

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# THAILAND: OPPOSE DEFAMATION CHARGES AGAINST HUMAN RIGHTS DEFENDERS FOR EXPOSING LABOUR ABUSES

Amnesty International calls on the Thai authorities to oppose defamation and other charges brought by Thammakaset Company Limited against two human rights defenders and activists who stood trial at the Ratchada Criminal Court from 18 to 21 February 2020. The company has brought a slew of lawsuits targeting a broad range of defendants—including the company's former employees, activists, human rights defenders, an academic and a journalist—which appear to be in retaliation for their reporting and comments on labour abuses at the company's chicken farms, and amount to harassment through the courts. The Thai government must guarantee the protection of individuals who exercise their right to freedom of expression, while creating an enabling environment in which activists and journalists can continue human rights work without reprisals and harassment.

Amnesty International requests the government to oppose the imposition of charges against them, and the court to dismiss the case. In addition, the organization urges the government to decriminalize defamation, in line with recommendations by UN human rights bodies.

On 8 October 2018, Thammakaset Co. Ltd – a poultry company in Lopburi province, central Thailand – filed criminal defamation charges against Nan Win, a labour rights activist and former employee, under Articles 326 and 328 of the Thai Criminal Code. Nan Win was alleged to have damaged the company's reputation for having given interviews about work conditions at the company's chicken farms at a press conference, and in a short video produced by Fortify Rights, a human rights organization. Four days later, the company filed the same charges against Sutharee Wannasiri, a human rights defender and researcher, for having commented and shared the video on her Twitter account a year earlier. As the Ratchada Criminal Court examined witnesses in these combined cases from 18 to 21 February 2020, Nan Win faces a maximum of four years' imprisonment and a 400,000 Thai Baht fine (approx. USD 12,800), while Sutharee faces six years' imprisonment and a 600,000 Thai Baht fine (approx. USD 19,250).

The short campaigning video in question features 14 migrant workers and former company employees' accounts of labour rights abuses, and describes the criminal defamation suits that Thammakaset filed against them.

Nan Win faces a separate criminal suit brought by Thammakaset. The company accused him of submitting "false testimony to the Court" under Article 177 of the Thai Criminal Code, a crime that could result in a maximum penalty of five years in prison and a 10,000 Thai Baht fine (approx. USD 320). The Saraburi Provincial Court, in central Thailand, has scheduled witness testimony from 11 to 13 March 2020.

Previously, Sutharee faced a separate civil defamation complaint brought by Thammakaset in October 2018. The company accused her of damaging its reputation through tweeting comments of the campaign video dated 4 October 2017. Thammakaset demanded that Sutharee pay 5,000,000 Thai Baht (approx. USD 160,420) in compensation and issue a public apology in four national newspapers, and on her Twitter handle for at least 30 days. Following mediation by the court, Thammakaset agreed to drop the civil defamation complaints against Sutharee as long as Sutharee stated that she regretted if the information in Fortify Rights' video was misleading and potentially damaging to the company's reputation.

## BACKGROUND

In 2016, 14 Thammakaset employees reported abusive work conditions to Thai authorities. In response, the company has subjected a spate of individuals – who reported or commented on the working conditions, in the video mentioned above, and dozens of prosecutions against them – to apparently retributive criminal and civil proceedings, including criminal defamation and computer crimes charges. The labour rights complaint raised by these employees – which included being paid less than the minimum wage, not being paid overtime, not been allowed adequate rest time and holidays, and facing the confiscation of their identity documents – was upheld through several orders of the Thai courts.

While the Don Mueang District Court acquitted the charges against the 14 migrant workers – ruling that the workers filed their labour abuse complaints to government bodies including the National Human Rights Commission of Thailand (NHRCT) in good faith – Thammakaset continues to file new lawsuits involving civil and criminal defamation charges. Since 2016, the company has filed at least 31 lawsuits against 21 individuals, including former employees, activists, human rights defenders, an academic and a journalist.

Most recently, in late 2019, the company accused Angkhana Neelapaijit – a former human rights commissioner – of criminal defamation under Articles 326 and 328 of the Criminal Code. The complaint is based on her tweets in support of women human rights defenders who have faced lawsuits filed by Thammakaset. On 6 December 2019, Puttanee Kangkun, a human rights researcher at Fortify Rights, was also charged with the same offences for 14 social media posts on Facebook and Twitter. Both defendants are scheduled to appear at preliminary hearings on 24 February and 2 March, respectively.

In addition, Thammakaset filed a complaint against Suchanee Cloitre – TV reporter and journalist – under the same provisions on 1 March 2019. The defamation charges stem from her tweet, made on 14 September 2017, about the company's alleged labour abuses. On 24 December 2019, the Lopburi Provincial Court in central Thailand found Suchanee guilty of all charges and sentenced her to two years in prison without suspension, even though this was her first conviction of any crime. Suchanee is appealing the decision to the Court of Appeal.

Amnesty International is concerned that these criminal proceedings threaten the protection of labour rights in Thailand because of their severe chilling effect on individuals – including those from vulnerable groups such as migrant workers – who report labour and other human rights violations. Under Thai law, migrant workers – who make up more than 10% of the Thai work force – may not form their own trade unions, and in practice the support of other rights defenders and advocacy groups has played a role in helping report and prevent abusive working conditions. We request that the Thai government act to support human rights defenders' work to highlight and prevent violations in the workplace, and protect human rights defenders from reprisals and retaliation, including prosecution for peacefully exercising their rights to report violations. The Thai government has an obligation to protect individuals from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression as set out above. This obligation is further affirmed by the United Nations Guiding Principles on Business and Human Rights.

Criminal defamation laws pose an active threat to human rights defenders seeking to report publicly on human rights violations and abuses – with publicity often being a necessary tool to trigger moves for redress and remedies in an environment which many violations and abuses have gone unpunished or not even investigated. The Working Group on Business and Human Rights has called on the Thai government to “ensure that defamation cases are not used by businesses as a tool to undermine legitimate rights and freedoms of affected rights holders, civil society organizations and human rights defenders.” They also have urged the government to enact “anti-SLAPP legislation to ensure that human rights defenders are not subjected to civil liability for their activities”

While the government has acknowledged that human rights defenders should not be penalized, and courts have dismissed or acquitted cases on this basis, the existence of criminal defamation laws continues to restrict human rights and undermine the activities of human rights defenders including by tying them up in lengthy and costly criminal proceedings which last years, regardless of the outcome. Authorities must effectively implement laws at their disposal, including Articles 161/1 and 165/2 of the Criminal Procedure Code, which allow courts to dismiss and forbid the refiling of a complaint by a private individual if the complaint is filed “in bad faith or with misrepresentation of facts in order to harass or take advantage of a defendant” and allow for defendants to request the dismissal of cases without merit, to ensure that human rights work is protected and promoted.

Amnesty International further calls on members of the international community to publicly speak out against human rights violations and abuses in Thailand, and to call on the government to provide effective protection to activists and human rights defenders to guarantee human rights reforms and accountability for violations and abuses.