



APHR

ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

ASEAN Parliamentarians for Human Rights (APHR)

Lao People's Democratic Republic

Submission to the United Nations
Universal Periodic Review

EXECUTIVE SUMMARY

1. ASEAN Parliamentarians for Human Rights is concerned by reports of wide-ranging human rights violations in the Lao PDR. These abuses are oftentimes either committed by state actors or the state has shown a lack of will or ability to act against these violations and to protect the rights of citizens. These abuses include threats to freedom of religion, freedom of assembly and expression, and a litany of abuses including land grabbing and destruction of habitats and livelihoods related to the construction of dams and other major infrastructure projects.
2. This submission concentrates on the issue of enforced disappearances and threats to civil society workers, and in particular the case of social and human rights activist Mr. Sombath Somphone, abducted at a police post in Vientiane on 15 December 2012.
3. Up to June 2014, Lao authorities have turned down all offers of assistance in trying to solve this case; in spite of widespread international calls for an urgent investigation, including from the EU and ASEAN parliamentarians, the USA and the Office of the United Nations High Commissioner for Human Rights, Sombath's whereabouts remains unknown and there has been no progress in the investigation into the circumstances of his enforced disappearance.
4. Laos is a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance under which it has a responsibility to prevent and remedy any enforced disappearance and is bound under international law to refrain from acts that would defeat the object and purpose of this treaty.
5. Through various means, including the state's failure to properly investigate the enforced disappearance of Mr. Sombath, civil society actors are again working under a climate of fear. APHR thereby calls

for the NGO Stakeholder Report to the UPR on Laos to take noted consideration of submissions made on behalf of Lao civil society by regional and international organisations.

6. Significant progress in the Sombath case and the signing of relevant international treaties and statutes (and as well as clear efforts to cooperate with international and regional governments and institutions in this case) must be made a prerequisite of Laos 'candidacy for the UN Human Rights Council in 2016.
7. APHR calls on the Lao government to address the repression of civil and political rights, including freedom of expression, association and peaceful assembly in Laos and ensure respect and protection of the rights of all members of civil society, as well as to sign and ratify relevant international treaties, conventions and statutes.

I. BACKGROUND AND FRAMEWORK

8. In preparation for this submission, APHR members have engaged and consulted with civil society actors in Laos, family members of Mr. Sombath as well as state institutions and representatives, including the Parliament, the Lao PDR Ministry of Foreign Affairs, and senior police and investigators, and others as part of fact-finding missions to Laos and other activities related to following up on the disappearance of Mr. Sombath.
9. Several APHR members were part of parliamentary delegations that visited Laos from 13–15 January 2013 and March 2013 to follow up on the investigation into Sombath. These included Philippines Congressman Walden Bello, Malaysian MP Charles Santiago, and Indonesian MP Lily Wahid. Despite the short notice, high officials of the Lao PDR met with the delegation, and took part in a frank exchange of views in a cordial atmosphere.
10. During this visit, senior Lao officials acknowledged the special responsibility of the government to solve Mr. Sombath's disappearance since Laos had just signed the Convention on the Protection of All Persons from Enforced Disappearance, being the fourth country in Asia to do so.
11. One of the Lao leaders they met, Mr. Phoungsavath Boupoua, President of the National Committee for Human Rights in the Office of the President, acknowledged that Sombath's was not the first case of disappearance in Laos. Officials also acknowledged that the disappearance of Sombath was a blow to civil society in the country as well as a stain on the reputation of the Lao PDR.
12. The visiting MPs expressed their appreciation for being received by the Lao authorities, but made it be known to them at the time, and on other

subsequent occasions, that the answers to the visiting delegation's questions were far from satisfactory.

13. The MPs were told that after a month of investigation, the only thing that had been established is that the police had nothing to do with the disappearance. The delegation told them that this was not credible and that if they accepted this as fact as to the progress of the case, they would themselves lose credibility.
14. They were then told that Sombath was kidnapped, which was not a credible lead then or now, as no ransom has ever been produced. This counter argument did not receive a response from the Lao authorities at the time.
15. The MPs also noted discrepancies in the Lao authorities' accounts of the circumstances of the abduction. Most of the officials they met said there was no evidence that Sombath got into the pickup truck that appeared in the CCTV footage after his jeep was stopped. While Mr. Sakayane Sisouvong, the Permanent Secretary of the Ministry of Foreign Affairs, told the parliamentary delegation that Sombath voluntarily boarded that vehicle.
16. Considering the experience of other countries in ASEAN where abductions have taken place, like the Philippines and Indonesia, the MPs asked about the possibility that some section of the government or rogue elements in the government might have carried out an abduction that the rest of the government did not know about. This query did not elicit an answer from the officials they spoke to, except from Permanent Secretary Sisouvong, who said it was good suggestion. It does not appear that this theory has been sufficiently explored in the subsequent 16 months of investigation.
17. The visit in January 2013 raised more questions than answers. It is indeed possible that the officials they met, high though they are in the government and National Assembly, did not know what happened to Sombath. Thus, it is all the more important that the highest state authorities direct the police, security, and intelligence agencies to focus their investigation on all possibilities, including the possibility that Mr. Sombath may have been abducted by elements, possibly rogue elements, within the government itself, a line of investigation that the MPs strongly suggested and which was accepted as a good suggestion by the Permanent Secretary of Foreign Affairs.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

18. Laos is a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance under which it has a responsibility to prevent and remedy any enforced disappearance and

is bound under international law to refrain from acts that would defeat the object and purpose of this treaty.

FAILED INVESTIGATION

19. The members of APCR would like to express their deep dismay at the lack of political will to conduct a serious investigation into the disappearance of Mr. Sombath Somphone.
20. The Lao authorities have denied all international offers of assistance in trying to solve this case. The Lao investigation has so far been a consummate failure. APCR questions the sincerity of the current investigation and calls for the government of the Lao PDR to give full support as necessary and as requested for the establishment of an international and/or regional investigation into Sombath's disappearance.
21. There have also been several other documented cases of enforced disappearances in Laos: to this day, the whereabouts of nine other persons, two women, Kingkeo and Somchit, as well as seven men, Soubinh, Souane, Sinpasong, Khamson, Nou, Somkhit, and Sourigna, arbitrarily detained by Lao security forces in November 2009 in various locations across the country remain unknown.
22. APCR would like to impress upon the Lao government the urgency and seriousness of these cases and the urgent need to clarify the many questions that surround Sombath's disappearance and the ongoing investigation.
23. The Lao Government's failure to undertake proper investigations into all these cases of enforced disappearances violates its obligations under Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), to which Laos is a state party. Furthermore, as a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance (CPED), it must refrain, in good faith, from acts that would defeat the object and purpose of the treaty.
24. Despite positive words from the Lao authorities, efforts by APCR and other bodies to engage with Vientiane appear to have had little impact on the investigation to date. Little new information has surfaced in the past 18 months regarding Sombath's whereabouts and the details surrounding his disappearance.
25. APCR has on numerous occasions expressed its strong disappointment over the Lao Government's consistent failure to shed light on the enforced disappearance of Mr. Sombath and has called on the Lao authorities to answer the many outstanding questions around Sombath's disappearance and establish an independent commission, with international involvement or support, to carry out a thorough and impartial investigation into his disappearance and ensure his safe

return to his family, in accordance with Laos' obligations under international law.

26. CHILLING EFFECT ON CIVIL SOCIETY IN LAOS

27. The implication of the involvement of state actors in Sombath's disappearance and that subsequent failure of an investigation has had a chilling effect on civil society in Laos.

28. APCR also calls on the Lao government to address the ongoing repression of civil and political rights, including freedom of expression, association and peaceful assembly in Laos and ensure respect and protect the rights of all human rights defenders, activists, and members of civil society.

29. APCR members have regularly raised these concerns on a bi-lateral basis between various member states and the Lao government, and across all levels of government. Recently, through APCR efforts, the Singapore government again reiterated its deep concern and urged the Lao government to do all it can to expedite the investigation into Sombath's disappearance.

30. The Lao authorities have been responding with the same answers since day one of Sombath's disappearance on 15 December 2012, saying that they are taking the case seriously and the investigation is continuing but there is no new information to report. APCR questions the veracity of these statements and has deep reservations about the sincerity of the investigation to uncover the details surrounding Sombath's disappearance and his current status and whereabouts.

31. APCR would like to express its dissatisfaction with the statements made by the Lao authorities to date concerning the investigation into Sombath's disappearance. The investigation reports released by the Lao authorities thus far are contradictory and misleading, indicating the partiality and shallowness of the official investigation. They have not focussed on the possibility that Sombath may have been abducted by actors within the Lao government or connected to the Lao PDR state.

32. On 8 June 2013, The Deputy Director General of the ministry's General Police Department, Colonel Dr Phengsavanh Tiphavongxay, gave the third briefing on police efforts to locate Mr. Sombath since he was declared missing on December 15 2012.

33. In that briefing, those in charge of the investigation said the investigation committee remained "focused on the issue and has continued to investigate and collect information from individuals and organisations concerned from within the country and abroad."

34. The committee said it had "demonstrated a high sense of responsibility of the leadership of the Ministry of Public Security, as well as the

General Police Department in supervising the committee in charge of the investigations to locate the whereabouts of Mr Sombath Somphone, in order for the committee to perform its duties regularly in accordance with the required investigative techniques and law of the Lao PDR. Up until now, Mr Sombath Somphone has not yet been found.”

35. The committee also gave assurances that it would continue to investigate his Mr. Sombath’s disappearance “in accordance with its mandates and duties.”
36. Considering that no new information has been forthcoming 18-months after the investigation was launched, APCR calls on the Lao authorities to fully disclose all information related to the investigation into Mr. Sombath’s disappearance and to allow for an international investigation commission be established, with full support and cooperation of the Lao authorities, to take over responsibility for the investigation.
37. APCR is also aware that a caller of the Ministry of Foreign Affairs made a call to the Singapore Ambassador to Vientiane five days after Mr. Sombath’s disappearance indicating that Mr. Sombath would be released the following day. Subsequently, the caller denied he had ever made a call that Mr. Sombath would be released. The EU Charge d’Affairs and some other Vientiane-based Ambassadors were also aware of such a phone call.
38. APCR calls on UN member states to express their deep concern at the stalled investigations into Mr. Sombath’s disappearance and stress to the Lao PDR government that unless progress is made and Laos make genuine moves to fully investigate Mr. Sombath’s disappearance and it risks its international reputation, which among other potential repercussions, could affect its access to development loans and aspirations to sit on the United Nations Human Rights Council in 2016.

RECOMMENDATIONS

In light of the above stated concerns, APCR recommends the Lao PDR undertake the following:

1. APCR urges the Government of Lao PDR to do its utmost to locate Mr. Sombath, to establish his fate and whereabouts, and bring to justice, irrespective of rank or official position, all those who took part in carrying out or covering-up Sombath’s enforced disappearance and any other human rights violation to which he may have been subjected;
2. APCR calls on the Lao Government to provide meaningful, detailed information about the progress of the investigations to Sombath’s family, lawyers and others with a legitimate interest, including the ASEAN Inter-Parliamentary Commission on Human Rights (AICHR) and the UN Working Group on enforced and involuntary disappearances;

3. APCR calls on the Lao government to ratify without further delay the International Convention for the Protection of all Persons from Enforced Disappearance signed back in 2008;
4. APCR calls on the Lao PDR to ratify the Rome Statute of the International Criminal Court and the Agreement on Privileges and Immunities of the International Criminal Court, and incorporate their provisions in to domestic law and implement them in policy and practice;
5. APCR calls on Laos to offer political and material support of the establishment of an international investigation into the disappearance of Sombath Somphone and other enforced disappearances in Laos as well as full and unreserved cooperation with such an investigation;
6. APCR also calls on the Lao government to support an investigation into Mr. Sombath's disappearance by the ASEAN Inter-governmental Commission on Human Rights (AICHR);
7. APCR called on the Lao government to cooperate fully with the UN Working Group on enforced or involuntary disappearances and remain open to other UN Special Procedures;
8. APCR calls on Laos to withdraw its candidacy for a seat on the UN Human Rights Council until such time as sufficient effort has been made into uncovering the details surrounding Mr. Sombath's disappearance and bringing the perpetrators to justice.
9. APCR calls on UN member states to vote against Lao PDR's bid to sit on the UN Human Rights Council in 2016 pending its acceptance and implementation of the above recommendations.
10. All restrictions in law and practice that are infringing upon the work of civil society organizations in Laos must be repealed and legal provisions on the rights to freedom of expression, peaceful assembly and association must be brought in line with international human rights standards.