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THAILAND/LAOS: INVESTIGATE THE KILLING OF LAO REFUGEE AND PUT AN END TO TRANSNATIONAL REPRESSION OF HUMAN RIGHTS DEFENDERS

In response to news on 17 May 2023 of the fatal shooting of Bounsuan Kitiyano, a 56-year-old Lao human rights defender and a refugee recognized the UN High Commissioner for Refugees (UNHCR), in a border town in northeastern Thailand, we, the ten undersigned organizations, urge the government of Thailand to independently, effectively and promptly investigate this incident and ensure effective remedy to the victim's family and loved ones. We also call on the Lao and Thai governments, together with diplomatic communities in Laos and Thailand and UN bodies, to address human rights violations faced by Lao human rights defenders who have sought asylum in Thailand.

BOUNSUAN KITIYANO'S KILLING

On 17 May 2023, Thai authorities found Bounsuan's body in Pho Sai District of Ubon Ratchathani Province in northeastern Thailand bordering Laos. Bounsuan, a member of Thailand-based "Free Lao," a network of Lao migrant workers and human rights defenders, participated in activities including peaceful protests at the Lao Embassy in Bangkok and human rights workshops on topics including human and rights, environmental rights, anti-corruption and democracy. According to media reports, he had been shot three times while he was riding a motorcycle.¹ While the undersigned organizations do not have information on who is responsible for this killing, we have verified that the human rights defender had fled persecution from Laos and been living in Thailand for many years. According to media reports, Bounsuan was in the process of applying for a resettlement in Australia.²

Other individuals associated with the Free Lao network have faced arbitrary detention and alleged enforced disappearance either in Laos or Thailand.

REPRESSION AT HOME AND ABROAD

¹ Thai Rath, สลดหุนุ่มใหญ่ นักเคลื่อนไหวชาวลาว ถูกยิงตายที่อุบลฯ คาดตามฆ่าล้างแค้น, 19 May 2023, <https://www.thairath.co.th/news/crime/2695135>

² Khaosod English, Thai Police: A Lao activist's relatives may murder him, 21 May 2023, khaosodenglish.com/news/2023/05/21/thai-police-a-lao-activists-relatives-may-murder-him/

The undersigned organizations note a recurring targeting of human rights defenders affiliated with Free Lao. The fatal shooting of Bounsuan took place only one month after the arrest and detention of Savang Phaleuth, another Free Lao member living in Bangkok. Reportedly, on 20 April 2023, Savang visited his home at Done Sart Village in Song Khon District of Savannaket Province, Laos, where he was arrested by police authorities from an unidentified unit.³ Currently, he remains detained incommunicado. According to information obtained by the signatories, the police has not informed his relatives of the charges against him, nor allowed any family visits.

On 26 August 2019, prominent human rights defender Od Sayavong “disappeared” from his home in Bangkok after he and his fellow Free Lao members, including Phetphouthon Philachane, met with the then-UN Special Rapporteur on Extreme Poverty and Human Rights.⁴ Od also played an active role in leading a demonstration in Bangkok on 16 July 2019 to call for the release of other Free Lao members imprisoned in Laos and the protection of environmental and land rights in the country.⁵ In that case, Thai authorities failed to conduct a prompt, impartial and effective investigation into this alleged disappearance, despite consistent calls from the UN and civil society organizations.⁶

Three months later, Phetphouthon, another member of Free Lao who was also a housemate of Sayavong, also went missing after he left Bangkok to visit his family in Vientiane.⁷ His fate and whereabouts remain unknown to date.

Earlier, on 5 March 2016, three human rights defenders from the same group – Somphone Phimmasone, Soukane Chaithad, and Lodkham Thammavong – were arrested and detained by Lao authorities incommunicado due to their online criticisms of the Lao government and participation in a peaceful protest in front of the Lao Embassy in Bangkok. On 22 March 2017, the Vientiane People’s Court found them guilty of violating article 56 (treason to the nation), article 65 (propaganda against the state), and article 72 (gatherings aimed at causing social disorder) of Laos’s Penal Code. They were sentenced to 20, 16, and 12 years in prison, respectively.

These repeated allegations of arrest, detention, conviction and, in some instances, disappearance of members of Free Lao, suggests that what appear to be targeted attacks are not only taking place in Lao territories. Rather, they seem to be part of an ongoing pattern of transnational repression against activists and human rights defenders fleeing persecution from Laos to Thailand in order to silence the exercise of human rights, including the rights to freedom of peaceful assembly and freedom of expression involving peaceful dissent.

In this context, on 11 December 2020, eight independent experts of the UN Human Rights Council submitted a letter to the Lao and Thai governments raising concerns regarding a “pattern of disappearances” with “countries in the region coordinating, assisting, or acquiescing to extraterritorially abduct political activists leading to disappearances.”⁸ The letter also indicated that the Foreign Ministries of Laos and Thailand in 2018 released a joint statement on strengthening their collaboration to “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.”

According to testimonies collected by the undersigned organizations, pervasive impunity for the cases listed above have led to a widespread chilling effect among Lao human rights defenders. Under this repressive climate, these human rights defenders who fled their country continue to live in fear of being targeted for exercising their human rights.

STATE OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

³ Radio Free Asia, “Thailand-based rights activist arrested in Laos after returning to home village” 9 May 2023, rfa.org/english/news/laos/activist-returns-arrest-05092023164548.html

⁴ UN Office of the High Commissioner for Human Rights, “Thailand/Lao PDR: UN experts concerned by disappearance of Lao human rights defender” 1 October 2019, ohchr.org/en/press-releases/2019/10/thailandlao-pdr-un-experts-concerned-disappearance-lao-human-rights-defender

⁵ UN Office of the High Commissioner for Human Rights, Letter to the Governments of Laos and Thailand (UA LAO 2/2019), 25 September, 2019, spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24867

⁶ Some examples of the calls could be found at amnesty.or.th/en/latest/news/7581/
fidh.org/en/region/asia/thailand/investigate-disappearance-of-lao-activist-seeking-asylum-and
hrw.org/news/2019/09/07/thailand-lao-refugee-feared-disappeared

⁷ Radio Free Asia, “Lao Migrant Goes Missing, Friends Suspect Government Abduction” 9 December 2019, rfa.org/english/news/laos/phetphouthon-philachane-12092019161409.html

⁸ UN Office of the High Commissioner for Human Rights, Letter to the Governments of Laos and Thailand (AL LAO 4/2020), 11 December 2020, spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25648

Thailand and Laos are both State parties to the International Covenant on Civil and Political Rights (ICCPR) pursuant to which they must respect and ensure the rights to life, to liberty and security of person, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, and freedom of expression, association and peaceful assembly and right to public participation among other rights. Enforced disappearance constitutes a violation of multiple provisions of the ICCPR. They have a duty to promptly, effectively and thoroughly investigate with independence, impartiality and transparency, and to prosecute potentially unlawful deprivations of life, including enforced disappearances, in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.⁹ States must also provide access to an effective remedy and reparation to redress any violations of human rights under their jurisdiction.

The protection of the aforementioned rights also covers human rights defenders who face heightened risks of targeted violence due to their legitimate human rights work.

During the third cycle of Thailand's Universal Periodic Review (UPR) in 2021, the government of Thailand "supported" at least six recommendations on the protection of human rights defenders, including to "[e]nsure the protection of human rights defenders, including through prompt and thorough investigation of attacks"; "[t]ake further steps to ensure a safe and enabling environment for human rights defenders, stop all forms of harassment, violence and intimidation against them and ensure prompt, transparent and independent investigation of all reported cases", and "[c]reate a safe and enabling environment to exercise the rights to peaceful assembly and freedom of expression and prevent attacks and intimidation against human rights defenders."¹⁰

The government of Laos also received similar recommendations during its UPR in 2020, including to "[e]nhance freedom of expression, lifting restrictions for independent media and providing a safe environment for the work of journalists and human rights defenders"; "[e]nsure the full enjoyment of the freedom of expression, association and peaceful assembly, and progress to fully investigate all allegations of arbitrary arrests, enforced disappearances and criminal convictions for expressions of political opposition or criticism of State policies"; and "[u]ndertake domestic independent investigations into the disappearances and deaths of democracy and human rights activists." Regrettably, the Lao government refused to accept most of these recommendations from the Review.¹¹

The increasing number of transnational repression cases, including the recent killing of Bounsuan, indicates that both governments have not effectively implemented their human rights obligations of ensuring that human rights defenders can safely exercise their human rights and fundamental freedoms in both countries.

CALLS TO THE GOVERNMENTS OF THAILAND, LAOS AND THE INTERNATIONAL COMMUNITY

In response to the situation set out above, the undersigned organizations urgently request that:

TO THE GOVERNMENTS OF LAOS AND THAILAND

- Immediately undertake a prompt, thorough, effective, impartial and independent investigation into the killing of Bounsuan, as well as other possible human rights violations and abuses as set out in this statement, in line with international human rights law and standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death;
- Ensure that the investigations lead to accountability for these crimes, by identifying, prosecuting and sanctioning any responsible person or persons;
- Provide access to an effective remedy and reparation for the family and loved ones of these crimes;

⁹ UN Office of the High Commissioner for Human Rights, Minnesota Protocol on the Investigation of Potentially Unlawful Death, 2017, ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf

¹⁰ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, Recommendations received from Norway, Czechia, and Italy respectively, A/HRC/49/17/Add.1, Para 19 and 51. ohchr.org/sites/default/files/2022-03/A_HRC_49_17_Add.1_AV_Thailand_E.docx

¹¹ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, Recommendations received from Italy, Czechia, and the United States of America, A/HRC/44/6/Add.1, Para.6. undocs.org/A/HRC/44/6/Add.1

- Publicly commit to preventing further persecution, intimidation and harassment, providing a safe, respectful and enabling environment for all human rights defenders and ceasing from criminalizing freedom of expression, peaceful assembly and association;
- Urgently terminate the aforementioned official agreement between both governments and any other measures enabling transnational repression of legitimate human rights activism;

TO THE DIPLOMATIC COMMUNITIES IN LAOS AND THAILAND AND DONORS

- Demand prompt and effective accountability and an end to the human rights violations that have long been shrouded in the culture of impunity in both countries;
- For governments involved in inter-governmental dialogues with Lao and Thai authorities, raise the issue of alleged transnational repression against human rights defenders in both countries and ensure to make the results of such dialogues public;

TO UN BODIES

- Ensure protection of refugees and asylum seekers living in fear of transnational repression and immediately facilitate the processing of their applications for resettlement in a third country.

LIST OF UNDERSIGNED ORGANIZATIONS

1. Amnesty International
2. Human Rights Watch
3. International Commission of Jurists
4. International Federation for Human Rights
5. Manushya Foundation
6. Focus on the Global South
7. CIVICUS: World Alliance for Citizen Participation
8. Front Line Defenders
9. Asia- Europe Peoples Forum (AEPF) International Organising Committee
10. Fresh Eyes

CONTACT DETAILS

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