

Solidarity for Asian Peoples' Advocacies (SAPA) Working Group on ASEAN calls on ASEAN to uphold human rights and investigate cases of enforced disappearances
September 5, 2014

August 30 marked the International Day of the Victims of Enforced Disappearance. In solidarity with the victims and families of those who have been disappeared, the SAPA Working Group on ASEAN urges ASEAN governments to bring an immediate end to enforced disappearances and ensure justice for the victims and their families.

Enforced or involuntary disappearance is one of the most heinous violations of human rights, akin to torture, and cruel and inhuman treatment. According to the United Nations *Declaration on the Protection of all Persons from Enforced Disappearance*,ⁱ an enforced disappearance happens when,

"persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law."ⁱⁱⁱ

When in captivity, victims of enforced disappearance are frequently subjected to violent and degrading treatment or torture, and live day-by-day in a state of hopeless fear, aware that their families do not know where they are and that normal legal protections are not available to them. The families of the victims suffer tremendous mental anguish, not knowing the conditions of their loved ones, or even whether they are alive or dead. Enforced disappearance is also used as a weapon to spread fear in society and to silence those who raise questions about human rights violations. Fear and insecurity among families and acquaintances of the disappeared make it difficult to accurately document cases of enforced disappearance, as well as gather crucial evidence to ensure the safe return of the victims and punishment of the perpetrators.

Enforced disappearances have been happening in the ASEAN region for several decades, under military dictatorships, in situations of territorial and natural resource conflicts, and in so called democracies, where victims are perceived to be threats to those in political power. In majority of the known cases of enforced disappearance, the lack of meaningful investigation and progress in delivering justice to victims and their families indicates the continuing impunity of the perpetrators.

Mr. Somchai Neelapaijit, a Thai human rights lawyer defending five Thai Muslims who had been tortured by high-ranking police personnel, was abducted on a busy Bangkok road on 12 March 2004. Ten years later, those who masterminded and executed his disappearance still roam free. The Justice for Peace Foundation in Thailand estimates that since 2001, over 50 people have been disappeared and that men from ethnic minority groups are more vulnerable to enforced disappearance. On April 17, 2014, Porlajee Rakchongcharoen (also known as Billy) disappeared after being arrested by Kaeng Krachan National Park Officers in Phetchaburi. Park officers claimed that Billy had been taken for questioning regarding wild honey found in his possession and released shortly thereafter, and had no information regarding his whereabouts. On the day of his disappearance, Billy was travelling from his village in Kaeng Krachan district to meet with Karen villagers to prepare for a court hearing in a lawsuit filed by the villagers against the National Park, Wildlife and Plant Conservation Department, the Ministry of Natural Resources and Environment, and the head of Kaeng Krachan National Park. No proper investigation has been conducted to locate Billy.

In neighbouring Laos and Myanmar, enforced disappearances are especially difficult to track. On January 23 2007, Sompawn Khantisouk an eco-tourism business owner in the capital town of Luang Nam Tha province in Laos, was abducted in broad daylight by people in police uniforms. Appeals by his family to government authorities to investigate the disappearance yielded no positive results and soon, Khantisouk's family retreated into fearful silence. On the evening of December 15, 2012, Mr.

Sombath Somphone, a well respected Lao development worker, was abducted from a police check point in broad public view in Vientiane, the capital city of Laos. Captured on a CCTV camera positioned just ahead of the police post, the abduction sent shock waves across the world and elicited strong expressions of concern from governments, parliamentarians, United Nations agencies and eminent persons such as Desmond Tutu. To date however, the Lao Government has not conducted a meaningful investigation into the disappearance, nor has it accepted offers of forensic support from other countries to analyse the evidence. In both the above case, the Lao Government has concluded that the abductions were related to unspecified personal or business conflicts.

In the Philippines, more than 20 persons have been disappeared because of their political beliefs and involvement under the current government. During the time of the previous government, Jonas Burgos, son of a respected former journalist and defender of press freedom, was abducted at the food court of a shopping mall in Quezon City in 2007. Despite evidences pointing to the involvement of military personnel in his disappearance, impunity for the perpetrators prevails. University of the Philippines' students Karen Empeño and Sheryl Cadapan were abducted while doing field research work in Bulacan in 2006. Testimonies by witnesses point to the soldiers as abductors and torturers/rapists of the two women.

The report of the Report of the Working Group on Enforced or Involuntary Disappearances on 4 August 2014 noted that enforced disappearance continues to be used across the world and that it is significantly underreported due to institutionalized systems of impunity, a practice of silence and restrictions on the work of civil society and threats, intimidation and reprisals against victims of enforced disappearance, including family members, witnesses and human rights defenders.

In light of the seeming inaction and lack of appropriate responses from governments in the region in the abovementioned cases of enforced disappearance, SAPA Working Group on ASEAN, is urging ASEAN to show its commitment to human rights and uphold Article 7 of the Charter which states that one of its purposes is to “promote and protect human rights and fundamental freedoms.”

If ASEAN wants to be seen as a credible and mature regional body in the eyes of the world then it should refrain from using the policy of non-interference as an excuse to ignore the worsening human rights situation in the region and enjoin the ASEAN Intergovernmental Commission on Human Rights to stop ignoring these cases and launch investigations to ferret out the truth about the cases of enforced disappearance in ASEAN.

Finally, we call on all ASEAN member governments to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, amend relevant domestic laws in accordance with the Convention and ensure the secure access of the victims and their families to truth, justice and remedy.

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¹http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/47/133

²<http://www.un.org/en/events/disappearancesday/background.shtml>