

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on minority issues

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(Please use this reference in your reply)

27 February 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 55/5, 52/9, 50/17, 52/4 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **criminal proceeding and charges pressed against Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae, Mr. A Nas Daereh and five other individuals, who have been charged on 23 January 2025 under section 116 (sedition), section 209 (member of secret society whose object is unlawful), and section 210 (conspiracy to commit crimes as part of a criminal association) of Thailand's Criminal Code and the Emergency Decree for peacefully participating on 4 May 2022 in Melayu Raya, a Malay-Muslim cultural gathering, in the Pattani Province in Southern Thailand.**

Mr. Muhammad Aladee Dengni is a human rights defender from Narathiwat Province in Southern Thailand and a chairperson of Nusantara Foundation, a non-governmental organization providing support to Malay-Muslim orphans in the Southern Border Provinces of Thailand. He has regularly appeared on Wartani Politics Talk, a news program covering political issues in the Southern Border Provinces. He was a leader of the Civil Society Assembly for Peace when the coalition organized Melayu Raya 2022.

Mr. Hasan Yamadibu is a human rights defender, native of Narathiwat Province, a former English teacher, a local history researcher at Mahidol University, and a secretary of the Civil Society Assembly for Peace. He has been advocating for the peace process and the right to education in the Southern Border Provinces of Thailand, with a focus on the promotion of Melayu identity through religious education at the kindergarten level in the Southern Border Provinces. He also runs a Facebook page called "Salasilah Patani", which has more than 100,000 followers, where he frequently posts educational videos about Malay-Patani history. He attended and received a certificate from the Thai Human Rights Defenders School organized by the Office of the High Commissioner for Human Rights (OHCHR) in Bangkok, Thailand.

Mr. Sukiplee Kamae is a producer of The Motive, a local news media agency covering issues in the Southern Border Provinces of Thailand. He started his advocacy for peace and human rights when he was a student and has continued engaging in this

field by creating media content, such as music and videos.

Mr. A Nas Daereh is a member of Bunga Raya Group, a student activist organization from Yala Province in Southern Thailand that works on promoting the education of local communities on issues related to the peace process. He has been advocating for the human rights and cultural rights of the Malay-Muslim community in the Southern Border Provinces of Thailand.

According to information received:

On 4 May 2022, the Civil Society Assembly for Peace (CAP) hosted Melayu Raya 2022, a peaceful cultural gathering aimed at promoting Malay-Muslim cultural rights, at Wasukri beach, in the Pattani Province in Southern Thailand. CAP is a coalition of civil society organizations that support the peace process and advocate for justice for individuals affected by national security laws in Thailand's Southern Border Provinces. At the gathering, participants wore Malay traditional costumes, gave speeches, held concerts, and took group pictures. The objectives of Melayu Raya 2022 included promoting and preserving the local identity, raising awareness about Malay traditional costumes in Thai societies, providing an avenue for youth networks in different areas to express their cultures in a creative manner, and advocating for and supporting the peace process in Southern Thailand. More than 10,000 people reportedly attended the event.

Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae, Mr. A Nas Daereh, and five other individuals attended the gathering on 4 May 2022 and engaged in different activities. Mr. Muhammad Aladee Dengni and Mr. Hasan Yamadibu delivered speeches to the crowd, while Mr. A Nas Daereh led the recital by youth attendees of a religious pledge and Mr. Sukiplee Kamae sang local songs about the youth and land of "Patani", a term that refers to the region including the provinces of Pattani, Narathiwat, Yala and parts of Songkhla.

CAP reportedly organized Melayu Raya events also in 2023 and 2024, as well as other events in the same period aiming at promoting local identity.

On 14 December 2023, the Pattani Police Station reportedly summoned nine individuals, including Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae and Mr. A Nas Daereh and five others, for their alleged engagement and activity during Melayu Raya 2022.

On 9 January 2024, the nine individuals reportedly went to the Sai Buri Police Station to acknowledge the charges brought against them under section 116 (sedition), section 209 (member of a secret society whose object is unlawful) and section 210 (conspiracy to commit crimes as part of a criminal association) of the Criminal Code of Thailand and under the Emergency Decree. They reportedly denied all charges.

The charge sheet also reportedly alleged that the accused individuals delivered speeches and sang songs aiming at inciting youth participants to cause

“disorder” or “breach” the law, and to engage in a “revolution” in order to secure the “independence of the state of Patani”, noting in this regard that section 1 of the Constitution states that Thailand is “one and indivisible Kingdom”. The charge sheet further stated that youth Melayu Raya 2022 participants lined up “like soldiers”, some of them “saluted”, and some carried a Palestinian flag and the flag of the Barisan Revolusi Nasional (BRN), an Islamist independence movement and insurgent group in Southern Thailand.

On 10 January 2024, the Commander-in-Chief of Army Region 4 and Director of the Internal Security Operations Command Region 4 stated that the charges against the nine individuals were pressed because of the reported presence of the BRN flags and the speeches allegedly inciting young people to start a revolution and fight for the independence of the region. According to the law enforcement official, the charges were not linked to the fact that participants wore Melayu costumes at the rally, as it was claimed online.

On 12 March 2024, the nine individuals went again to Sai Buri Police Station to provide their statements for the inquiry. Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu and Mr. A Nas Daereh were reportedly asked to share their views on section 1 of the Constitution and to report whether the flag or other symbols of Thailand were displayed and the national anthem was played at the gathering. Other questions reportedly included whether they had ever attended a funeral procession of terrorists or any other individual that caused disorder, what was the purpose of bringing the BRN and Palestinian flags at the gathering - the presence of which was disputed by the accused individuals -, and what is the meaning of terms such as “Patani” and “shahid”, which denotes a martyr in Islam.

On 25 July 2024, the case against the nine activists, including Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae and Mr. A Nnas Daereh, was forwarded to the Public Prosecutor's Office. The nine individuals are facing serious charges, including under section 116 (sedition), section 209 (member of a secret society whose object is unlawful) and section 210 (conspiracy to commit crimes as part of a criminal association) of the Criminal Code. A violation of section 116 of the Criminal Code is punishable by imprisonment of up to seven years. An offense of section 209 and section 210 can be punished, respectively, with 7 to 10 years in prison and a fine and 2 to 10 years and a fine.

On 28 August 2024, Pattani Provincial Public Prosecutor postponed the indictment decision to 26 September 2024, following a request by one of the nine accused individuals due to medical reasons. The Public prosecutor has since then postponed the indictment decision four times: from 26 September to 29 October 2024, to 26 November 2024, to 23 December 2024, and to 23 January 2025.

On 17 January 2025, the National Human Rights Commission of Thailand (NHRCT) published its findings resulting from an investigation into the complaint submitted by civil society relating to the prosecution against human rights defenders, activists, and academia in the Southern Border Provinces,

including the case against the nine individuals for organizing and participating in the Melayu Raya 2022 gathering. The NHRCT found that Melayu Raya 2022 event was a gathering which allowed young people to express their opinion publicly, for which the organizer had requested a permission to hold the event. The NHRCT also found that there was no evidence that the event involved use of force or weapons, incitement, or concealment of information. Therefore, the prosecution of the activists was deemed excessive by the NHRCT and a violation of their human rights, in particular to their right to freedom of expression.¹

On 23 January 2025, the Pattani Provincial Public Prosecutor has decided to indict the nine individuals, including Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae, Mr. A Nas Daereh, charging them for violation of sections 116, 209, and 210 of Thailand's Criminal Code and the Emergency Decree. They were granted bail with a surety of 70,000 baht each. A preliminary evidence examination hearing has been scheduled for 26 February 2025.

Without prejudging the accuracy of these allegations, we wish to express our grave concern in relation to the criminal charges levelled against Mr. Muhammad Aladee Dengni, Mr. Hasan Yamadibu, Mr. Sukiplee Kamae, Mr. A Nas Daereh, and five other individuals, which appear to have been in relation to their peaceful participation in Melayu Raya, a Malay-Muslim cultural gathering, on 4 May 2022 in Pattani Province in Southern Thailand. We fear that the charges might be linked to the exercise of their rights to freedom of expression and freedom of peaceful assembly and to freely take part in cultural life, and to the promotion of Malay-Muslim cultural and religious rights.

We are concerned about what seems to be an equation between peacefully expressing and celebrating one's cultural identity and encouraging sedition or resistance towards the State, which may discourage the legitimate exercise of the rights to freedom of expression as well as to maintain and transmit one's cultural practices, and to participate in cultural and public life. Such developments might also create a chilling effect on the rights to freedom of expression and peaceful assembly in the Southern Border Provinces of Thailand, an area which has recently seen an increased shrinking of civic space, with human rights defenders, activists, journalists facing judicial harassment and other types of repression for exercising their fundamental freedoms.

The Constitution of Thailand guarantees freedom of expression, freedom of religion or belief respectively under section 34 and section 31. Sections 43.1(1) and 57(1) of the Constitution further provides that everyone shall have the right to "conserve, revive or promote wisdom, arts, culture, tradition and good customs at both local and national levels" and that states shall "conserve, revive and promote local wisdom, arts, culture, traditions and good customs at both local and national levels, and provide a public space for the relevant activities including promoting and supporting the people, community and a local administrative organization to exercise the rights and to participate in the undertaking." We call on your Excellency's Government to ensure

¹ See: <https://www.nhrc.or.th/th/NHRC-News-and-Important-Events/14003>.

the respect for and the promotion of human rights and fundamental freedom in the country, in line with the national legal framework and international human rights standards.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations, including information on the factual and legal grounds for the charges brought against the human rights activists. Please indicate the measures that have been taken, or that are foreseen to be taken, to ensure their right to a fair trial and explain how these measures comply with due process and fair trial standards and applicable judicial guarantees, in line with Thailand's obligations under international human rights law.
2. Please indicate what measures have been taken to ensure that individuals, including activists, journalists, civil society leaders, including from cultural minorities, educators and human rights defenders in the Southern Border Provinces exercise their rights to freedom of peaceful assembly, freedom of expression and their right to take part in cultural life free from intimidation or prosecution, and in line with international human rights law and standards.
3. Please provide information as to the specific measures that have been put in place to ensure human rights defenders in the Southern Border Provinces (SBPs) can carry out their legitimate work in a safe and enabling environment, without fear of harassment and intimidation from the authorities or any other agents acting on their behalf or with their acquiescence.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nicolas Levrat
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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to recall articles 2, 18, 19, 21 and 27 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, as well as article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Thailand on 5 September 1999, which recognize the enjoyment of rights without distinction of any kind and guarantee the rights to freedom of religion or belief, freedom of opinion and expression, freedom of peaceful assembly, the right to take part in cultural and the rights of minority groups. The same rights are enshrined in articles 2, 18, 19, 20 and 27 of the Universal Declaration of Human Rights (UDHR).

In particular, article 18 of the ICCPR guarantees the right to freedom of thought, conscience and religion, including the “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Article 18 further “permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.”

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline, protects the freedom of the press as one of its core elements and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its [general comment No. 34](#), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be

necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. In this regard, the Human Rights Committee stated that the restrictions must be “the least intrusive instrument among those which might achieve their protective function”. ([CCPR/C/GC/34](#), para. 34).

Article 21 of the ICCPR recognizes the right to freedom of peaceful assembly and provides that “No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” The Human Rights Committee highlighted that article 21 ‘protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs’ (CCPR/C/GC/37, para. 6). The Human Rights Committee also affirmed that States “should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety” (CCPR/C/THA/CO/2, para. 40).

The Human Rights Committee also indicates that, generally, “the use of flags, uniforms, signs and banners is to be regarded as a legitimate form of expression that should not be restricted, even if such symbols are reminders of a painful past. In exceptional cases, where such symbols are directly and predominantly associated with incitement to discrimination, hostility or violence, appropriate restrictions should apply”. But, as indicated by the second sentence of article 21, any restrictions must be narrowly drawn, as there are limits on the restrictions that may be imposed: any restrictions imposed must in principle be content neutral, respecting the principle of sight and sound of the assembly’s target audience, and must meet the requirement of legality, necessity and proportionate to at least one of the permissible grounds for restrictions enumerated in article 21. Besides, any restrictions on the operation of information dissemination systems must conform with the tests for restrictions on freedom of expression (CCPR/C/GC/37, para. 8, 22, 36, 34).

Article 15 of the ICESCR recognizes the right of everyone to take part in cultural life. Under this provision, States Parties have also undertaken to respect the enjoyment and development of cultural practices and respect the freedom indispensable for creative activity. The Committee on Economic, Social and Cultural Rights, in its 2009 general comment 21 on the right to take part in cultural life (E/C.12/GC/21) stressed that States must refrain from interfering with the exercise of and the access to cultural practices, goods and services. It further recalled the right of everyone to seek, receive and impart information and ideas of all kinds and forms including art forms; to enjoy the freedom to create, individually, in association with others, or within a

community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression. It also recalled the right of everyone to access to their own cultural and linguistic heritage and to that of others (E/C.12/GC/21, paragraph 44, 48, 49).

The Committee recalled that the protection of cultural diversity is an ethical imperative, inseparable from respect for human dignity, and specified that the right of everyone to participate in cultural life includes the right to choose one's own identity, to identify or not with a particular community or communities or to change this choice, as well as to exercise one's own cultural practices (para. 15(a)). The Committee further stressed that no one shall suffer discrimination for having chosen to belong or not to belong to a particular community or cultural group (para. 22).

Furthermore, article 15 of the ICESCR complements article 27 of the ICCPR, which mandates that "In those states in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." For the Committee on Economic, Social and Cultural Rights, the right of minorities and of persons belonging to minorities to take part in cultural life, and to conserve, promote and develop their own culture, entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership (general comment 21, para. 32).

In addition, article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded to by Thailand on 28 January 2003, provides that states shall "guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law", notably in the enjoyment of the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association, and the right to equal participation in cultural activities, among others. In its Concluding observations, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern about the increasing intimidation, reprisals and harassment, including judicial harassment, targeting human rights defenders, in particular those advocating for the rights of ethnic and ethno-religious groups, because of their human rights work, and recommended Thailand to "conduct effective, prompt, thorough and impartial investigations" into all incidents and to take measures to "ensure an open and safe space" for civil society to operate, with a view to "facilitating the work of human rights defenders free from all forms of intimidation, threats and reprisals" (CERD/C/THA/CO/4-8 para. 21-22).

The UN General Assembly has also adopted several Declarations pertaining to the rights of minorities and freedom of religious expression. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that states shall encourage conditions for the promotion of minority identities. Additionally, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states that religious discrimination constitutes an affront to human dignity and shall therefore be condemned as a violation

of human rights.

We would also like to bring to your attention the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular we would like to refer to articles 1 and 2 of the Declaration, which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Additionally, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 5 (a), which provides that everyone has the right, individually and in association with others, to meet or assembly peacefully;
- Article 6 (b), which states that everyone has the right, individually and in association with others, to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- Article 12, paragraphs 2 and 3, which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration;
- Article 16, which states that "Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities."