



Thailand: Stop Judicial Harassment of Human Rights Defenders ***Strengthen protection mechanisms and ensure accountability for human rights abuses***

(Bangkok, 9 May 2016)—We, the undersigned organizations and community-based networks, urge the Thai authorities and several mining companies to drop legal proceedings against community-based human rights defenders and call on Thai authorities to strengthen mechanisms to protect human rights defenders and ensure accountability for human rights abuses.

Throughout Thailand, we have documented a worrying trend of defamation and other-related criminal and civil charges being brought against human rights defenders. Community-based activists engaged in protests and expressing concern about negative health, social, and environmental impacts potentially related to industries operating in their localities are particularly at risk of facing charges.

Human rights defenders in Thailand have faced criminal defamation lawsuits under articles 326, 327, and 328 of the Thai Criminal Code with sentences ranging from one to two years' imprisonment or fines. Defendants have also been charged under article 14 of the Computer Crimes Act, which carries a maximum sentence of five years' imprisonment.

Charges of criminal defamation by Thai authorities and businesses operating in Thailand have been in response to legitimate activities of human rights defenders.

For example, Tungkom Ltd., a Thai gold mine company operating in Loei Province, has brought at least 19 criminal and civil lawsuits against 33 members of the Khon Rak Ban Kerd Group (KRBKG) and other villagers, including a 15-year-old girl, in the past seven years. KRBKG is a community-based group committed to defending the local environment from negative impacts of the gold mine in Loei Province. Through these lawsuits, the company has sought 320 million Thai Baht (US\$9.1 million) from villagers in Loei. As of today, eight criminal and civil cases involving at least 25 villagers are pending.

Villagers in Loei have also faced threats and violent attacks from state and non-state actors. During the evening of 15 May 2014, at least 100 unidentified men in black masks assaulted and held captive more than a dozen villagers including men and women and leaders of the KRBKG while trucks transported material out of the mine site and village. Of the hundred or so men who attacked the villagers, the public prosecutor has charged only two people—a retired Royal Thai Army officer and his son—for this incident. Members of KRBKG have joined as joint plaintiffs on this case and are demanding compensation. The Loei Provincial Court is expected to deliver its verdict on 16 May 2016.

More recently, in March 2016, the Akara Resources Public Company Limited, a Thai gold mining subsidiary of the Australian firm Kingsgate Consolidated Limited, filed complaints of criminal defamation under Thailand's Criminal Code and the Computer Crime Act against two human rights defenders involved in opposing the company's mining operations in Pichit Province. A pre-trial hearing court is scheduled in June 2016, which relates to alleged negative Facebook postings about

the company. Earlier criminal defamation suits brought by the company in 2013 against two activists from the same community were recently dismissed.

Trials are also still pending for 23 members of the Khao Lao Yai and Pha Jun Dai Community Forest Conservation Group—a community-based network opposing the limestone quarry in Nong Bua Lam Phu Province. The police brought criminal charges against the group members after the mining company alleged that the group used false information to charge a person in court. Between 1993 and 1999, four members of this community group were shot dead. There remains no accountability for these deaths.

Human rights defenders have also faced criminal defamation complaints brought by Thai authorities. For example, in 2012, and 2015, Thai authorities in Ngao District of Lampang Province filed criminal defamation complaints against members of Rak Ban Haeng Group (RBHG), a community-based group involved in protesting the lignite-mining operations of Kheow Lueng Company Ltd. The charges in the 2012 case stemmed from a demonstration in front of Lampang Provincial Hall, and the case was withdrawn following negotiations with the plaintiff. The more recent 2015 charges relate to a banner displayed by RBHG members at a meeting allegedly defaming Thai officials. The case is scheduled to proceed on 25 May 2016.

These are merely some examples of lawsuits brought against human rights defenders who exercised their right to freedom of expression and which have resulted in the effective interference of their legitimate activities. The fight against charges can impose significant time and financial demands on human rights defenders and affected communities. Meanwhile, access to assistance, including legal support, money for bail, and transportation costs to attend trials and wage a proper defense, is limited.

In some cases, the courts have taken positive actions to protect the rights of community-based activists and human rights defenders. For example, on 21 August 2013, Thailand's Songkhla Provincial Court delivered a verdict ordering Peerapol Mining Co. Ltd., a Thai quarry-mining company operating in Songkhla Province, to pay nine members of the Khao Khuha Community Rights Network (KKCRN) 60,000 Thai Baht each (US\$ 1,700) in compensation. The court ordered the compensation in a counter civil defamation suit brought by KKCRN after the company filed unwarranted civil defamation charges against KKCRN members in June 2011 demanding 64 million Thai Baht (US\$ 1.8 million) from KKCRN members. The company later dropped the charges in August 2012.

The right to freedom of expression is protected under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party. On 17 December 2015, Thailand also joined 126 other states at the UN General Assembly in adopting General Assembly Resolution 70/161, which recognizes states' responsibility to protect human rights defenders. The UN Human Rights Council's 21 March 2016 resolution on human rights defenders similarly recognizes the important and legitimate role of human rights defenders to express their views, concerns, criticisms and dissent regarding government policy or business activities and underlines the need for governments to take necessary measures to safeguard such dialogue.

We call on Thailand to fulfill its obligations under international law to ensure human rights defenders are protected, not punished. The Government of Thailand should decriminalize defamation, which international law considers a disproportionate form of punishment for defamation-related charges, and drop all unwarranted charges brought against human rights

defenders. Thailand should also effectively investigate cases of violence committed against human rights defenders and hold perpetrators to account, while ensuring human rights defenders and marginalized communities have appropriate access to free and competent legal aid in line with fair trial standards. The government should further develop a legal framework to ensure the principles of Business and Human Rights under international law are protected.

We also call on businesses to protect the rights of human rights defenders. The UN Guiding Principles on Business and Human Rights provide that businesses have a responsibility to respect human rights wherever they operate. In line with this, businesses in Thailand must protect the rights of human rights defenders who exercise their fundamental rights, including the right to freedom of expression. Companies should avoid any unwarranted complaints and charges brought against human rights defenders should be dropped. Businesses should further engage in meaningful consultation with relevant communities and stakeholders in order to identify, prevent, and address any potential adverse human rights and environmental impacts related to their activities.

Signed:

1. Community Resources Centre Foundation
2. Campaign for Public Policy on Mineral Resources
3. Fortify Rights
4. EnLAW
5. Ecological Alert and Recovery –Thailand
6. Young Leadership for Social Change, Thai Volunteer Service Foundation
7. International Commission of Jurists
8. Rak Ban Haeng Group (Lampang Province)
9. Network of People Affected by Gold Mine (Pichit Province)
10. Khao Kuha Community's Rights Protection Group (Songkhla Province)
11. Khao Lao Yai and Pha Jun Dai Community Forest Conservation Group
(Nong Bua Lam Phu Province)
12. Khon Rak Ban Kerd Group (Loei Province)