

Laos - Restraining Leviathan: the Case of Sombath Sompone

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Intervention at a press conference marking the International Day of the Disappeared, Luxent Hotel, Quezon City, August 30, 2013.

The state is a Janus-faced creature. On the one hand, there is its “soft face.” This is the set of institutions that provide representation and justice. Then there is the “hard face” of the state, the most important institutions of which are the executive, the internal security forces, and the armed forces.

This “deep state” is a highly contradictory institutional complex. On the one hand, it provides security and order. On the other, it poses the greatest threat to the human, political, and civil rights of citizens. For it is so easy to cross the very thin line separating the provision of public order and the violation of the rights of citizens in the name of order.

This is why it is important to hem in and envelop the security institutions with laws and rules that severely limit or prevent the use of force against citizens. This is the reason laws like Republic Act 10353, the Anti-Enforced or Involuntary Disappearance Act of 2012, are extremely important, for they restrain the constant institutional temptation of Leviathan to cross the line between the legitimate provision of public security and the illegitimate use of the power of the deep state to repress citizens. Republic Act 10353 was one of the historic triad of human rights laws passed by the 15th Congress. The other two were the Marcos Compensation Law and the Bill on the Rights of Internally Displaced Communities. Unfortunately, the last was vetoed by the president on very specious grounds.

The threat posed by the deep state is a permanent threat, and this is the case not only in the states of the developing world but also in the so-called mature democracies like the United States. We have only to call attention to the way the US government now violates with impunity the constitutionally guaranteed right to privacy of its citizens through electronic spying by the National Security Agency (NSA), arguing that this total violation of privacy is justified by “national security” concerns.

In this part of the world, the threat posed by the deep state is illustrated not only by the numerous disappearances that have occurred in the Philippines but also in our neighboring states. The case of the disappearance of Sombath Sompone, a Ramon Magsaysay Prize awardee, in the Lao People’s Democratic Republic has recently focused the attention of the world on this problem.

On December 15, 2012, Sombath was on the way home when his car was stopped at a police outpost. He never reemerged. Fortunately, the outpost had a CCTV surveillance camera, footage from which showed Sombath alighting from his vehicle, then someone else getting into it shortly

thereafter and driving off. A few moments later, another vehicle left the police outpost.

Sombath Somphone was an activist who had tried hard through his work to serve as a bridge between the Lao state and Lao civil society. For this, he was admired by many, including people in government. He was not a threat to anybody and to public order. In mid-October last year, the Asia-Europe People's Forum (AEPF) that has been institutionalized as a civil society event paralleling the official Asia Europe Summit (ASEM) was held in Vientiane. Sombath served as the co-chair of the AEPF assembly in Laos. The AEPF provides a forum for voices from civil society, and in Vientiane, people from the Lao countryside voiced their concerns about the landgrabs that are now rampant in rural areas, many of them carried out by state officials in cahoots with foreign investors. The government was reportedly very upset at the free expression of grievances that took place, and there are many who feel that some factions within the state felt so threatened by free speech that they went to the extent of kidnapping Sombath Somphone to teach the people a lesson.

I was part of an ASEAN parliamentary delegation that visited Laos to inquire about Sombath's disappearance about a month later. The other MPs in the delegation were Charles Santiago of Malaysia and Lily Wahid of Indonesia. We met with top officials of the Lao government, but all of them disavowed any knowledge of what happened to Sombath or his whereabouts. Their line was that all they knew was that investigation showed that the police was not involved in his disappearance.

Two other parliamentary delegations went to Laos after our visit. They were presented the same line: We don't know what happened to Sombath. We are investigating the matter. But the only thing our investigation has yielded so far is that the police and the government were not involved.

The problem the Lao authorities face is that their story is not credible given the evidence from CCTV. Shui-Meng Ng, Sombath's wife, had the presence of mind to go to the police outpost a few hours after Sombath disappeared and was able to convince the police to allow her to make a copy of the footage from the surveillance camera. Apparently, the Lao authorities forgot there was a CCTV in place, so their orders to the police outpost not to share the footage came too late. Clearly, the tale of the footage was that the police was involved.

The officials we met in Laos during our visit were probably telling us the truth when they said they personally did not know what happened to Sombath. These are officials that serve as the Lao PDR's face to the world, people who project the image of a modernizing and liberalizing Lao state. This liberal face is important since Laos has joined or is seeking to join international institutions like the World Trade Organization, membership in which are seen as necessary to expand trade and attract foreign investment. They are probably embarrassed by Sombath's disappearance, but they have to maintain a united front since the group that carried out the disappearance is much stronger than they are. In my view, this group belongs to the deep state, which in Laos is managed and monopolized by the Communist Party.

There are laws protecting human rights in Laos. Laos has even signed the Convention on the Rights of Disappeared Persons. People might say, what's the use of laws if they are routinely violated? Those laws, however, serve as very important handles and yardsticks by which we make government ultimately accountable to the citizens. The strategic aim is to get state behavior to ultimately conform to the law. This may be a long and uphill struggle, it will have its ebbs and flows, but human rights laws and conventions are essential weapons in the effort to restrain Leviathan.

So let me end by saying by asking the Lao PDR on this day, August 30, 2013, the International Day of the Disappeared, please surface Sombath Somphone. We will not rest until you do.

Walden Bello

P.S.

* Walden Bello headed an ASEAN Parliamentary Delegation that went to Laos to inquire about the whereabouts of Sombath Somphone in January 2012.