



Joint submission by: Front Line Defenders – the International Foundation for the Protection of Human Rights Defenders and Protection International

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Front Line Defenders (www.frontlinedefenders.org) is an International Foundation for the Protection of Human Rights Defenders based in Ireland with special consultative status with the Economic and Social Council of the United Nations (ECOSOC). Founded in 2001, Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Protection International is an international, non-governmental organisation (NGO) that brings protection strategies and security management tools to human rights defenders (HRDs) at risk. Protection International envisions a world where human rights and fundamental freedoms are universally recognized and respected, and where everyone has the right to defend these rights and freedoms without fear of threats or attack.

The following submission has been prepared by Front Line Defenders and Protection International based on research carried out by these organisations and information received from independent human rights defenders in Thailand from October 2011 to September 2015.

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General trends facing HRDs

1. In the context of the ongoing political crisis since the 2014 coup d'état, defending human rights in Thailand brings about high risk of judicial harassment, arbitrary detention, physical violence and even killing. From the highest government level, including the Prime Minister and the National Council of Peace and Order (NCPO), to the local level, authorities show a determined will to control the work of HRDs and continue to subject them to repressive measures.

2. Martial law, which entered in force across the country two days prior to the coup¹, allows the military to ban all political protests and to detain anyone for up to seven days without providing evidence of wrongdoing or bringing formal charges. Scores of protesters and HRDs have been arrested and held at irregular places of detention, including permanent or temporary military bases. The temporary constitution promulgated in July 2014 by the junta and the consolidation of their repression indicate that the NCPO may remain in power for an extended period of time.

3. This report highlights the intensifying and constant risk, threats and intimidating environment that HRDs are facing in Thailand, especially within the context of militarisation, institutionalised impunity and lack of accountability on the part of the authorities, and the imposition of authoritarian rule by the NCPO. Particular focus will be put on the situation of community-based HRDs, women HRDs, and young HRDs.

4. **Judicial harassment**, which remains one of the most common tools to silence HRDs, has intensified since the enactment of new restrictive laws. The enactment of the NCPO Order 3/2558 and Article 44 of the Interim Constitution weakened the judiciary, subjugated the legislative to the executive and gave the NCPO absolute power, which further undermined possible recourse to legal remedies for HRDs. Article 44 enables every military officer of high rank to take any measures which he/she deems suitable to "maintain peace", authorising them to summon and detain suspects, confiscate personal belongings and enter premises without a warrant. The new Public Assembly Act, which came into force on 14 August 2015, severely restricts freedom of assembly and imposes high penalties, of up to 10-year prison terms, for offences such as causing a disturbance or disruption to public services.

5. In addition to the Public Assembly Act, the Computer Crime Act (2007) and criminal defamation (Article 326 of the Criminal Code) (defamation) have been repeatedly used by state and non-state actors to target HRDs. The arbitrary use of criminal defamation has a chilling effect on HRDs and civil society, encouraging self-censorship and unduly restricting freedom of expression.

6. There have been reports of armed men being hired to carry out physical attacks on HRDs, for example in the provinces of Loei and Phattalung and in the Khlong Sai Pattana community. The authorities have frequently failed to take action to protect HRDs who face risks at the hand of private actors. Police investigations into crimes committed against HRDs are frequently delayed or remain incomplete. As a result, those responsible for attacks, killings and acts of harassment against HRDs are rarely brought to justice, as in the case of the killing of members of the Southern Peasants' Federation of Thailand (SPFT) (see section VII below).

7. Furthermore, HRDs are openly **intimidated** by the state authorities. There are reports of HRDs being contacted by authorities and questioned about their activities. There are reports of surveillance, both physical and online, of HRDs being followed when attending public events or receiving unannounced visits at home by uniformed and plainclothes security agents. A number of **events**, including the launching of human rights situation reports, have been **disrupted** and public gatherings banned.

8. HRDs face recurrent public **smear campaigns** by representatives of high-level state authorities,

¹ On 1st April 2015, Martial Law was lifted in all but the provinces of the Deep South of Thailand and other areas along the Thai-Burma border. However all NCPO Orders still stand, and Article 44 confers absolute powers to the military executive, headed by former General Prayuth Chan-ocha.

who have publicly threatened HRDs. In February 2015, Prime Minister and head of the National Council for Peace and Order, Mr Prayut Chan-o-cha, threatened local journalists saying that he can “even arrest people to be executed”. In August 2015, the Governor of the Songkhla province, Mr Thamrong Charoenkul, stated that the authorities “have to arrest the NGOs leading the villagers’ opposition and shoot the lot of them and that will be the end to the problem.” He was referring to those NGOs working in the Save Andaman from Coal Network. In 2013, then-Deputy Prime Minister Plodprasop Suraswadi publicly said “Chiang Mai people also should not allow this garbage to mess around”, referring to the activities of environmental rights defenders in the Chiang Mai region.

Disruption of the activities of community-based HRDs

9. Authorities routinely attempt to disrupt the activities of community-based HRDs, from submitting petitions to state agencies to organising public information-sharing events or demonstrations. This is particularly the case in relation to activities opposing development projects, often on environmental or land-related grounds.

10. Environmental conservation groups from the Dongmoon area in Khon Kaen and Kalasin provinces have faced numerous incidents. They oppose an APICO (Korat) Co. Ltd. petroleum project on the basis of livelihood, environmental and health concerns. Their rights to peaceful assembly and participation in public affairs, as well as their rights to disseminate information and submit petitions to the authorities have been restricted. In February 2015, police and military officials escorted company trucks from a military camp through the village of Namoon, Khon Kaen province, over several weeks. Villagers, who were peacefully protesting, were blocked by soldiers and barred from the road to enable the transport of drilling material. During the Minister of Energy's visit to the petroleum project on 10 August 2015, there was a heavy security presence barring community-based HRDs from accessing the road, as they intended to submit a petition to the Minister. On 23 August 2015, police disrupted the screening of a Thai Public Broadcasting Service documentary, freely available on Youtube², by community-based HRDs in Khok Khrua subdistrict, Kalasin province. The documentary focussed on community opposition to the petroleum project.

11. Members of **Khon Rak Ban Haeng (KRBH) Conservation Group**, who are opposing a mining project in the Lampang province due to environmental concerns, have been subjected to continuous surveillance by the local authorities. On 17 August 2015, local military and police officials travelled to Ban Haeng village to prevent the villagers from submitting a petition to the Governor, which followed threats by the same authorities in previous days. Nonetheless, 80 members of the KRBH travelled 80km to Lampang city and submitted petitions to the provincial authorities regarding the effects of the mining project and requesting improvements to safeguard the livelihood of the people living in Ban Haeng village.

12. The **Khon Rak Ban Kerd (KRBK) Conservation Group**, created by residents of six villages in the sub-district affected by gold-mining activities in the Loei province, has faced numerous obstacles in exercising their rights. On 28 August 2015, Khaoluang Sub-district Administrative Council held a meeting, to which KRBK members were invited to participate. Police set-up three checkpoints on the way to the administration building, which were manned by approximately 300 police and army officers. 23 villagers were permitted to attend the meeting but were searched before entering council meeting room. Furthermore, local authorities placed further restrictions which affected advocacy activities planned by community-based HRDs, including a ban on using a sound system during public meetings.

13. On 11 September 2015, authorities in Udon Thani province sent a letter to Woman HRD (WHRD) HRD Ms **Manee Boonrawd** to inform the **Anurak Udon Thani** Conservation Group that a village ‘public hearing’ would be held inside a military camp, in what was believed to be an attempt

² ‘Open the Wound of Isan’s Petroleum’ Thai PBS documentary, available at: <https://www.youtube.com/watch?v=DtP9b8V2Grw>

to intimidate community members who wanted to participate in such meetings. On 15 September 2015, 20 community-based HRDs from the Anurak Udon gathered in front of Playa Suthorn Thamachada Military Camp. There were approximately sixty security agents in front of the military camp, and another 100-200 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.

14. **Dao Din** student group, which is comprised of nearly 20 members, aims to promote human rights-related laws among the public, through interaction with local communities and support for them in their struggle for the protection and realisation of economic and social rights. Since the coup d'état, the Dao Din has conducted many public demonstrations calling for an end to military rule and respect for community rights, and civil and political rights. Prominent members of the Dao Din group have faced continuous monitoring by authorities, questioning in military camps, and detention by order of a Military Court. When travelling to local communities in the Northeast, Isaan region, the Dao Din members face further persecution. On 28 August 2015, at a Khaoluang Subdistrict Council meeting, local authorities set up checkpoints, supposedly to look for 'weapons and students' amongst the meeting participants.

15. On 23 June 2015, members of student network **New Generation for Social Change** were preparing for a youth camp in Khaoluang subdistrict, Loei Province. Police officers requested to see the students' documents and asked about their connection to the Dao Din student group. Later, military officials arrived and explicitly banned the students from conducting activities in Khaoluang without prior permission. The military officers accompanied the students to the entrance of a military camp, before it was agreed the students would leave the area. On 29-30 August 2015, the same youth camp was finally held at Wat Nonsawang, after members of two previous venues, who were contacted to host the camp, were intimidated and pressured by military officers from the Srisongrak Provincial Military Camp, Loei province, to cancel the youth camp. On the second day of the camp, KRBK community-based HRDs supporting the event identified two plainclothes military officers monitoring the event very closely during the morning and early afternoon. In the evening, a military checkpoint was set-up at the exit of Khaoluang subdistrict, where the military officers were specifically searching private cars and mini-buses, reportedly looking for the youth camp organisers.

Physical surveillance, intimidation, threats and attacks

16. There are daily reports of close monitoring and surveillance by security authorities. Their disruption or attendance of events, often by plainclothes officers, also constitute a means of intimidation against HRDs. Close physical surveillance also affects cooperation between HRDs. Below is a selection of recent cases where military, police or political authorities have carried out surveillance, intimidation or threats of legal action against HRDs.

17. Anurak Udon Thani community-based HRDs face constant surveillance by military authorities. Coordinators of Anurak Udon Thani are contacted on an almost daily basis by middle-ranking military officers, asking for information on the Group's activities, plans and the community-based HRDs' opinions. Furthermore, plainclothes military officers regularly monitor the Group's meetings, which constitutes direct intimidation and illegitimate surveillance of internal meetings between community-based HRDs. On 13 September 2015, military officers visited, unannounced, the office of the Community Media Centre for Social Justice (CMCSJ), a community-based NGO working with Anurak Udon Thani. They questioned Mr **Decha Kambuamuang**, who is the coordinator of CMCSJ, and took copies of the ID cards of students volunteering with Mr Decha. On 16 September 2015, three uniformed military officers attended, uninvited, a meeting with university students and academics doing research in the communities where Anurak Udon Thani community-based HRDs work. The military made photocopies of IDs of all the students and academics.

18. On 11 November 2014, military and police officers interrupted a private meeting between Ms **Sor Rattanamane Polkla**, a human rights lawyer from the Community Resources Centre (CRC), and members of local communities in Udon Thani Province, North-Eastern Thailand. They were discussing a case related to the environmental impact of the construction of the Xayaburi

hydroelectric dam on the Lower Mekong River, which could result in the forced eviction of 202,000 people. The military observed the rest of the meeting and forced the lawyer to sign a letter obliging her to seek permission for further meetings.

19. Community-based WHRD and KRBH coordinator, Ms **Waewrin Buangern**, reports constant monitoring by local security authorities. Reportedly, every evening two plainclothes soldiers patrol Ban Haeng village, where she is based, to monitor her movements. Furthermore, she is regularly contacted by the authorities and asked about her whereabouts and her human rights activities, in particular any activities of the KRBH Conservation Group.

20. Ms Wanphen Kunna is a secondary school student at Srisongkhram School, Wangsaphung district, Loei province. As a Citizen Journalist she is shown in the documentary on *Hugbaanjaokhong* Youth Camp, which was broadcasted on Thai PBS channel on 1 September 2015. In the documentary, she showed to the camera the effects of the gold-mining operations of Tungkhum Co. Ltd (TKL) on Nam Huay River. Pollution caused by the mining operations prevent the villagers from using the water. Following the broadcast, TKL representatives and the head of the Phuthabpfa village called Ms Wanphen and her parents to meet in the house of the village headman. The TKL representative repeatedly suggested that she should file a police report to make her a witness in the case that company might file against those involved in documentary about the youth camp.

21. On 24 September 2014, a group of eight men, including two uniformed local policemen, one uniformed military officer, two individuals who are allegedly members of a local organised crime group and three unidentified men, arrived at the Khlong Sai Pattana Community, Chaiburi District, Surat Thani Province, which is a member of the **Southern Peasants' Federation of Thailand** (SPFT). The group of men warned the villagers to leave the area within seven days. Earlier, in November 2013, shots were fired at around the community area.

22. During the night of 29 December 2014, the house of HRD and leader of the People's Network to Protect Ton Sa Tor Watershed (PNPTSTW), Pattalung province, Mr **Suwit Jeh-Soh**, was attacked by unknown armed individuals. The attackers repeatedly shot at the front door of the HRD's house, while he, his wife and his two children were inside. The attack is believed to be related to his activities as a community leader. No progress has been made in the investigation into the attack.

23. On 15 May 2014, a group of approximately 300 unidentified armed men wearing black entered Nanongbong village, Khaoluang Sub-district, where many KRBK leaders reside. The armed men took about 40 villagers 'hostages', including two key leaders of the community. The villagers were held captive for about seven hours and finally released at about 4.30 am. They reported being assaulted and threatened. The investigation into this incident remains open and those responsible have yet to be identified and held accountable. The lack of response by State authorities to this attack sets a very alarming standard for the protection of community-based HRDs.

Arbitrary detention

24. Thai authorities have resorted to the arrest and temporary detention of HRDs, especially in connection to the organisation of protests, their opposition to the military regime or their assistance to communities affected by development projects.

25. Mr **Muhammad Yaki Salae**, Chairperson of the Justice for Peace Network (JOP), was arrested on 24 April 2015 at the Muang Yala Police Station, and brought to the Ingkhayuth Boriham Army Camp in Tambon Bor Thong, Nongchik District, Pattani, where he remained detained until his release on 7 May 2015. The authorities falsely claimed his involvement in the bomb attack in the city of Yala in March 2012. JOP is a network of HRDs aiming to strengthen non-violent efforts to empower local communities in the far south of Thailand, and to aid them in their struggle for the realisation of their human rights.

26. On the morning of 17 July 2014, HRD Mr **Prom Jarana** was arrested at his home in Pakam District by a group of Thai officials, including five police officers and five soldiers. He was held incommunicado in military custody, and released later that day. Earlier, on 12 July 2014, HRD Mr **Paiboon Soisot** was briefly detained at a local checkpoint. These incidents followed continuous intimidation and threats of eviction against the local community due to an ongoing land dispute between the Kaobart forest village community in Buriram province and various authorities (the Ministry of Natural Resources, the Royal Forestry Department and the Thai military). By March 2015, approximately 1,000 villagers from the six villages in Buriram province were evicted.

27. In February 2015, the President of the SPFT-sister organisation, Southern Peasants' Cooperative, Mr **Pianrat Boonrit**, was detained and held in incommunicado detention for two days. He was released on 5 February on condition that he would mediate between the army and the Premsub Community to urge the community to leave the area, which is an area disputed between the community and Thai Boonthong, an palm oil company. He was threatened and told that he would be detained again for seven days should he not fulfil this condition.

28. On 26 June 2015, **Neo-Democracy Movement (NDM)**, (a group of young HRDs who have staged a number of symbolic actions denouncing human rights violations and repression by the military junta), including seven Dao Din student HRDs³, were arrested by plainclothes and uniformed military and police officials. At midnight on 27 June, the Bangkok Military Court ordered to place those arrested in pre-trial detention as they were accused of sedition. On 7 July, the Court rejected the request to extend the pre-trial detention, and the detained HRDs were released on 8 July. However, the student activists still face sedition charges and separate charges of violating NCPO Article 3/2558 for staging peaceful activities in May and June 2015 to denounce the illegitimate rule of the military and suppression of human rights.

29. On 15 August 2015, another NDM member and HRD Mr **Songtham Kawepanpruk**, was arrested at Don Mueang International Airport upon his arrival from Kuala Lumpur, Malaysia. He and 13 other NDM members face charges of violating NCPO Order 3/2558 for organising demonstrations gathering more than 5 people on 22 May 2015 to commemorate the first anniversary of the coup d'état. Following Mr Kawepanpruk's arrest, the other 13 NDM members facing the same charge are also at risk of arrest and arbitrary detention. On 6 September 2015, the authorities contacted the family of NDM member and law student from Ramkhamhaeng University, Mr Pongnarin Nonkam, to ask about his activities.

Judicial harassment and criminalisation

30. Judicial harassment and criminalisation is a powerful tool employed to silence HRDs and prevent them from carrying out their legitimate work in monitoring and exposing HR violations, seeking remedies and promoting the realisation of human rights. Front Line Defenders and Protection International documented a number of cases of judicial harassment of HRDs, a selection of which is presented below.

31. Between 2011 and 2015, numerous legal cases were filed against KRBK community leaders by the gold mining company Tungkhum Co. Ltd (TKL), which operates a mine affecting six villages in Loei province. Prior to 2015, TKL filed nine lawsuits against 33 villagers on charges including trespassing and loss of property. In 2014 TKL filed a defamation suit in Phuket provincial court against Mr Surapan Rujichaiwat, and WHRD Ms. Porntip Hongchai, both members of coordination team of the KRBK. After negotiations in December 2014, mediated by the Provincial Army, TKL agreed to withdraw all legal cases against KRBK members if the KRBK would allow the company to transport gold ore out of the gold mine. TKL withdrew all but one case remaining at Public Prosecutor's Office.

³ Dao Din HRDs: Chatupat Boonyapatraks, Anuwat Suntarak, Payu Boonsopon, Panupong Srithananuwat, Suvicha Tipangkorn, Supachai Pukrongpoy and Wasant Satesit.

32. In 2015, TKL filed four additional cases against community-based HRDs from the KRBK. In one of the cases TKL accused Mr Surapan Rujichaiwat of violating the Computer Crimes Act and of defamation following a post on social media calling for an investigation into the activities of the TKL. On 20 August 2015, the Mae Sod Provincial Court accepted the charges and summoned Mr Surapan to present THB 50,000-100,000 for bail. The other legal cases is area criminal cases against local authority member for negligence of their official duty⁴, and one civil case against 6 KRBK leaders for placing a banner at the village entrance. These legal cases are believed to a means employed by TKL to harass community-based HRDs and pressure them to stop their work.

33. Prominent migrant and labour rights defender and researcher Mr **Andy Hall** faces charges in a criminal case regarding defamation and computer crimes, which was accepted by the Court in August 2015. Since 2013 pineapple processing company, Natural Fruit Company Ltd, has filed four complaints (two criminal and two civil) against the HRD, following the publication and dissemination of a report 'Cheap Has a High Price' by Finnish NGO Finnwatch, which he co-authored. One of two criminal cases for defamation and computer crimes was dismissed in October 2014, while two civil cases for defamation are still pending.

34. In December 2013, human rights journalists Mr **Alan Morrison** and Ms **Chutima Sidasathian** were accused of libel and violating the Computer Crime Act for publishing an article entitled "Thai Military Profiting from Trade and Boat people, Says Special Report", which was published on Phuketwan website on 17 July 2013. If found guilty of this charge, they could have faced up to five years' imprisonment. However, on 1 September 2015, the provincial court in southern Thailand dismissed the charges.

35. The use of the Computer Crimes Act and defamation suits against HRDs is alarming as they prevent HRDs from investigating and reporting on human rights violations. Significantly, challenges in accessing adequate legal support in cases related to the Computer Crimes Act puts community-based HRDs at higher risk of prosecution in connection to their use social media and the Internet for public advocacy.

36. HRD and board member of Amnesty International Thailand, Mr **Baramee Chairat** is currently accused of sedition after showing support for fourteen student activists who were detained for staging peaceful protests against military rule and forced evictions of rural communities in north-eastern Thailand. Mr Chairat faces charges under Article 116 of the Criminal Code, and risks up to seven years' imprisonment.

37. On 26 November 2014, the Appeal Court dismissed charges against ten HRDs⁵, who were originally given suspended sentences of up to 2 years in prison. Previously, on March 2013, the Criminal Court had accepted serious criminal charges against them relating to national security, public peace, and trespassing with use of force arising from leading and participating in a peaceful demonstration. The protest challenged the attempt by the military appointed National Legislative Assembly (NLA) to pass a number of controversial laws in December 2007.

⁴ The case, filed at the Loei Provincial Court on 6th February 2015, accuses Mr. Samai of failing in his duties by not including Tungkhum Co. Ltd.'s request to extend its mining concession on the Khao Luang Sub- District Administrative Council's agenda in December 2012. Mr. Samai is Chairperson of the Khao Luang Sub-District Administrative Council, and member of the KRBK group.

⁵ The ten HRDs are Mr Jon Ungphakorn, former Chairperson of the NGO-Coordinating Committee on Development (NGO-COD); Mr Sawit Keaw-wan, leader of the Confederation of State Enterprise Labour Union; Mr Sirichai Maingam, member of the Labour Union of Electricity Generating Authority of Thailand; Mr Pichit Chaimongkol, member of Campaign for Popular Democracy (CPD); Mr Anirut Khaosanit, member of Council of People's Organisations Network of Thailand; Mr Nasser Yeemha, member of Friends of the People (FOP); Mr Amnat Palamee, leader of the Confederation of State Enterprise Labour Union; Mr Pairoj Polpetch, Secretary-General of Union for Civil Liberty (UCL); Ms Saree Ongsomwang, member of Consumer's Rights Network, and Ms Supinya Klangnarong, former Secretary-General of the Campaign for Popular Media Reform (CPMR).

38. In 2009 HRDs Ms **Jittra Kotchadej**, Ms **Boonrod Paiwong**, and Mr **Soonthorn Boonyord** were accused of violating Section 215 and 216⁶ of the Criminal Code for leading and organising a peaceful demonstration in front of the parliament in Bangkok. The demonstration demanded that the government find remedy for 2,000 workers from Triumph International factories who were dismissed in 2009. Following four years of court proceedings, the Criminal Court finally acquitted the accused of all charges in July 2013.

39. The authorities continued to pursue WHRD Ms Jittra Kotchadej in separate proceedings. On 1 June 2014, NCPO issued an order to summon Ms Kotchadej to report to the police. She could not comply with the order as she was abroad. On 8 June 2014, the Military Court issued an arrest warrant against her accusing her of violating NCPO's order No.41/2014, for not complying with the NCPO's summon order. Upon arrival at Suvarnabhumi airport on 13 June, Ms Kotchadej was arrested by Immigration Police. She was detained overnight in Bangkok by the Crime Suppression Division and temporarily released on bail following payment of THB20,000. The charges against her are still pending before the Military Court. The bail was granted on condition that "she will not participate in political gathering to cause unrest in the country and she will not comment verbally, writing or any other means to create disorder or insubordination among the people. "

40. The use of military courts, national security legislation, and NCPO Orders to persecute HRDs constitutes a serious breach of Thailand's obligations to ensure the independence of the judiciary, access to justice, and the protection of the human rights.

Enforced disappearance

41. HRD Mr Por Cha Lee Rakchongcharoen, known as "Billy," has been missing since 17 April 2014. He left his village Pa Deng on 15 April 2014. The local authorities stated that on 17 April 2014 Mr Rakchongcharoen was temporarily arrested on charges of illegal possession of wild honey⁷, but was allegedly released shortly afterwards. However, he has not been seen since. At the time of his disappearance, he was assisting ethnic Karen villagers to file a lawsuit against the authorities in relation to the destruction of the homes of 20 families in Kaeng Krachan National Park in 2011. To date no progress has been made in the investigation of his disappearance. On 1 September 2015, the Supreme Court of Thailand dismissed the petition to hold an emergency trial to find the disappeared HRD. The petition was filed by his wife Pinnapa Prueksaphan, after two courts of lower instance also dismissed her request. Two years previously, HRD and associate of Rakchongcharoen, Mr Tassanakamol Aobeom, was killed on 10 September 2011.

42. WHRD Ms Waewrin Buangern has been threatened with enforced disappearance when the KRBH Conservation Group that she coordinates joined the Walk for Land Reform, on 9 November 2014 in Chiang Mai. On 11 November 2014, Ms Waewrin was summoned for attitude adjustment at Patoupah Special Military Training Facility, which she attended with another 10 villagers. During the attitude adjustment session, Ms Waewrin was reportedly told by a high-ranking military officer, "You know we can make anyone disappear."

43. Most recently on 12 September 2015, the SPFT Steering Committee reported receiving information that a "land rights leader" would be kidnapped. This information constitutes a threat of enforced disappearance against leading community-based HRDs of the SPFT who have already been targeted by local authorities and the media to discredit their HRD work.

44. While no kidnapping has occurred at the time of finalisation of this submission (20.09.2015), at the very least this information appear to constitute an attempt to intimidate SPFT. The lack of legal provisions under Thai law to ensure justice is brought in cases of enforced disappearance has created a culture of impunity, and enabled those responsible for enforced disappearance to avoid

⁶ Offence of committing or attempting to commit an act of violence during public gathering and offence of refusal to follow an official order in case of threat of breach of public peace, respectively.

⁷ Billy was detained for the illegal possession of wild honey upon exiting the National park. Honey is considered a valuable natural resource and its transportation outside Kaeng Krachan falls under strict control.

prosecution. During its UPR in 2011, Thailand made several commitments aimed at addressing enforced disappearances. The government promised to become a party to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and signed the ICPPED in January 2012. However, no visible progress has been made towards ratifying the treaty.

Killings of HRDs

45. On 28 July 2011, HRD and environmentalist Mr **Thongnak Sawekjinda** was shot dead at his home in Muang District, Samutsakorn Province. Thongnak Sawekjinda, along with twelve other prominent HRDs and community leaders, was involved in publicising both the environmental and health risks associated with coal mining factories operating in the Tambon Thasai community. It is believed that his murder is related to his human rights work, in particular to the complaint he had lodged with the court concerning violations of the rights of the Tambon Thasai community by five coal mining factories. To date, the investigation has not produced any results, while one of the suspects was killed in 2012.

46. On 19 November 2012, two members of the SPFT Ms **Montha Chukaew** and Ms **Pranee Boonrat** were shot dead while they were on their way to a local market. Those responsible for the killing have not been brought to justice. Furthermore, no effective protection measures have been taken by local authorities to respond to the direct threat against other SPFT Khlong Sai Pattana community members.

47. On 11 February 2015, another SPFT member, Mr **Chai Bunthonglek** was shot and killed at his home in SPFT Khlong Sai Pattana community, Chaiburi District, Surat Thani Province, by an unknown man. Three suspects were identified. However, the Public Prosecutor filed charges against one person only, the alleged driver, on the basis that there was sufficient evidence to bring charges against the other two suspects. Furthermore, the authorities have not yet granted protection for the family of the murdered HRD and refused to grant protection for members of SPFT, who applied for witness protection for the period of the investigation. This put the HRDs at serious risk. The lack of an effective investigation shows a perpetuation of the climate of impunity and insecurity, which has led to the killing of four SPFT HRDs, and another 9 individuals as a result of land conflicts in Chaiburi District, Surat Thani province.

Institutional protection mechanisms for HRDs

48. The mechanisms for the protection of HRDs at national level remain weak and ineffective. The National Human Rights Commission have often failed to address serious human rights violations in a timely manner and continues to lack the institutional guarantees to be an effective national human rights mechanism capable of providing protection and redress to HRDs. Furthermore, the NHRCT does not have the power to take up cases on behalf of communities.

49. State institutions, such as the Department of Special Investigation and Witness Protection Office, set up by the Witness Protection Act 2003, fail to take necessary actions to protect HRDs and to investigate attacks against them. The weakness of the witness protection mechanism has contributed to the increasing the vulnerability of those who speak out against human rights abuses.

50. In October 2014, the Ministry of Justice set up a Working Group to develop measures for the protection of HRDs at risk. However, no results were presented to date. Another project, established in 2006 and run by the Rights and Liberties Protection Department of the Ministry of Justice, the Justice Fund, is mandated to provide financial assistance during legal proceedings. The Fund granted assistance to just 20% of those who were eligible, as the bureaucratic process to apply makes it very difficult to access. Mr Surapan Rujichaiwat applied for support from the Justice Fund to pay for his bail in the 2014 defamation case against him. However, his application was rejected. In 2015 Mr Surapan had to negotiate long with Loei provincial officials of the Ministry

of Justice before he could be allowed to apply for support in the defamation and Computer Crimes Act case against him.

Development since the previous UPR Cycle

51. During its previous UPR in 2011, Thailand accepted 134 of the 172 recommendations made, most of which refers to Thailand's obligations under the seven core human rights conventions it is a party to.

52. Thailand accepted recommendations on the strengthening of the rule of law and the protection of vulnerable groups. However, since the coup in 2014 the rule of law has been weakened and new repressive laws have been introduced, which limit internationally recognised rights and broaden the power of the Prime Minister and NCPO.

53. Thailand expressed its commitment in the last UPR to ensure the independence and impartiality of the judiciary. However, courts across the country have continued to hold trials that are not in accordance with accepted international norms of due process. This is particularly evident in cases of criminal prosecutions of HRDs.

Recommendations

54. Front Line Defenders and Protection International call upon the member states of the UN Human Rights Council to urge the Thai government to prioritise the protection of HRDs and in doing so to:

- i. Stop trials of civilians in military court and further call on Thailand's judicial authorities to not take up cases against HRDs who speak out and address the public interest issues, thus ensuring that all HRDs in Thailand are able to carry out their legitimate human rights activities free from arbitrary arrest and judicial harassment;
- ii. Immediately release all HRDs held in pre-trial detention as a result of their peaceful and legitimate human rights work and drop the charges against them;
- iii. Cease the persecution and the surveillance and all other forms of harassment and intimidations of HRDs;
- iv. Review and quash the conviction of, and release, all HRDs who have been sentenced on grounds of their human rights work and who remain in detention;
- v. Suspend the reform on natural resource management legislation, such as the Mining Bill, until democratic and representative legislative structures have been elected, and participatory mechanisms for community and civil society input have been established;
- vi. Ensure that community-based HRDs have effective access, on a non-discriminatory basis, to meaningful participation in the government of Thailand and in the conduct of public affairs, as provided by Article 8 UN Declaration on HRDs;
- vii. Stop the current practice of public hearings in relation to development projects affecting local communities since, as implemented, they do not enable a 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;
- viii. Combat impunity for violations committed against HRDs by ensuring that investigations are conducted promptly and impartially, and the perpetrators are held accountable, victims

obtain appropriate remedies, and authorities further implement the preventive measures to ensure that violation do not happen;

- ix. Accept the recommendations on HRDs that will be made in the course of the UPR, and consider how best to implement them in a transparent and participatory manner, including through working in partnership with HRDs;
- x. Publicly recognise the positive and legitimate role played by HRDs in society;
- xi. Ensure full respect of the International Covenant on Civil and Political Rights, the international covenant on Economic, Social and cultural rights and the UN Declaration on HRDs;
- xii. Cooperate fully with UN Special Procedures, including the Special Rapporteur on the situation of HRDs, by responding to their urgent appeals and letters of allegations and accept the mandate holders' outstanding request to visit the country.