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Thailand: Immediately withdraw criminal defamation complaint against human rights defender

The Thai Government and the Thai army should immediately stop their abusive resort to criminal defamation laws to silence human rights defenders, said the International Commission of Jurists (ICJ), Human Rights Watch, and Amnesty International today.

On 20 May 2014, the Thai army lodged a criminal complaint against Thai human rights defender Pornpen Khongkachonkiet and her organization Cross Cultural Foundation (CrCF) for “damaging the reputation” of Taharn Pran Paramilitary Unit 41, stationed in Thailand’s deep South, Yala province, by requesting an investigation into an allegation of physical assault.

The ICJ, Human Rights Watch and Amnesty International are calling for the immediate withdrawal of the complaint.

The complaint arises out of an open letter that Pornpen Khongkachonkiet wrote on 2 May 2014 to the Commander of Internal Operations Security Command (ISOC) in Region 4, responsible for Thailand’s southern border provinces. In the letter, she requested an investigation into allegations that military personnel had seriously beaten a man while arresting him in April 2014. She asserted that if the allegations were true, it would be a violation of Thai law and the Convention against Torture, to which Thailand is a party.

On 8 May 2014, ISOC, the Royal Thai Police, Taharn Pran Paramilitary Unit 41, and others including the doctor who examined the victim of the alleged assault, issued a press release, stating that an investigation had been carried out which had found that the allegation of assault was untrue. The press release went on to say that CrCF should be responsible for intentionally distorting the truth and spreading false statements to the public.

This case is the second instance in the past 12 months of the Thai armed forces misusing the criminal justice system to intimidate human rights defenders working to monitor and document human rights violations. In December 2013, the Royal Thai Navy lodged a criminal complaint against the editors of a Thai news website, Phuketwan, accusing them of criminal defamation and of violating Thailand’s Computer Crimes Act (CCA) for reproducing portions of a Pulitzer Prize-winning article written by the Reuters news agency concerning the alleged smuggling and trafficking of Rohingya people, an ethnic minority group in Myanmar facing systemic discrimination and violence.

The criminal complaint against Pornpen Khongkachonkiet and CrCF constitutes an attack on their work as human rights defenders and poses a serious threat to the exercise of their right to freedom of expression.

In addition, the criminal complaint undermines the right of the victim of the alleged ill-treatment to a prompt, independent and impartial investigation into his case, without intimidation, as guaranteed under international law, including human rights treaties to which Thailand is party.

CrCF is a non-profit, non-governmental, foundation founded in 2002 that has dedicated significant resources to the deep South of Thailand since 2004, including by monitoring and documenting allegations of torture and other ill-treatment, and other serious human rights violations. Pornpen Khongkachonkiet is also a member of the board of Amnesty International Thailand.

ICJ, Human Rights Watch and Amnesty International said that the authorities in Thailand have an obligation to ensure that all persons and organizations engaged in the protection and promotion of human rights are able to work in a safe and enabling environment.

Background

The right to file complaints about torture and other ill-treatment and to have the complaint promptly and impartially investigated is guaranteed under international treaties to which Thailand is party, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights (ICCPR).

Thailand was criticized in May 2014 for its failure to respect this right when the United Nations Committee Against Torture expressed its concern “at the numerous and consistent allegations of serious acts of reprisals and threats against human rights defenders, journalists, community leaders and their relatives, including verbal and physical attacks, enforced disappearances and extrajudicial killings, as well as by the lack of information provided on any investigations into such allegations.”

The Committee recommended that Thailand “should take all the necessary measures to: (a) put an immediate halt to harassment and attacks against human rights defenders, journalists and community leaders; and (b) systematically investigate all reported instances of intimidation, harassment and attacks with a view to prosecuting and punishing perpetrators, and guarantee effective remedies to victims and their families.”

Furthermore, Article 1 of the UN Declaration on Human Rights Defenders, which articulates universal standards for the protection of those working to protect human rights, affirms that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”

The ICCPR guarantees under Article 19 the right to freedom of expression, which includes the right to impart information. The UN Human Rights Committee, which monitors state compliance with the ICCPR, has expressed its concern at the misuse of defamation laws to criminalize freedom of expression and has said that such laws should never be used when expression is made without malice and in the public interest.

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