



United Nations Committee on the Elimination of All Forms of
Discrimination against Women (CEDAW)
67th session, 5 July 2017
THAILAND

**Protection International
Observatory for the Protection of Human Rights Defenders (FIDH-
OMCT)**

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

Joint shadow report on Thailand's implementation of the Convention on the
Elimination of All Forms of Discrimination against Women (CEDAW) for the review of
Thailand's sixth and seventh periodic reports

**Protection of women human rights defenders (WHRDs) in Thailand
with special consideration given to rural women**

Table of contents

- 2 *Introduction: Women human rights defenders further at risk under the NCPO.*
- 3 *Women restricted from equal political participation.*
- 4 *Judicial harassment and online intimidation of women human rights defenders.*
- 7 *Violent acts and threats of violence against women human rights defenders.*
- 8 *Threats and intimidation against rural women human rights defenders.*
- 12 *Inadequate protection mechanisms and access to justice for women human rights defenders.*
- 15 *Recommendations.*

Introduction: Women Human Rights Defenders further at risk under the NCPO

The Thai government's combined sixth and seventh periodic reports fail to mention the situation of women human rights defenders (WHRDs) in Thailand, especially the negative developments that have occurred since the National Council for Peace and Order (NCPO) overthrew a democratically elected government and seized power in a coup d'état on 22 May 2014.

WHRDs in Thailand make a vital contribution to the advancement of human rights and they are in urgent need of recognition and protection. Since the 2014 coup, they have increasingly become at risk of violence, discrimination, and other violations of their human rights. Women have been systematically excluded from public consultations and decision-making processes, particularly on issues related to land and natural resources.

WHRDs and rural women continue to be among the most marginalized members of society in terms of their exclusion from participation in political and economic processes. They face numerous abuses and persistent barriers to the full enjoyment of their human rights. This is often the result of discrimination, poverty, and a lack of access to essential services or adequate protection of their rights.

Despite the obstacles they face, many rural WHRDs are at the forefront of human rights advocacy in many fields, including land use, the environment, and natural resources. While they fight for better lives for themselves, their families, and their communities, they face many barriers because they are women. WHRDs often focus on issues that put them at particular risk of violence and other forms of abuse, such as judicial harassment.

When WHRDs have taken the lead to oppose land confiscation, forced evictions, unfair land distribution, the implementation of infrastructure projects, the development of extractive industries, and environmental degradation associated with these actions, many have been met with extreme, and sometimes even fatal violence.

This joint shadow report details our organizations' concerns over Thailand's non-compliance with the following articles and general recommendations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the context of the protection of WHRDs: Article 3 on the guarantee of basic human rights and fundamental freedoms; Article 4 on special measures; Article 7 on political and public life; Article 14 on rural women; General Recommendation No. 23 on women in political and public life; General Recommendation No. 33 on women's access to justice; and General Recommendation No. 34 on the rights of rural women.

This analysis is made in the context of Thailand's current ruling military regime, which lacks democratic checks and balances. The political context in Thailand under the NCPO since May 2014 has institutionalized a system whereby the ruling junta –

whose members are all men – directly appoints members, most of whom are also men, to the executive and legislative bodies. Women account for only 4% (11 out of 250) of National Legislative Assembly (NLA) members,¹ 11% (four out of 36) of Cabinet members,² 9% (17 out of 200) of National Reform Steering Assembly (NRSA) members,³ and 13% (3 out of 24) of Constitution Drafting Committee (CDC) members.⁴

While it is unclear whether all the instances of violence and attacks against WHRDs are gender-related, institutionalized discrimination against women may, in many cases, cause authorities, or other assailants, to conclude that it is easier to intimidate and attack WHRDs.

Women restricted from equal political participation

Thailand’s new constitution, which came into effect on 6 April 2017, fails to ensure that women, on equal terms with men, have the right “to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government,” according to Article 7(b) of the CEDAW.

The constitution, promulgated in April 2017, establishes a five-year ‘transition period’ during which the Senate will be comprised of 250 appointed members who are directly or indirectly selected by the NCPO. After the transition period, the Senate will be comprised of 200 members.⁵ The new constitution stipulates that members of the Senate shall consist of persons who possess knowledge and experience in diverse fields.⁶ However, there is no provision or quota system, as recommended by the CEDAW’s 2006 concluding observations in relation to the presence of women in decision-making positions.⁷ Given the non-transparent nature of these appointments to such bodies and the fact that male appointees account for the overwhelming majority of the NCPO-appointed legislature, there is a genuine concern that the current trend of exclusion of women to political office will continue with regard to the selection and appointment of Senators.

¹ National Legislative Assembly, *List of Members of the National Legislative Assembly*, Accessed on 5 June 2017, <http://www.senate.go.th/w3c/senate/senator.php>

² The Secretariat of the Cabinet, *The 61st Cabinet: 30 August 2014 – Present*, Accessed on 5 June 2017, http://www.soc.go.th/bb_main01.htm

³ Royal Gazette, *Prime Minister’s Office Order: The Appointment of the Members of the National Reform Steering Assembly*, 5 October 2015, http://library2.parliament.go.th/giventake/content_give/nrsa58-announce051058.pdf; Bangkok Post, *63 ex-reform council members win seats on NRSA*, 6 October 2015

⁴ Constitution Drafting Commission, *List of Constitution Drafting Commissioners*, Accessed on 5 June 2017, http://cdc.parliament.go.th/draftconstitution2/committee_list.php

⁵ Article 269 (during the five-year transition period), Article 107 (after the transition period). The 200 Senators appointed after the transition period will be selected in accordance with the yet-to-be adopted Organic Act on Acquisition of Members of the Senate.

⁶ Article 269 (during the five-year transition period), Article 107 (after the transition period).

⁷ The CEDAW’s 2006 concluding observations recommended, “the State party adopt and implement temporary special measures to increase the number of women in decision-making positions, in particular, to establish benchmarks and timetables, and consider the use of quotas to achieve them.”

In its response to the CEDAW's List of Issues (LoI), the Thai government stated that Thailand had been trying to "promote the balance of male and female ratio in political participation," but noted that a proposal to include a provision determining an equal quota for men and women in the Draft Tambon [Village] Council and Tambon Administrative Organization Act was not accepted due to questions raised over the issue of reverse discrimination and differential treatment based on gender.⁸ This justification is contrary to Article 4(1) of the CEDAW, which states that "temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination,"⁹ as well as against CEDAW General Recommendation No. 23, which states that under Article 4, the Convention "encourages the use of temporary special measures in order to give full effect" to Article 7 on political and public life.¹⁰

Judicial harassment and online intimidation of women human rights defenders

Following the May 2014 coup d'état, the NCPO stepped up its harassment of HRDs, political activists, and community leaders. This is against Article 3 of the CEDAW, which is aimed at empowering women by undertaking measures to ensure women's full development and advancement and which requires state parties "to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men."

The NCPO has used existing and newly introduced laws and decrees to restrict and criminalize the work of WHRDs. New laws and decrees enacted under the NCPO include the 2015 Public Assembly Act and NCPO Order 3/2015. Existing laws that have been used against WHRDs include Article 116 (sedition), Article 326 (defamation), and Article 328 (libel) of the Criminal Code, and Article 14 of the 2007 Computer Crimes Act. These laws allow authorities broad and discretionary powers and have been used to intimidate or bring charges against WHRDs.

On 9 February 2016, authorities charged human rights lawyer Ms. Sirikan Charoensiri aka June with "failure to comply with official orders" (Article 368 of the Criminal Code) and "concealing evidence" (Article 142 of the Criminal Code) in connection with events that followed the arrest of 14 New Democracy Movement (NDM) student activists on 26 June 2015. On 22 October 2016, authorities charged Ms. Sirikan with sedition (Article 116 of the Criminal Code) and violating the ban on political gatherings of five or more people (Article 12 of NCPO Order 3/2015). The charges alleged Ms. Sirikan was an accomplice in anti-NCPO demonstrations

⁸ CEDAW, *List of issues and questions in relation to the combined sixth and seventh periodic reports of Thailand, Addendum, Replies of Thailand*, 24 April 2017, UN Doc. CEDAW/C/THA/Q/6-7/Add.1, Para. 15

⁹ According to General Recommendation No. 25, the CEDAW considers such measures to be "part of a necessary strategy by states parties directed towards the achievement of de facto or substantive equality of women with men in the enjoyment of their human rights and fundamental freedoms." (Para. 18)

¹⁰ CEDAW General Recommendation No. 23, Para. 15

organized by NDM students on 25-26 June 2015.¹¹ Ms. Sirikan was present at the demonstration, representing the 14 students and ensuring that due process was followed, after they were arrested and taken to Bangkok's Military Court. Charges against Ms. Sirikan are still pending.

On 26 July 2016, officers from the Pattani Police Station, Pattani Province, charged Cross Cultural Foundation (CrCF) Director Ms. Pornpen Khongkachonkiet and founder and Director of the organization Duay Jai [Hearty Support] group Ms. Anchana Heemmina. The two WHRDs were charged alongside prominent lawyer and senior legal advisor to CrCF Mr. Somchai Homlaor, under Articles 326 (defamation) and 328 (libel) of the Criminal Code and for "computer-related crimes" under Article 14 of the 2007 Computer Crimes Act for publishing and uploading to the internet a report that documented allegations of torture and ill-treatment by military officers in Thailand's Southern Border Provinces (SBPs).¹² On 7 March 2017, Internal Security Operations Command (ISOC) 4 announced during a press conference in Bangkok that they would drop the criminal defamation lawsuit and requested the Attorney General drop the charges under the Computer Crimes Act against the three defenders.¹³ However, to date, the Thai Army has yet to undertake proceedings to have the charges officially dropped.

Ms. Pornpen previously faced charges for documenting allegations of torture. In September 2014, the Thai Army Task Force 41 charged her under Articles 326 (defamation) and 328 (libel) of the Criminal Code in connection with her documentation and advocacy work concerning allegations of army torture in the SBPs. The public prosecutor eventually dropped the case in June 2015.¹⁴

In addition, WHRDs have been the target of verbal attacks and harassment online. Ms. Pornpen received hateful and derogatory comments on the internet about her activism, sometimes with gender-specific rhetoric. Unidentified internet users accused her in October 2016 of siding with criminals and supporting armed groups when she called for the release of the two bombing suspects who had been unlawfully arrested in Bangkok in the same month.¹⁵ Internet users also criticized her in January 2017 for her role as a woman for exposing torture committed by female

¹¹ Observatory for the Protection of Human Rights Defenders (FIDH-OMCT partnership) Urgent Appeal THA 002 / 0715 / OBS 055.7, *Thailand: Charges of sedition and violating the ban on political gatherings against Sirikan "June" Charoensiri, a human rights lawyer with TLHR*, 28 October 2016

¹² Thailand's Southern Border Provinces (SBPs) comprise Pattani, Yala, and Narathiwat Provinces. Due to the ongoing insurgency in the SBPs, they have been under Martial law since January 2004 and the site serious human rights abuses, including extrajudicial-killings, torture, and ill-treatment.

¹³ The Observatory (FIDH-OMCT partnership) Urgent Appeal THA 003 / 0816 / OBS 066.1, *Thailand: Decision to withdraw all charges against Ms. Pornpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina*, 9 March 2017

¹⁴ The Observatory (FIDH-OMCT partnership) Urgent Appeal THA 003 / 0816 / OBS 066.1, *Thailand: Decision to withdraw all charges against Ms. Pornpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina*, 9 March 2017; iLaw, *Pornpen: Defamation to Royal Thai Armed Forces*, Accessed on 5 June 2017, <https://freedom.ilaw.or.th/en/case/630>

¹⁵ Thailand South Situation, *Exposing an Extremist Organization Helping Criminals*, 18 November 2016; http://pulony.blogspot.com/2016/10/blog-post_18.html

her. Another police officer sent her a text message wishing her a “Happy Valentine’s Day.”²³

Soldiers have also intimidated Ms. Chanoknan Ruamsap, a student activist from the NDM, through visits to her parents’ home in Bangkok’s Don Mueang District at least 30 times. She reported that soldiers have also asked her neighbors about her political views.²⁴ On 24 June 2016, police arrested Ms. Chanoknan for leading a group of seven people to commemorate the 84th anniversary of the 1932 Siamese Revolution at the Lak Si Monument in Bangkok. They were later released after being charged with violating NCPO Order 3/2015, which bans political gatherings of five or more people and failing to notify the police before conducting a public assembly under the 2015 Public Assembly Act.²⁵ The charges against her are still pending.

Violent acts and threats of violence against women human rights defenders

Several WHRDs have been deprived of the enjoyment and exercise of many of their human rights and fundamental freedoms as a result of violent acts, or the threat of violent acts. The Thai government’s failure to ensure the protection of WHRDs from violence, harassment, and intimidation is inconsistent with Thailand’s obligations under Article 3 of the CEDAW, which requires state parties to ensure “the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms.”

Background: Violent attacks against WHRDs

Since Thailand’s previous CEDAW review in 2006, Thai authorities have repeatedly failed to conduct prompt, impartial, and thorough investigations into ongoing cases of extrajudicial killings of WHRDs, resulting in a lack of accountability for the perpetrators, and a lack of adequate compensation for the victims. In many cases, victims of extrajudicial killings have been local activists and community members working in defense of their communities.

On 19 November 2012, two WHRDs, Ms. Montha Chukaew, 50, and Ms. Pranee Boonrat, 54, from the Khlong Sai Pattana community in Surat Thani Province were shot and killed while they were travelling to a local market. The two women were members of the Southern Peasants’ Federation of Thailand (SPFT), a network campaigning for the right to agricultural land in the community and other areas in the south of Thailand. As members of the SPFT, the two women were involved in a land rights dispute between their community and the Jiew Kang Jue Pattana palm oil company since 2008.²⁶ Ms. Montha and Ms. Pranee’s bodies were mutilated by their aggressors to intimidate the community further.²⁷ In November 2012, authorities arrested two persons for the killings, but subsequently released them without charge for lack of evidence. As of April 2015, the cases were under the consideration of the Court of First Instance.²⁸ According to the SPFT, neither case has been solved and no one has been held accountable for the killings.²⁹ The Ministry of Justice approved compensation of 70,000 baht

²³ Khaosod English, *Women recount lives disrupted 3 years by junta harassment*, 8 June 2017

²⁴ Khaosod English, *Women recount lives disrupted 3 years by junta harassment*, 8 June 2017

²⁵ Prachatai, *Police Detain Student Activists Commemorating 1932 Siamese Revolution*, 24 June 2016

²⁶ Prachatai, *Khlong Sai Pattana in crisis: two SPFT members shot dead*, 19 November 2012

²⁷ Asian Human Rights Commission, *THAILAND: Failure of justice for human rights defenders*, 18 March 2016

²⁸ Letter from the Permanent Mission of Thailand, 2 April 2015, [https://spdb.ohchr.org/hrdb/29th/Thailand_02.04.15_\(2.2015\).pdf](https://spdb.ohchr.org/hrdb/29th/Thailand_02.04.15_(2.2015).pdf)

²⁹ Southern Peasants’ Federation of Thailand, *The Southern Peasants’ Federation of Thailand calls for the government’s commitment in finding human right defenders assassins*, 28 November 2016

(US\$2,055) and 100,000 baht (US\$2,933) for the families of Ms. Montha and Ms. Pranee, respectively.³⁰

The Khlong Sai Pattana community has been the target of previous violent incidents including threats and intimidation believed to be related to the community's land rights activities.³¹ WHRDs in Khlong Sai Pattana still live in fear and face death threats.

On 25 February 2014, two unidentified individuals on a motorbike in the town of Yala, Yala Province, shot at Ms. Nurainee Uma in an attempt to kill her. Ms. Nurainee works as paralegal at the Muslim Attorney Center Foundation (MAC), an organization that provides legal assistance to communities in the SBPs and documents cases of human rights violations, including cases of torture and extrajudicial killings. Ms. Nurainee filed a complaint at the Yala Police Station on the same evening. The following day, the police visited the scene of her attempted murder and they claimed that no evidence was found and that the perpetrators were yet to be identified. No further investigation into her case appears to have taken place. Since Ms. Nurainee started working for MAC in 2007, military officers have intimidated her and searched her house numerous times. The attempted assassination and intimidation of Ms. Nurainee is likely linked to her work documenting human rights violations in the SBPs.³²

Threats and intimidation against rural women human rights defenders

Rural WHRDs who assert rights concerning land and natural resources have been particularly at risk of threats, intimidation, and harassment by the authorities, who have used such tactics to disrupt their activism. Since the May 2014 coup d'état, rural women have increasingly been targeted by local government authorities while trying to protect their land. These acts of harassment and intimidation are contrary to Article 14(2) of the CEDAW, which requires states to "take all appropriate measures" to ensure rural women have the right "[t]o participate in the elaboration and implementation of development planning at all levels," and General Recommendation No. 34, which requires state parties to "[i]mplement measures to prevent and address threats and attacks against rural women human rights defenders."³³

In its reply to the CEDAW's List of Issues (LoI), the Thai government stated that "Thailand has put in place a number of laws and policies on forestry and environmental protection," and that "relevant laws and measures are implemented

³⁰ Letter from the Permanent Mission of Thailand, 20 March 2013, [https://spdb.ohchr.org/hrdb/23rd/Thailand_20.03.13_\(1.2013\).pdf](https://spdb.ohchr.org/hrdb/23rd/Thailand_20.03.13_(1.2013).pdf)

³¹ Human Rights Council, 23rd session, *Communications report of Special Procedures*, 22 May 2013, http://www.ohchr.org/Documents/HRBodies/SP/A-HRC-23-51_EFS.pdf

³² United Nations, *Special Procedures of the Human Rights Council*, 6 May 2014, [https://spdb.ohchr.org/hrdb/27th/public-UA_Thailand_06.05.14_\(4.2014\).pdf](https://spdb.ohchr.org/hrdb/27th/public-UA_Thailand_06.05.14_(4.2014).pdf); Letter from the Permanent Mission of Thailand, 9 October 2014, [https://spdb.ohchr.org/hrdb/28th/Thailand_09.10.14_\(4.2014\).pdf](https://spdb.ohchr.org/hrdb/28th/Thailand_09.10.14_(4.2014).pdf)

³³ Article 14 of the CEDAW requires state parties "to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development," including in "the elaboration and implementation of development planning at all levels and enjoy adequate living conditions." General Recommendation No. 34 elaborates on the rights of rural women and requires that state parties prevent and eliminate all forms of violence against rural women and girls and "[i]mplement measures to prevent and address threats and attacks against rural women human rights defenders" in line with the Committee's General Recommendations No. 19 on violence against women and No. 33 on women's access to justice.

through a fair and transparent process.”³⁴ However, under its purported forest conservation policy, the NCPO issued Orders 64/2014 and 66/2014, which have resulted in the arrest and eviction of many rural communities for forest encroachment. These orders, as well as other land-related laws, have excluded rural women and have not been implemented in a gender-responsive manner. They have failed to take into account the particular situation of women who have to care for children, sometimes while also being the sole breadwinners.

In other instances, the Thai government’s re-appropriation of land from rural communities for infrastructure and/or investment projects has had a particularly negative impact on these rural communities, which often face the risk of forced eviction and relocation. This failure on the part of the government to respect consultative processes prescribed in law often restricts women’s enjoyment of rights.³⁵

Rural WHRDs have reported being threatened by high-ranking military officers, including through allusions made to the possibility of disappearance. ‘Attitude adjustment’ sessions have been used against WHRDs as a strategy to intimidate them and persuade them to stop their activism.³⁶

Ms. Waewrin Buangern, a rural community-based environmental activist and coordinator of the *Rak Ban Haeng* conservation group in Lampang Province, has been a target of intimidation and harassment since the group participated in the ‘Walk for Land Reform’ in Chiang Mai on 9 November 2014. On 11 November 2014, Ms. Waewrin was summoned by military personnel, along with 10 other villagers for attitude adjustment at Patoupah Special Military Training Facility, where she was reportedly told by a high-ranking military officer, “You know we can make anyone disappear.” The military officers also used gender-specific verbal attacks against her when they reportedly told her “You will never be able to find a husband.”³⁷

Following her attitude adjustment session, two plainclothes soldiers reportedly patrolled her village on motorbike almost daily over a nine-month period and authorities regularly contacted Ms. Waewrin to ask about her whereabouts and activities.³⁸ On 19 August 2015, Ms. Waewrin filed a complaint to the Ngao District Police Chief in Lampang Province about the continued surveillance of her home by plainclothes police officers. The surveillance started two days after the *Rak Ban*

³⁴ Committee on the Elimination of Discrimination against Women, 67th session, *List of issues and questions in relation to the combined sixth and seventh periodic reports of Thailand, Addendum, Replies of Thailand*, 24 April 2017, UN Doc. CEDAW/C/THA/Q/6-7/Add.1, Para. 64, 65

³⁵ As prescribed by the Indigenous and Tribal Peoples Convention (ILO Convention 169).

³⁶ The NCPO’s systematic practice of arbitrarily detaining critics has been euphemistically named as ‘attitude adjustment’ sessions. Attitude adjustment sessions typically involve incommunicado detentions for up to seven days at military bases in various locations around the country.

³⁷ Asian Human Rights Commission, *Thailand: Threat of enforced disappearance against Ms. Waewrin Buangern and Rak Ban Haeng Conservation Group faces intimidation by authorities*, 19 August 2015; Frontline Defenders, *Harassment and surveillance of human rights defender Waewrin Buangern*, 19 August 2015

³⁸ Asian Human Rights Commission, *Thailand: Threat of enforced disappearance against Ms. Waewrin Buangern and Rak Ban Haeng Conservation Group faces intimidation by authorities*, 19 August 2015

Haeng submitted a petition to the Department for Public Works and Town and Country Planning to ask for a local waterway to be protected public property, a measure that was essential to the livelihood of the community members.³⁹ Several military and police officers had tried to stop the group from submitting the petition by telling them that they could be in breach of the 2015 Public Assembly Act. Ms. Weawrin also received a phone call from an army officer, who warned her not to submit the petition.⁴⁰ She continues to be constantly monitored and contacted by the local authorities concerning her whereabouts and her human rights activities, in particular her activities as part of the *Rak Ban Haeng*.

The holding of public hearings in military camps is another way to attempt to curb women's activism and dissuade WHRDs from attending. On 11 September 2015, authorities in Udon Thani Province sent a letter to Ms. Manee Boonrawd, head of the *Anurak Udon Thani* conservation group, to inform the group that a village public hearing would be held inside a military camp. The villagers believed that the designation of the military camp as a venue for the meeting was an attempt to intimidate community members who wanted to participate in the public hearings. On 15 September 2015, 20 community-based HRDs from the *Anurak Udon Thani* gathered in front of Playa Suthorn Thamachada Military Camp, Udon Thani Province. Approximately 60 officers were gathered in front of the military camp, and another 100-200 more officers were inside the camp. The HRDs submitted a complaint letter to the army, stating that they would not attend the public hearing in the military camp.⁴¹

In other cases, local authorities have failed to guarantee rural WHRDs the exercise of their fundamental rights. Judicial harassment has increasingly been used against rural WHRDs in an effort to prevent them from defending their rights. Of particular concern is the increased use of civil and criminal proceedings brought by Thai authorities and business operators against rural community-based WHRDs.

A case that exemplifies this trend is that of Ms. Oranut Phonphinyo, a coordinating member of *Rak Khon San*, a group of villagers from Khon San District in Chiyaphum Province who have opposed the construction of a rubber plantation that posed environmental threats to the local community since 2013.⁴²

Since 2013, Ms. Oranut has faced intimidation from rubber manufacturer, Sri Trang Agro-Industry company, as a result of her activism against the establishment of a rubber plantation in Chaiyaphum Province. On 13 October 2013, Phu Khiao Provincial Court in Chiyaphum Province sent a letter to Ms. Oranut and three other members from Rak Khon San District to inform them that a land broker who was

³⁹ Frontline Defenders, *Case History: Waewrin Buangern*, <https://www.frontlinedefenders.org/en/case/case-history-waewrin-buangern>

⁴⁰ Prachatai, *Thai Military Intimidates Anti-Mine Villagers in Northern Thailand over Complaint*, 20 August 2015

⁴¹ Frontline Defenders/Protection International, *Joint UPR submission on Thailand*, 21 September 2015

⁴² Prachatai, *Rak Khon San Group Will Go On to Oppose Rubber Plant to be Built at the Heart of the Community*, 10 October 2013, [In Thai] <http://prachatai.org/journal/2013/10/49182>

buying land for Sri Trang Agro-Industry had filed a defamation complaint against them.⁴³ On 14 November 2013, the Phu Khiao Provincial Court dropped the case.⁴⁴

Since the May 2014 coup d'état, Ms. Oranut has been summoned at least three times by a local high-ranking military official in Chaiyaphum Province and asked about her activities. The most recent summons was in early 2016.⁴⁵ In 2016, Ms. Oranut reported being confronted by a group of men, presumably sent by the Sri Trang Agro-Industry. The men tried to persuade her to accept money from the company in exchange for the villagers' land.⁴⁶

More than 20 WHRDs have faced judicial harassment, in addition to physical harassment and threats, in more than 20 cases brought against them by representatives of the Thai-owned Tungcum gold mining company and government authorities in Wang Saphung District, Loei Province. On 8 December 2016, police from Wang Saphung Police Station issued a summons for seven WHRDs members of the *Khon Rak Ban Koed*, an anti-mine group comprising villagers from six villages in Wang Saphung District. They were accused of violating the 2015 Public Assembly Act and intimidating district officials when they led over 150 people to protest against Tungcum in front of the Wang Saphung District Administration Office on 16 November 2016 without giving the authorities prior notification.⁴⁷ The prosecution's decision on whether the case goes ahead is set for 27 June 2017.⁴⁸

Another example of judicial harassment is the pressing of criminal defamation charges against a 15-year-old schoolgirl by the Tungcum gold mining company. On 1 September 2015, *Thai Public Broadcasting Service (Thai PBS)* TV channel aired a citizen-journalist news clip about a youth camp that raised awareness about environmental issues caused by Tungcum in Wang Saphung District. A 15-year-old schoolgirl who attended the youth camp narrated the news clip and stated that six villages in the area had been "environmentally affected by the gold mining industry." She went on to say that "the River Huay has been contaminated," and that "villagers cannot use it for drinking or household consumption."⁴⁹

In November 2015, Tungcum lodged two separate criminal defamation complaints against the schoolgirl – one to the Provincial Office of Juvenile Observation and Protection in Loei Province and another to the Minburi Metropolitan Police in Bangkok, alleging that the content of the report damaged the reputation of the company.⁵⁰ The Provincial Office of Juvenile Observation and Protection refused to allow the gold mining company's lawsuit against the girl to move forward.⁵¹ The case

⁴³ Prachatai, *Khon San Villagers to Decide on Rubber Plantation After No Progress from State*, 15 October 2015

⁴⁴ Information obtained by Protection International.

⁴⁵ Information obtained by Protection International.

⁴⁶ Information obtained by Protection International.

⁴⁷ Prachatai, *Seven Women from Kon Rak Ban Koed Summoned After Observing the Meeting of Khao Luang Tambon Administrative Office*, 19 December 2016

⁴⁸ Information obtained by Protection International.

⁴⁹ Fortify Rights, *Thailand: Drop Defamation Cases Against Schoolgirl, Journalists, Villagers*, 12 February 2016

⁵⁰ Fortify Rights, *Thailand: Drop Defamation Cases Against Schoolgirl, Journalists, Villagers*, 12 February 2016

⁵¹ Southeast Asian Press Alliance, *Criminal Court dismisses mining company's defamation case against Thai PBS*, 16 November 2016

lodged with the Minburi Metropolitan Police in Bangkok is apparently still open at the police investigation stage because the police never have delivered to the accused a document dismissing the charges.⁵²

Another example of judicial harassment is the targeting of an indigenous Lahu WHRD in Chiang Dao District, Chiang Mai Province. On 29 May 2017, police arrested Ms. Nawa Chaoue, co-founder of youth group *Save Lahu*, a local community-based organization aimed at protecting the Lahu culture. Ms. Nawa was detained on suspicion of supplying methamphetamine pills to indigenous Lahu activist Mr. Chaiyaphum Pasae before he was killed by soldiers on 17 March 2017. In the afternoon of the same day, the Narcotics Suppression Bureau claimed at a press conference at the Provincial Police Region 5 in Chiang Mai Province that Ms. Nawa's arrest was part of a larger campaign against drugs carried out throughout the province.⁵³ Police denied Ms. Nawa access to a lawyer during the first interrogation on 29 May 2017. She is still detained in Chiang Mai Women's Correctional Institution. Bail has reportedly been set at two million baht (US\$58,720).⁵⁴

Inadequate protection mechanisms and access to justice for women human rights defenders

The Thai justice system fails to ensure women's access to justice in line with General Recommendation No. 33 of the CEDAW.⁵⁵ A number of obstacles and restrictions impede WHRDs and rural women from realizing their right of access to justice on a basis of equality with men.

The Thai government has failed to ensure that WHRDs are able to access justice and receive protection from harassment, threats, retaliation, and violence. There is unwillingness on the part of the authorities to adequately investigate and prosecute cases of abuses against WHRDs. Remedies are either difficult to access or inadequate, and accountability and protection mechanisms within the law enforcement and justice system are lacking.

In October 2014, the Ministry of Justice set up a Working Group to develop measures for the protection of HRDs at risk.⁵⁶ However, no results have been presented to date.

The 2003 Witness Protection Act led to the establishment of the Witness Protection Office within the Ministry of Justice's Rights and Liberties Protection Department.

⁵² Information obtained by Protection International through email communication with community member, June 2017.

⁵³ Information obtained by Protection International.; Nation, *Police swoop on Lahu village*, 30 May 2017

⁵⁴ Information obtained by Protection International.

⁵⁵ CEDAW General Recommendation No. 33 on women's access to justice examines the obligation of state parties to ensure that women have access to justice. General Recommendation No. 33 identifies interrelated and essential components that are necessary to ensure access to justice. These include: good quality of justice systems; provision of remedies for victims; and accountability of justice systems.

⁵⁶ Ministry of Justice, *Ministry of Justice Order No.412/2014: Establishment of the Working Group to Develop Measures for the Protection of Human Rights Defenders at Risk of Abuse (White List)*, 28 October 2014, http://www.moj.go.th/attachments/20170123105234_24058.pdf

However, the weakness of this mechanism has contributed to the increasing vulnerability of those who speak out against human rights abuses, including WHRDs. The Witness Protection Act does not guarantee prompt assistance in cases of imminent danger, there is a lack of clear procedures on how to protect witnesses, and an absence of officials with experience in witness protection. In addition, even when given, protection may last only for a short time.

The National Human Rights Commission of Thailand (NHRCT) – which has been criticized for its lack of independence, the selection and recruitment process of its personnel, and its failure to adequately investigate cases of human rights abuses – has been unable or unwilling to provide adequate protection to WHRDs.⁵⁷

The Justice Fund, which was established in 2006 under the 2005 Justice Fund Act within the Ministry of Justice's Rights and Liberties Protection Department, provides financial assistance (i.e. legal fees, bail money) for people affected by human rights violations during legal proceedings conducted against them.⁵⁸ However, the proceedings to apply for support under the Justice Fund are unnecessarily complex and difficult to access. In addition, the Justice Fund has failed to grant assistance to the majority of eligible applicants. From 2006-2014, the Justice Fund granted assistance to just 43% of those who applied.⁵⁹

Between 20 and 22 April 2017, 15 land rights defenders members from the Nam Deang community (one of the six communities that make up the SPFT) were charged with criminal offenses, such as trespassing, mischief, and criminal association for farming the land they have been occupying since 2008. In total, 11 were arrested and detained, including two WHRDs, Ms. Wilaiwan Glubnui and Ms. Nongyao Glubnui. On 8 May 2017, both Ms. Wilaiwan and Ms. Nongyao petitioned the Justice Fund for assistance to post their bail, which was set at 600,000 baht (US\$17,611). On 30 May 2017, Ms. Wilaiwan managed to post bail herself after 39 days in detention. In the afternoon of the same day, the Justice Fund communicated to her that the funding for her bail was approved but that she was no longer eligible since she was already out of prison. Ms. Nongyao said that she never received any response from the Justice Fund regarding her petition to the Justice Fund. She finally posted her own bail with assistance from the SPFT network after 48 days in detention.⁶⁰

Thailand has also failed to take adequate steps to combat impunity by ensuring that those responsible for violations are promptly brought to justice through impartial investigations. In cases of enforced disappearance, the lack of remedy and reparation for the victims and the families of victims is a major obstacle in the access to justice, which in turn contributes to impunity in relation to this serious crime. In several high-profile cases, the Department of Special Investigation's (DSI's) decision

⁵⁷ In January 2016, the Sub-Committee on Accreditation (SCA) of the International Coordinating Committee on National Human Rights Institutions (ICC) downgraded the NHRCT to 'B' status as a result of its lack of compliance with the Paris Principles.

⁵⁸ Article 9(3) of the 2015 Justice Fund Act

⁵⁹ Justice Fund Office, Accessed on 9 June 2017, <http://www.jfo.moj.go.th/Eng/>

⁶⁰ Information obtained by Protection International.

to discontinue investigations into cases of enforced disappearance is another setback in efforts to bring justice to the families.⁶¹

Ms. Angkhana Neelapaijit has not received justice more than 13 years since the enforced disappearance of her husband, human rights lawyer Mr. Somchai Neelapaijit. Mr. Somchai has been missing since 12 March 2004 when he was last seen abducted by five men from his car in a busy Bangkok district. Prior to his disappearance, Mr. Somchai had been representing Muslim defendants who claimed they had been tortured by police in the SBPs.⁶²

On 29 December 2015, the Supreme Court upheld the acquittal of five police officers that had been charged with Mr. Somchai's disappearance due to a lack of evidence. The court also ruled that Ms. Angkhana could not act as a co-plaintiff for Mr. Somchai on the basis that there was no proof that Mr. Somchai was dead or otherwise incapable of bringing the case himself.⁶³ In October 2016, the DSI decided to discontinue their investigation into Mr. Somchai's disappearance because they could not find any culprits.⁶⁴

Ms. Pinnapa Prueksapan has not been able to receive justice for the enforced disappearance of her husband, ethnic Karen land rights activist Mr. Porlajee Rakchongcharoen aka Billy. Mr. Porlajee has been missing since 17 April 2014, when authorities from the Kaengkrachan National Park detained him while he was traveling in Kaengkrachan District, Petchaburi Province. Park authorities said they had briefly detained Mr. Porlajee for the possession of wild honey but claimed they released him later the same day. At the time of his disappearance, Mr. Porlajee was assisting ethnic Karen villagers in the preparation of a lawsuit against the authorities over the destruction of the homes of 20 families in Kaengkrachan National Park in May 2011.⁶⁵

Ms. Pinnapa has faced numerous obstacles while trying to access justice in the case of her husband's enforced disappearance. On 17 July 2014, following a six-day *habeas corpus* inquiry, the Petchaburi Provincial Court concluded it could not be established that Mr. Porlajee was still in detention when he disappeared. Appeals to the Court of Appeals and the Supreme Court failed to reveal any new insights on Mr. Porlajee's fate or whereabouts.⁶⁶

⁶¹ The DSI is a department under the Ministry of Justice, which operates independently from the police and deals with the investigation of 'special cases,' such as complex criminal cases, cases affecting national security, cases involving criminal organizations, and cases implicating high-ranking government officials or police officers.

⁶² Amnesty International Thailand, *Summary of Somchai Neelapaijit's case*, 8 March 2016, [In Thai] https://www.amnesty.or.th/sites/default/files/attachments/160308_briefing_thnaaysmchaay.pdf

⁶³ Prachatai, *Supreme Court rules no one guilty for Somchai's enforced disappearance*, 29 December 2015

⁶⁴ Prachatai, *Case closed on disappeared human rights lawyer*, 13 October 2016; Bangkok Post, *Somchai Neelapaijit case closed, says DSI*, 13 October 2016

⁶⁵ Prachatai, *Leader of Karen Villagers in Kaengkrachan Mysteriously Disappeared, Fear of Enforced Disappearance by National Park Authorities, Mother and Wife to File a Petition to Governor and Police*, 20 April 2014, [In Thai] <https://prachatai.com/journal/2014/04/52803>

⁶⁶ ICJ/TLHR, *Joint submission of the International Commission of Jurists and Thai Lawyers for Human Rights in advance of the examination of the Kingdom of Thailand's Second Periodic Report under Article 40 of the*

On 6 August 2015, Ms. Pinnapa requested the DSI to open a special investigation into the case due to the lack of progress in the police investigation.⁶⁷ In January 2017, the DSI sent a letter to Ms. Pinnapa, which said it was unable to accept Mr. Porlajee's disappearance as a 'special case' due to insufficient evidence and a lack of progress in the investigation.⁶⁸ Later, a DSI official also insinuated that Ms. Pinnapa could not file such a case because Ms. Pinnapa was not legally his wife because she and Mr. Porlajee had not registered their marriage.⁶⁹ To date, no progress has been made in the investigation of his disappearance, which remains in the hands of the police.⁷⁰

Ms. Angkhana and Ms. Pinnapa have been unable to receive justice in large part because of gaps in legislation that fails to recognize and criminalize enforced disappearance. In late February 2017, the junta-appointed National Legislative Assembly (NLA) decided to shelve the Prevention and Suppression of Torture and Enforced Disappearance Bill, indefinitely delaying its enactment.⁷¹ The draft bill was presented to the Cabinet more than two years ago, on 12 January 2015.⁷² On 1 March 2017, an NLA official said that the bill would be "sent back [to the Cabinet] for thorough consideration and should take into account opinions of all relevant parties, including the Interior Ministry, police, security agencies, soldiers, and the Attorney General."⁷³

On 10 March 2017, just ahead of Thailand's review by the United Nations (UN) Human Rights Committee (CCPR), the NLA approved the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). However, the government has yet to deposit the treaty with the UN Secretary General.⁷⁴

5. Recommendations

- Adopt a General Recommendation that protects women, especially WHRDs, from intimidation and harassment of all types to ensure their protection and safety.
- Call on the Thai government to ensure that authorities protect all WHRDs from harassment, threats, retaliation, and violence, both online and offline, by establishing an impartial, independent, civilian body tasked with investigating complaints filed against law enforcement officials, and ensuring perpetrators of such acts are brought to justice.

International Covenant on Civil and Political Rights, February 2017; Supreme Court Case No.7237/2558, 9 July 2015, Pinnapa Prueksapan, petitioner

⁶⁷ ICJ, *Thailand: launch special investigation into enforced disappearance of "Billy"*, 6 August 2015

⁶⁸ Post Today, *DSI Ended Investigation on Billy After No Further Evidence Found*, 1 February 2017, [In Thai] <http://www.posttoday.com/crime/478731>

⁶⁹ Bangkok Post, *NHRC pursues fight for 'Billy' with DSI*, 10 February 2017

⁷⁰ Prachatai, *DSI refuses to accept case of disappeared Karen activist*, 31 January 2017

⁷¹ UNOHCHR, *Press briefing notes on Thailand and Yemen*, 28 February 2017

⁷² ICJ/TLHR, *Submission of the International Commission of Jurists & Thai Lawyers for Human Rights to the Universal Periodic Review of Thailand*, September 2015

⁷³ BBC, *NLA clarifies UN's statement: 'disappointed' by Thailand sending back the draft Enforced Disappearance Bill*, 1 March 2017 [In Thai] <http://www.bbc.com/thai/thailand-39127371>

⁷⁴ HRW, *Thailand: Finalize Disappearances Convention*, 13 March 2017

- Call on the Thai Ministry of Justice to review and improve witness protection mechanisms for WHRDs and their accessibility, including the creation of safe houses.
- Call on the Thai government to adopt measures to prevent and address threats and attacks against rural WHRDs, with particular attention to those engaged on issues related to land and natural resources.
- Urge the Thai government to ensure that authorities at all levels in rural areas have the resources needed to respond to violence against rural WHRDs and to protect them against retaliation when reporting abuses.
- Urge the Thai government to establish frameworks to ensure that rural development and land policies are gender-responsible. Landless rural women should be given priority in the allocation of public land and forests. In addition, ensure that land acquisitions do not violate the rights of rural women or result in forced evictions. Free Prior Informed Consent (FPIC) of rural women should be obtained prior to the approval of any land acquisitions or project affecting rural communities and when such land acquisitions do occur rural women should be adequately compensated according to international standards.
- Urge the Thai government to ensure that public hearings in relation to development projects affecting local communities enable proper public participation, including open, collective, and participatory consultations with affected communities and community-based HRDs on the framework and the extent of remedies and compensations mechanism.
- Urge the Thai government to immediately conduct impartial, transparent, and independent investigations into all cases of extrajudicial killings of WHRDs and community activists, and prosecute those responsible and provide prompt, fair, and adequate compensation for victims and their families.
- Call on the Thai government to ensure that all WHRDs have access to justice, through legal aid, the provision of remedies for victims, and the accountability of the justice system, in line with the CEDAW's General Recommendation No. 33, and that WHRDs receive adequate compensation and other forms of reparation for human rights violations to which they are subjected.
- Urge the Thai government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and enact the necessary national legislation to implement its provisions.
- Urge the NLA to review the Prevention and Suppression of Torture and Enforced Disappearance Bill to ensure that it is in line with the UN Convention Against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) and the ICPPED.
- Urge the Thai government to release all WHRDs who have been imprisoned on grounds of their human rights work.
- Call on the Thai government to adhere to and implement the UN General Assembly's Resolution on Human Rights Defenders and the UN General Assembly's Resolution on the 'Promotion of 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: protecting women human rights defenders,' and maintain a safe and enabling environment for the defense of human rights in law and in practice.

- Call on the Thai government to cooperate fully with UN Special Procedures by responding to and acting on their urgent appeals and letters of allegations and invite the UN Special Rapporteur on the situation of human rights defenders and the Working Group on the issue of human rights and transnational corporations and other business enterprises to visit Thailand.
- Urge the Thai government to address the issue of violence against women, with impunity as a priority, and strengthen forensic investigation techniques, which must be guaranteed by independent and autonomous teams of experts, especially when state agents are involved in such violations.