

URGENT ACTION

ACTIVISTS COULD BE CHARGED FOR EXPOSING TORTURE

A decision by the Public Prosecutor on whether to prosecute three human rights defenders on criminal defamation and computer crimes in connection with their online documentation of torture in Thailand is expected imminently. The charges carry a maximum penalty of seven years' imprisonment plus fines of up to 300,000 baht (US \$8,330). The group are to report to Pattani Police Station on 21 February 2017.

The Prosecutor is expected to imminently decide whether to press charges against activists **Somchai Homla-or**, **Pornpen Khongkachonkiet**, and **Anchana Heemmina**, who are accused of criminal defamation and computer crimes for their documentation, and online publication, of allegations of torture by the Royal Thai Police and Royal Thai Army in Thailand's southern provinces. Officials from Pattani Police Station have summoned the activists to the station on 21 February, and rejected the group's request to examine additional witnesses from a list provided by the accused. The police have reportedly concluded their investigation. They are expected to bring the group to the Office of the State Prosecutor and recommend prosecution.

Somchai Homla-or, Pornpen Khongkachonkiet and Anchana Heemmina are members of the Cross Cultural Foundation and Duay Jai (Hearty Support) group. In January 2016 they published a report describing 54 cases of alleged torture by the Royal Thai Police and Royal Thai Army which they then presented to the Internal Security Operations Command (ISOC) Region 4, the army unit responsible for national security operations in Thailand's southern provinces. The report was published online in February 2016. On 17 May 2016, an officer from ISOC Region 4 filed a complaint against the three activists for criminal defamation and violating the Computer Crimes Act of 2007. To justify the complaint, ISOC claimed that the reputation of the army was damaged by the allegations and that the activists had not cooperated with authorities to provide more information on the cases raised in the report.

Cross Cultural Foundation and Duay Jai group are non-governmental organizations that operate in Thailand's southern provinces where soldiers have systematically tortured individuals in connection to counter-insurgency operations. Torture has often been reported by those detained without charge or trial under emergency legislation.

Please write immediately in Thai, English or your own language urging authorities to:

- Not prosecute Somchai Homla-or, Pornpen Khongkachonkiet and Anchana Heemmina;
- Withdraw its complaints of criminal defamation and computer crimes against Somchai Homla-or, Pornpen Khongkachonkiet and Anchana Heemmina;
- Amend the Penal Code to remove criminal penalties for defamation.

PLEASE SEND APPEALS BEFORE 30 MARCH 2017 TO:

Deputy Commissioner General

Sakron Thongmune
Provincial Police Region 9,
Lang Praram Rd,
Bo Yang, Mueang Songkhla,
Songkhla, 90000, Thailand
Fax: +66 7431 2005, +66 7431 2819

**Salutation: Dear Deputy Commissioner
General**

Provincial Chief Public Prosecutor

Soontom Saengkunakup
Office of Provincial Public Prosecution
Pattani, Nhong Jik, Sabarung, Mueang,
Pattani, 94000, Thailand
Fax: +66 7333 2042
E-mail: ptani@ago.go.th

**Salutation: Dear Provincial Chief Public
Prosecutor**

And copies to:

Director of the Internal Security
Operations Command Region 4
Lt. Gen. Piyawat Nakwanich
Sirinthon Army Camp, Yarang district
Pattani Province, Thailand 94160
Fax: +66 73262 583
E-mail: isoc4hr@gmail.com

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation Please check with your section office if sending appeals after the above date.

This is the first update of UA 145/16. Further information: <https://www.amnesty.org/en/documents/asa39/4292/2016/en/>

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ADDITIONAL INFORMATION

Immediately after the report "Torture and ill treatment in The Deep South Documented in 2014-2015" was made public in February 2016, an army spokesman alleged that the publishers, Duay Jai Group, Cross-Cultural Foundation and the Patani Human Rights Organization had fabricated the accounts of torture in order to obtain foreign funding. The spokesman questioned the legitimacy of their investigation of official activities and threatened that they could be liable for defamation.

Somchai Homla-or is the senior advisor and former President of the Cross-Cultural Foundation, an organisation documenting abuses in the administration of justice and seeking consequent legal redress. Pornpen Khongkachonkiet is the Director of the Cross-Cultural Foundation and also the Chair of Amnesty International Thailand. Anchana Heemmina, a former businesswoman, is the director of the Duay Jai (Hearty Support) group. She established the group to provide legal support to the families of suspects in security cases in Thailand's southern provinces.

This is the second time that the Royal Thai Army has filed a complaint of criminal defamation against Somchai Homla-or and Pornpen Khongkachonkiet in connection with their work on torture. They were both summoned by police in August 2014 after the Royal Thai Army accused them of damaging the reputation of the Royal Thai Army in an open letter they wrote in late April 2014 requesting a criminal investigation be conducted into the allegations of torture. Charges were dropped in September 2015 after the Public Prosecutor issued an order for them not to be prosecuted.

The three activists have been required to report to Pattani Muang Police Station in Southern Thailand twice since July 2016 in order to provide information in relation to the defamation complaint against them. Their next visit will be on 21 February.

Growing numbers of human rights defenders in Thailand are facing criminal defamation charges for their legitimate activities to defend rights and seek redress for survivors. Authorities have also been quick to summarily dismiss allegations of torture, suggesting that they are being made solely to discredit authorities or for personal gain. In September 2016, Amnesty International cancelled a planned press conference to launch its report on torture after authorities threatened to arrest speakers if the scheduled event went ahead.

The use of criminal defamation charges violates Thailand's obligation to uphold the right to freedom of expression under the International Covenant on Civil and Political Rights (ICCPR) to which it is party. The UN Human Rights Committee has encouraged states to consider decriminalizing defamation and underlined that defamation laws must be crafted with care to ensure that they comply with states' international human rights obligations and do not in practice stifle freedom of expression; a public interest in the subject matter of the criticism should be recognised as a defence, and states should take care to avoid excessively punitive penalties.

Name: Pornpen Khongkachonkiet (f), Somchai Homla-Or (m) and Anchana Heemmina (f)
Gender m/f: both

Further Information on UA 145/16 Index: ASA 39/5687/2017 Issue Date: 16 February 2017