

Thailand : urgent call of the Observatory – Judicial proceedings against ten human rights defenders

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Judicial proceedings

Thailand

February 1, 2008

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), expresses its deepest concern regarding the following situation in Thailand.

Brief description of the situation:

The Observatory has been informed by Union for Civil Liberty (UCL) about the judicial proceedings against ten human rights defenders [[1](#)] following their participation in a peaceful protest on December 12, 2007.

According to the information received, on January 22, 2008, Mr. Jon Ungphakorn, Chairperson of the NGO Coordinating Committee on Development (NGO-COD), Mr. Pairoj Polpetch, UCL Secretary General, Mr. Sirichai Mai-ngarm, member of the Labour Union of Electricity Generating Authority of Thailand, Mr. Sawit Kaewwan, leader of the Confederation of State Enterprise Labour Union, Ms. Supinya Klang-narong, Secretary General of the Media Reform Campaign, Ms. Saree Ongsomwang, member of the Customer's Network, Mr. Amnat Palamee, leader of the Confederation of State Enterprise Labour Union, Mr. Nutzer Yeehama, a member of the NGO Friend of People, Mr. Anirut Chaosanit, member of the Council of People's Organizations Network in Thailand, and Mr. Pichit Chaimongkol, member of the Campaign for Popular Democracy, were summoned to the Metropolitan Police Bureau, where they were questioned during more than four hours.

They were then formally charged with “trespass by using force or joining with more than two persons associating together to intrude forcefully or to cause harm” (under Section 362 and 365 (1) (2) of the Criminal Code); “illegal gathering and using force with ten or more persons to cause damage or to give rise to public disorder” (Section 215); “failing to disperse when ordered to by the police” (Section 216); “collaborating with five or more persons to incite others to violence in one form or another to threaten the lives and safety of others” (Section 309 paragraph 2); “collaborating to detain or restrict other persons” (Section 310); “using loud speakers without permission” (Law on restricting loudspeaker advertising of 1950).

The ten defenders, who face sentences of long imprisonment, requested for a 15 day period to respond to the charges and submit more information to investigators, which was granted, as was their request for bail. As the defense is being prepared, it might take two months for the case to come before the courts.

These charges are linked with the participation of these 10 men in a major demonstration that was organised by a coalition of non-governmental organisations on December 12, 2007 (See background information), in front of the Parliament House, in Bangkok, in order to protest against the attempts of the National Legislative Assembly (NLA) [The NLA was put in place in 2006 when the military junta overthrew the Thai government led by Thaksin Shinawatra.]] to pass a total of eight bills affecting civil liberties in Thailand that were being rushed through the acquiescent parliament of General Sarayud Chulanont in the final days before the general election of December 23, 2007.

While other bills were related to the privatisation of the universities, water resources, and state companies, the major concern of the protestors was the draft Internal Security Bill that was being forced through in the last days of the military parliament, and seen by the protestors as an attempt to perpetuate military rule in Thailand [2].

Further protests were held on December 19, 20 and 21, 2007. On December 21, protestors were informed at 6.00 pm that discussion of the bill had ended for the day and would be resumed on the next day. As the protestors dispersed, the discussion was subsequently hastily resumed, and by 7.00 pm the Internal Security Law was passed by parliament with a majority of 105 in favour and eight against.

On December 25, 2007, despite the peaceful conclusion of the December 12 protest, the police brought a series of charges against the main leaders of the protests, acting on a complaint lodged by the NLA Secretary-General, Mr. Suwimal Bhumsingharaj, which alleged that the protestors had resorted to force against the police and parliament members while attempting to disrupt the NLA session. An order was then issued, requesting Mr. Jon Ungphakorn, Mr. Pairoj Polpetch, Mr. Sirichai Mai-ngarm, Mr. Sawit Kaewwan, Ms. Supinya Klang-narong, Ms. Saree Ongsomwang, Mr. Amnat Palamee, Mr. Nutzer Yeehama, Mr. Anirut Chaosanit

and Mr. Pichit Chaimongkol to report to the Metropolitan Police Bureau on January 22, 2008, in order to be notified charges relating to the incidents of December 12, 2007.

Background information

By 9.00 am, on December 12, 2007, protestors numbered up to one thousand persons and the protest crossed the road to the gates of Parliament House. Security guards closed the three entry gates; protesters then placed chains and padlocks on the gates as a symbol of the illegality of the proceedings within. However, a small side gate remained open allowing exit from the building and it appeared that the parliamentary discussion of the Bill was proceeding. At noon, protestors made a cloth ladder that made it possible for them to scale the tall railing around the building. Young protestors were able to enter through a gap between the railing and a supporting wall. By 1.00 pm, about one hundred protestors advanced to enter the government building. Security officials formed a wall with linked arms to prevent entry but under the pressure of the protestors a number were able to enter the vestibule of the building.

Messrs. Jon Ungphakorn and Pairoj Polpetch were then able to enter through a gap in the line of officials. Apart from the pressure of pushing there was no exchange of blows, nor any injury. Once inside, the protesters sat and discussed the situation among themselves. They were approached by the head of the metropolitan police who discussed their demands with them. They also met and discussed with two members of parliament. They demanded that the parliamentary discussion of the Bill be suspended and that the suspension be announced to the media. The demand was accepted by the Speaker of the House and after the announcement to the media the protestors left and the outside protestors dispersed.

Actions requested:

Please write to the authorities of Thailand asking them to:

- i. Guarantee in all circumstances the physical and psychological integrity of Ms. Supinya Klang-narong, Ms. Saree Ongsomwang, as well as Messrs. Jon Ungphakorn, Pairoj Polpetch, Sirichai Mai-ngarm, Sawit Kaewwan, Amnat Palamee, Nutzer Yeehama, Anirut Chaosanit and Pichit Chaimongkol;
- ii. Put an end to all acts of harassment, including at the judicial level, against them as well as against all human rights defenders in Thailand;
- iii. Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United

Nations on December 9, 1998, especially its Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”, and Article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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 present Declaration”;

iv. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the Democratic Socialist Republic of Thailand.

Addresses:

- Mr. Samak Sundaravej, c/o Government House, Pitsanulok Road, Dusit District, Bangkok, 10300, THAILAND. Fax: +662 282 8631/ 280 1589/ 629 8213. Email: spokesman thaigov.go.th
- Minister of Justice, Office of the Ministry of Justice, Ministry of Justice Building, 22nd Floor Software Park Building, Chaeng Wattana Road, Pakkred, Nonthaburi, Bangkok 11120, THAILAND. Fax: +662 502 6699/ 6734 / 6884
- Minister of Interior, Office of the Ministry of Interior, Atsadang Road, Bangkok 10200, THAILAND. Fax: +662 226 4371/ 222 8866
- Pol. Gen. Seripisuth Themiyavet, Commissioner-General, Royal Thai Police, 1st Bldg, 7th Floor, Rama I, Patumwan, Bkk 10330, THAILAND. Fax: +66 2 251 5956/ 205 3738/ 255 1975-8. E-mail: feedback police.go.th
- Mr. Chaikasem Nitisiri, Attorney General, Office of the Attorney General, Lukmuang Building, Nahuppei Road, Prabraromrachawang, Pranakorn,, Bangkok 10200, THAILAND. Fax: +662 224 0162/ 1448/ 221 0858. E-mail: ag ago.go.th or oag ago.go.th
- Prof. Saneh Chamarik, Chairperson, National Human Rights Commission of Thailand, 422 Phya Thai Road, Pathum Wan District, Bangkok 10300, THAILAND. Fax: +662 219 2940. E-mail: commission nhrc.or.th
- Permanent Mission of Thailand to the United Nations in Geneva, rue Gustave Moynier 5, 1202 Geneva, Switzerland, Tel: + 41 22 715 10 10; Fax: + 41 22 715 10 00 / 10 02; Email: mission.thailand ties.itu.int
- Embassy of Thailand in Brussels, 2 Sq. du Val de la Cambre, 1050 Ixelles, Belgium, Tel : + 32 2 640.68.10; Fax : + 32 2 .648.30.66. Email : thaibxl pophost.eunet.be

Please also write to the diplomatic mission or embassy of Thailand in your respective country

Geneva - Paris, February 1, 2008

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need. The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

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Tel and fax FIDH + 33 (0) 1 43 55 20 11 / +33 1 43 55 18 80

Tel and fax OMCT + 41 (0) 22 809 49 39 / + 41 22 809 49 29

Footnotes

[1] Six members of non-governmental organisations, three trade union members of unions in semi-state enterprises, and one peasant leader.

[2] The Courts of Justice has identified some major faults of the Bill:

a) Power is given to the military under the name of ISOC (Internal Security Operations Command), protecting national security which is not restricted to any area or for any period, nor dependent on declaration of a state of emergency. ISOC assumes the responsibility to control, prevent, suppress, or take corrective measures against any action considered a threat to society.

b) The Act transfers power to the military over every unit of government, at national, regional, and provincial levels to replace government officials who act according to government regulations, and government offices having responsibility at every level. The Act extends to the authority to establish administrative centres to manage local affairs, to take charge of construction, to set levels of required work force, to exercise management control on every task until it is completed.

c) ISOC is empowered to issue restrictions which would infringe on the right to freedom of the people. Roads can be closed, access denied to certain areas, buildings, offices, etc.. Persons who defy such restrictions are liable to arrest and imprisonment of not more than one

year, of a fine up to twenty thousand baht, or to both imprisonment and fine.

d) The actions of ISOC are not subject to the courts. This exemption from court supervision is a transgression of democratic rule and the legal system.

e) The power of officials to act independently of criminal and civil laws is likely to lead to abuse of power and allow wrongdoers to escape justice as indeed occurs everywhere at this time.