

## **Joint Statement – 13/06/2016**

### **Statement on the Reprisals against Human Rights Defenders, Ms. Pornpen Khongkachonkiet, Ms. Anchana Heemmina, and Mr. Somchai Homlaor**

We, the undersigned civil society groups, are gravely concerned about the legal action taken by the Royal Thai Army for criminal defamation and Computer Crimes Act violations against Woman Human Rights Defenders (WHRD) Ms. Pornpen Khongkachonkiet, Ms. Anchana Heemmina, and HRD Mr. Somchai Homlaor. Ms. Pornpen, is the Director of the Cross Cultural Foundation – an organization which monitors and documents cases of torture and ill-treatment in Thailand. Mr. Somchai, is the President of the Cross Cultural Foundation, and Ms. Anchana is director of Duay JaiGroup (Hearty Support Group) – a local organization based in Thailand’s ‘Deep South’, which supports people who suffer from the justice system in national security cases. All three are co-editors of a report, *Torture and ill treatment in The Deep South Documented in 2014-2015*<sup>1</sup> documenting 54 cases of inhumane treatment in detention, launched on 10<sup>th</sup> February 2016. The research and report was partly funded by the United Nations Voluntary Fund for Victims of Torture, established under the General Assembly resolution 36/151 in 1981, thus under the United Nations (UN) Human Rights Council Resolution 12/2 these HRDs and their colleagues are “individuals who cooperate with the United Nations, its representatives and mechanisms in the field of Human Rights.”

On 8<sup>th</sup> June 2016, Internal Security Operations Command Region 4 (ISOC 4) gave information to Ms. Pornpen through a phone conversation that ISOC 4 sought the power of attorney from the Royal Thai Army and submitted a complaint to Yala Mueang Police Station on 17<sup>th</sup> May 2016 for criminal defamation and computer-related violations by the three HRDs. The charges are for alleged criminal defamation under Article 328 of the Thai Criminal Code, and violation of the Computer Crimes Act (2007), Article 14(1)<sup>2</sup>. We are disturbed regarding information that authorities have already interrogated six witnesses. The Police case file is No. 704/2559.

This judicial action has been taken despite the Human Rights Defenders’ best efforts to engage authorities on the evidence of torture and ill-treatment presented in the report. Namely, the report was sent to Army Lt Gen Wiwat Pathompak, Commander of the 4th Army Region, on 8th January 2016, one month before its publication. However, high-ranking military government officials have publicly dismissed the accuracy of the report and questioned the intentions of the

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<sup>1</sup> <https://voicefromthais.files.wordpress.com/2016/02/torture-report-english-as-of-10-feb-2016-released-version.pdf> [in English]

<sup>2</sup> **Computer Crimes Act, Article 14.1**

“Whoever commits the following offences, shall be punished with imprisonment not exceeding five years and fine not exceeding one hundred thousand baht or both:

(1) input, into computer system, forged computer data in whole or in part or false computer data in a manner likely to cause injury to another person or the public;”

civil society organisations who compiled the report. Furthermore, Ms. Anchana, WHRD working in Thailand's 'Deep South', faced summons to an Army camp, lengthy questioning by Army officers, and close physical surveillance and intimidation by unidentified, uniformed men<sup>3</sup>.

We deem this action by the Royal Thai Army to be a prompt reprisal against civil society groups seeking to bring to the authorities' attention the continued abuse of power and ill-treatment of detainees in Thailand. The Royal Thai Army has taken these actions at a time when it the Thai military government has renewed the Thailand's international commitments to abolishing the use of torture. On 11<sup>th</sup> May 2016, at the United Nation's Universal Periodic Review (UPR) of Thailand 12 UN member states issued recommendations directly relating to the prevention of torture and access to justice for survivors of torture. Furthermore, on 24<sup>th</sup> May 2016 the Thai military government issued a Cabinet Resolution stating that they will pass a Prevention of Torture and Enforced Disappearance Act. It is troubling that the Royal Thai Army has ordered the legal pursuit of HRDs who have been supporting victims of torture as well as pushing at many levels for policy reform and state action to prevent torture and provide justice to survivors.

We deem the Royal Thai Army's action to be an unreasonable, arbitrary, and heavy-handed attempt to silence all complaints of allegations of torture against the authorities. By quashing Ms. Pornpen, Ms. Anchana, and Mr Somchai's efforts to support torture victims to publicly complain about Human Rights violations by authorities, the Royal Thai Army is seeking to make it more than impossible for torture victims to voice their complaints. Moreover, this is a deplorable act by the Royal Thai Army as it aims to further intimidate existing and potential victims of human rights violations to not report these violations. Instead of suppressing the work of Human Rights Defenders, such as Ms. Pornpen, Ms. Anchana, and Mr. Somchai, the Royal Thai Army should, as New Zealand recommended at the UPR, "Promptly investigate and prosecute all allegations of torture and extrajudicial killings," and as Canada recommended, "Create an independent body to investigate all torture allegations, including in Thailand's Deep South, and bring perpetrators to justice."

This judicial harassment constitutes a direct infringement of Ms. Pornpen, Ms. Anchana, and Mr. Somchai's right to work as a Human Rights Defender in Thailand. As stated in Article 1 of the UN Declaration on Human Rights Defenders "Everyone has the right to (individually and in association with others) promote and to strive for the realization of Human Rights and fundamental freedoms at the national and international level." We believe that the filing of this criminal legal case against Ms. Pornpen, Ms. Anchana, and Mr. Somchai was undertaken with the purpose of retaliation and that it is in response to the three HRDs peaceful and legitimate activities to hold authorities to account for cases of human rights violations, including torture, in Thailand's 'Deep South.'

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<sup>3</sup> See Annex 1 – Human Rights Defender Profiles for more details.

We call on the Royal Thai Army to:

- Immediately and unconditionally withdraw the legal action against Ms. Pornpen, Ms. Anchana, and Mr. Somchai. Such legal action against the legitimate work of HRDs is against the public interest.
- Ensure that no further retaliation is carried out or allowed to happen in the future against HRDs, ill-treatment and torture victims, their colleagues and families.

We call on the Thai military government to:

- Respect the universally recognized rights, duties and obligations of everyone and organizations to highlight information about Human Rights violations and injustices to the public, as stated in the UN Declaration on Human Rights Defenders;
- Ensure that all persons affected by torture and other human rights violations receive justice, including first and foremost the right to complain which must be respected at all times.
- Ensure the implementations of recommendations it accepted during the recent UPR with regard to HRDs.

**Signed by:**

**Organisations**

***Thailand***

Aanglumphong Conservation Groups and Archaeological Site กลุ่มอนุรักษ์สิ่งแวดล้อมอ่างลำพอกและโบราณสถาน สุรินทร์

Assembly of the Poor สมัชชาคนจน กรณีเชียงใหม่

Centre for Community Rights to Manage Natural Resources, Chi Basin ศูนย์พิทักษ์สิทธิการจัดการทรัพยากรชุมชนลุ่มน้ำชี

Center to Study and Develop Law for Human Rights ศูนย์ศึกษาและพัฒนานักกฎหมายเพื่อสิทธิมนุษยชน

Centre to Study and Ecology Habitation of Community Culture in Phetchabun ศูนย์ศึกษาและฟื้นฟูนิเวศวัฒนธรรมชุมชนเทือกเขาเพชรบูรณ์

Chi Basin Network, Yasothon เครือข่ายน้ำชี จังหวัดยโสธร

Community Resource Centre (CRC) มูลนิธิศูนย์ข้อมูลชุมชน

Campaign Committee for Human Rights (CCHR) คณะกรรมการรณรงค์เพื่อสิทธิมนุษยชน (ครส.)

Empower Foundation เอ็มพาวเวอร์

E-saan Human Rights and Peace Information Centre ศูนย์ข้อมูลสิทธิมนุษยชนและสันติภาพ

E-saan Land Reform Network เครือข่ายปฏิรูปที่ดินภาคอีสาน

E-saan Network on Natural Resources and Environmental เครือข่ายทรัพยากรและสิ่งแวดล้อมภาคอีสาน

Foundation for Muslim Attorneys Center มูลนิธิเพื่อศูนย์ทนายความมุสลิม

Foundation for Women มูลนิธิผู้หญิง

Gender equality promoting foundation มูลนิธิส่งเสริมความเสมอภาคทางสังคม

Human Rights Lawyers' Association (HRLA) สมาคมนักกฎหมายสิทธิมนุษยชน

Land Watch Working Group กลุ่มจับดาปัญหาที่ดิน

Mplus Foundation

Namoon Environmental Conservation Group กลุ่มอนุรักษ์สิ่งแวดล้อมบ้านนามูล-คูนสาด

Network of Indigenous Peoples in Thailand (NIPT) เครือข่ายชนเผ่าพื้นเมืองแห่งประเทศไทย (คชท.)

Network of Thaiban People Deprived of Rights เครือข่ายไทบ้านผู้ไร้สิทธิ สกถนคร

People's Empowerment Foundation

Prorights Foundation มูลนิธิส่งเสริมและคุ้มครองสิทธิมนุษยชน

Southern Peasant Federation of Thailand (SPFT) สหพันธ์เกษตรกรภาคใต้ – สกต

Saiburi River Association สมาคมลุ่มน้ำสายบุรี

Thai Committee for Refugees Foundation (TCR)

Thai Development Support Center (TDSC) ศูนย์เผยแพร่และส่งเสริมงานพัฒนา(คสพ)

Thai Working Group for ASEAN Human Rights Mechanism คณะทำงานไทยเพื่อกลไกสิทธิมนุษยชนอาเซียน

Togetherness for Equality and Action (TEA) โรงน้ำชา

Udonthani Environmental Conservation Group กลุ่มอนุรักษ์สิ่งแวดล้อมอุดร

Union for Civil liberty (UCL) สมาคมสิทธิเสรีภาพของประชาชน

WARTANI Media Agency สำนักสื่อ Wartani

WE PEACE สมาคมผู้หญิงเพื่อสันติภาพ

Women Struggle for Livelihood กลุ่มหญิงสู้ชีวิต.

WeMove ขบวนการผู้หญิงปฏิรูปประเทศไทย

Women Network for Advancement and Peace เครือข่ายผู้หญิงเพื่อความก้าวหน้าและสันติภาพ

Work and Environment Related Patient's Network of Thailand (WEPT สภาเครือข่ายกลุ่มผู้ป่วยจากการทำงานและสิ่งแวดล้อมแห่งประเทศไทย)

### ***Beyond Thailand***

Association of Human Rights Defenders and Promoters (HRDP, Myanmar)

Centre for Independent Journalism (Malaysia)

Center for Sustainable Development in Mountainous Areas (CSDM, Vietnam)

Center for Women's Global Leadership (USA)

LBH Masyarakat (Community Legal Aid Institute, Indonesia)

Malaysians Against Death Penalty and Torture (MADPET)

Malaysian Humanist and Rationalist Movement (MyHARAM)

National Free Trade Union (Sri Lanka)

North South Initiative (Malaysia)

PINAY (Filipino Women's Organization in Quebec)

PUSAT KOMAS (Malaysia)

Safety and Rights Society (Bangladesh)

The Vietnam Committee on Human Rights (France)

Think Centre (Singapore)

Vietnam Indigenous Knowledge Network (VTIK)

Vietnamese Women for Human Rights (VNWHR)

Workers Hub For Change (WH4C, Malaysia)

***Regional/International***

Amnesty International

ASEAN Youth Forum

Asia Indigenous Peoples Pact (AIPP)

Asia Pacific Forum on Women, Law and Development (APWLD)

AWID

Civil Rights Defenders

FIDH, within the framework of the Observatory for the Protection of Human Rights Defenders

Focus on the Global South

FRIDA | The Young Feminist Fund

International Labor Rights Forum (ILRF)

Migrant Forum in Asia (MFA)

Nazra for Feminist Studies

Network of Patani's Citizens Outside the Motherland

Protection International

Southeast Asian Press Alliance (SEAPA)

The Asian Forum for Human Rights and Development (FORUM-ASIA)

UPR Info Asia Urgent Action Fund for Women's Human Rights

Urgent Action Fund Latin America

Women Living Under Muslim Laws

World Organisation Against Torture (OMCT), within the framework of the Observatory for the Protection of Human Rights Defenders

**Individuals**

Ms. Kanungnit Makchuchit คณิงนิจ มากชูชิต

Ms. Naiyana Waikham นัยนา หวายคำ

Ms. Chantawipa Apisuk จันทวิภา อิศุข

Mr. Jumpol Apisuk จุมพล อภิสุข

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Chompunut Chalieobun ชมพูนุท เฉลียวบุญ

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Mrs. Ruengrawee Pichaikul นางเรืองรวี พิชัยกุล

Sor Rattanamanee Polkla, Lawyer

Thaweesak Pi, Social Activist นายทวีศักดิ์ ปี นักกิจกรรมทางสังคม

Victor Bernard

William Nicholas Gomes, Human Rights Defender and Freelance Journalist, UK

Yuyun Wahyuningrum, Senior Advisor on ASEAN and Human Rights, Human Rights Working Group (HRWG, Indonesia)

## **ANNEX 1 - Human Rights Defender Profiles**

Ms. Pornpen is a leading Human Rights Defender in Thailand who has been involved in various Human Rights issues both in Thailand and the region, including women's rights, indigenous rights and preventing forced disappearances. Her work serves the public interest by ensuring that authorities are held accountable and pressuring authorities to unconditionally respect the Human

Rights of all. As Director and President of the Cross Cultural Foundation, Ms. Pornpen and Mr. Somchai have constantly been monitoring and documenting cases of torture and Human Rights violations in Thailand's southernmost provinces and other parts of the country

Mr. Somchai is a seasoned and respected Human Rights lawyer in Thailand, who has been fighting to defend people's Human Rights for the past 25 years. He was a Commissioner for the Law Reform Commission of Thailand until it was disbanded by the current military regime. Furthermore, as president of the Cross Cultural Foundation he has been a key figure forging bridges across Thai society. Cross Cultural Foundation organises educational activities, as well as research and legal support to promote people's Human Rights, especially in Thailand's southernmost provinces which are in a state of prolonged armed conflict. In September 2014, both Ms. Pornpen and Mr. Somchai, as well as their organization, faced a criminal defamation and computer-related crimes charge filed by Army Task Force 41. The case was eventually dropped by decision of the state prosecutor in June 2015 following an international campaign denouncing the Thai Army's harassment and intimidation of these HRDs for their legitimate and crucial Human Rights work.

Ms. Anchana is Director of Duay Jai Group which has been working with victims of ill-treatment in national security cases since January 2010, in Thailand's southernmost, conflict-affected regions. Following the release of the report on torture cases, on 14<sup>th</sup> February, Col. Suratep, Head of the Civil Society Organisations unit under the Internal Security Operations Command ('ISOC'), contacted Ms. Anchana and other activists who were involved in compiling the report and summoned them for a discussion. Ms. Anchana presented herself at Sirinthon Army Camp in Yala Province for the discussion with seven security officers. The meeting lasted two and a half hours, during which the officers questioned Ms. Anchana about the cases in the torture report. The officers expressed their discontent with the report and requested the human rights defender to henceforth submit all of her publications to the ISOC prior to their release. Ms. Anchana refused to do so. Thai Lawyers for Human Rights (TLHR)<sup>4</sup> reported that at about 5 pm on Friday, 19<sup>th</sup> February 2016, a group of ten men in green uniforms visited the home of Ms. Anchana, in Songkhla Province, but only Ms. Anchana's mother was home. Without presenting any warrant, they claimed to be border police officers and asked about Ms. Anchana's work and her personal information. The activist's mother reported that the men took pictures of her and the house. She added that before they left they told her to inform Ms. Anchana not to use Line, a chat application, or Facebook.

**For more information, please contact:**

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In English: +66 831 887600 and [indefenceofcrcf2014@gmail.com](mailto:indefenceofcrcf2014@gmail.com)

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<sup>4</sup> Source: [https://tlhr2014.wordpress.com/2016/02/20/south\\_threaten/](https://tlhr2014.wordpress.com/2016/02/20/south_threaten/)



