chapter IV.
- 18 Article 12 para 3(a) of the ICCPED and Article 13; para 2 of the Declaration on the Protection of All Persons from Enforced Disappearances.
- 19 Ibid.
- 20 ICJ, *Legal Memorandum on the case of Sombath Somphone*, 2013, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/12/Legal-Memorandum-annex-on-the-case-of-Sombath-Somphone.pdf>, para. 42.
- 21 Ibid, Epilogue, pg. 19.
- 22 ACHR, 'Lao government's deceptive game on Sombath investigation must end', 23 September 2014, <http://www.aseanmp.org/?p=3101> (Accessed 3 Dec 2014)

ICJ Commission Members

September 2014 (for an updated list, please visit www.icj.org/commission)

President:

Prof. Sir Nigel Rodley, United Kingdom

Vice-Presidents:

Prof. Robert Goldman, United States

Justice Michèle Rivet, Canada

Executive Committee:

Prof. Carlos Ayala, Venezuela

Justice Azhar Cachalia, South Africa

Prof. Jenny E. Goldschmidt, Netherlands

Ms Imrana Jalal, Fiji

Ms Hina Jilani, Pakistan

Ms Karinna Moskalenko, Russia

Prof. Mónica Pinto, Argentina

Other Commission Members:

Professor Kyong-Wahn Ahn, Republic of Korea

Justice Adolfo Azcuna, Philippines

Mr Muhannad Al-Hasani, Syria

Dr. Catarina de Albuquerque, Portugal

Mr Abdelaziz Benzakour, Morocco

Justice Ian Binnie, Canada

Sir Nicolas Bratza, UK

Prof. Miguel Carbonell, Mexico

Justice Moses Chinhengo, Zimbabwe

Prof. Andrew Clapham, UK

Justice Radmila Dacic, Serbia

Justice Unity Dow, Botswana

Justice Elisabeth Evatt, Australia

Mr Roberto Garretón, Chile

Prof. Michelo Hansungule, Zambia

Ms Sara Hossain, Bangladesh

Ms Gulnora Ishankanova, Uzbekistan

Mr. Shawan Jabarin, Palestine

Justice Kalthoum Kennou, Tunisia

Prof. David Kretzmer, Israel

Prof. César Landa, Peru

Justice Ketil Lund, Norway

Justice Qinisile Mabuza, Swaziland

Justice José Antonio Martín Pallín, Spain

Justice Charles Mkandawire, Malawi

Mr Kathurima M'Inoti, Kenya

Justice Yvonne Mokgoro, South Africa

Justice Sanji Monageng, Botswana

Justice Tamara Morschakova, Russia

Prof. Vitit Muntarbhorn, Thailand

Justice Egbert Myjer, Netherlands

Dr Jarna Petman, Finland

Prof. Victor Rodriguez Rescia, Costa Rica

Mr Belisario dos Santos Junior, Brazil

Prof. Marco Sassoli, Italy-Switzerland

Prof. Olivier de Schutter, Belgium

Justice Ajit Prakash Shah, India

Mr Raji Sourani, Palestine

Justice Philippe Texier, France

Justice Stefan Trechsel, Switzerland

Prof. Rodrigo Uprimny Yepes, Colombia



**International
Commission
of Jurists**

10/1 Soi Ari 2,
Phahonyothin Road,
Samsennai, Phayatha
Bangkok 10400,
Thailand,

Tel: 662 619 8477,
662 619 8478

Fax: 662 619 8479