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GENEVA

"Stop Enforced Disappearances in Thailand", Say Human Rights Groups on the Sixth Anniversary of the Disappearance of Lawyer Somchai Neelapaijit

Lawyer Somchai Neelapaijit began his career as a lawyer in 1977. Khun Somchai was known for speaking out against unjust practices by the police and advocating for reform of the justice system. His last engagement involved representing defendants in security-related cases in Thailand's southern border provinces. Most of his clients were poor with little education. At the time of his disappearance in 2004, only a few lawyers paid attention to human rights abuses in the Deep South. Khun Somchai urged his fellow lawyers to recognize the importance of legal aid and to dedicate themselves to providing legal assistance to people whose rights were abused. He was driven by dedication and bravery.

On 11 March 2004, Khun Somchai submitted a complaint to governmental authorities alleging torture, by police officers, of Malay-Muslim clients who had been accused of insurgency-related violence in the three southern border provinces. The very next day he was the victim of an enforced disappearance. Six years later, his fate remains unknown and no one has been held accountable in a final judgment for the crime of his enforced disappearance. His unresolved case, which has attracted national and global attention, reflects numerous failures in the Thai criminal justice system and is emblematic of the legal and political obstacles faced by all victims of human rights violations and their families.

Although several former Government officials, including a former Prime Minister and Attorney General, have publicly stated that they know Khun Somchai was killed, five accused police officers were charged with relatively minor offences in relation to his disappearance, and faced no disciplinary action. The initial investigation was inadequate. Critical evidence appears to have been lost or destroyed. At the trial, evidence was poorly handled and presented. Witnesses were intimidated and refused to testify. The only officer convicted remains free pending a drawn out appeals process and has reportedly gone into hiding.

Khun Angkhana and her family have courageously pushed successive Thai governments to take action in relation to Khun Somchai's disappearance at great personal cost, but have seen their quest for justice stymied at every turn. Now, after six years, it is time for the current Government to demonstrate whether it is sincere in its pledge to determine the truth about what happened to Khun Somchai, and to bring all those responsible to justice. The onus is now on the Government keep Khun Somchai's wife and family updated on the progress of the investigation and to ensure that it is not further obstructed.

"The Thai justice system must look back and review what has happened. The justice system has an obligation to protect injured parties and the victims of human rights violations. The scales of justice must not be weighted unscrupulously to favour one side. The justice system must stand firm and prevent anyone from robbing victims of justice, regardless of how powerful that person may be," said Khun Angkhana.

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33, rue des Bains, P.O. Box 91, 1211 Geneva 8, Switzerland
Tel: +41(0) 22 979 3800 – Fax: +41(0) 22 979 3801 – Website: <http://www.icj.org> - E-mail: info@icj.org

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The failure of the Thai legal system to hold accountable those responsible for Khun Somchai's enforced disappearance demonstrates the urgency of adopting stronger legal and policy measures. Mr. Wilder Tayler, Secretary-General of the International Commission of Jurists, urged the Royal Thai Government to ratify the *International Convention for the Protection of All Persons from Enforced Disappearance* and to pass laws giving effect domestically to the provisions of the Convention.

"It is a known fact that 'disappearances' – and other serious human rights violations – cannot be effectively eradicated or prevented if perpetrators feel that they can get away with them," said Mr. Tayler.

Thailand is currently seeking a seat on the United Nations Human Rights Council. To demonstrate its commitment to the protection of human rights, Thailand needs to take concrete steps to prevent and punish the crime of enforced disappearance at home. The Working Group on Justice for Peace and the International Commission of Jurists, therefore, call upon the Royal Thai Government to take the following steps:

1. Undertake legislative and policy reforms aimed at preventing and punishing disappearances, including amending the Criminal Code to create a crime of enforced disappearance and strengthening the witness protection program.
2. Expedite the investigation into the disappearance of Somchai Neelapaijit and prosecute those responsible on charges that reflect the true gravity of the crime.
3. Clarify and investigate, with a view to the prosecution of those responsible, all other cases of enforced disappearance in Thailand.
4. Ratify the *International Convention for the Protection of All Persons from Enforced Disappearance*.
5. Issue an invitation to the United Nations Special Procedures that have requested an official visit to Thailand, including the Working Group on Arbitrary Detention and the Special Rapporteurs on the Independence of Judges and Lawyers, Extrajudicial Executions, and Counter-Terrorism.

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BACKGROUND:

About Khun Angkhana Neelapaijit:

Angkhana Neelapaijit is the President of the Working Group on Justice for Peace and a founding member of the Justice and Peace Foundation. Khun Angkhana actively campaigns and advocates on the issues of disappearance, torture and other violations of civil and political rights.

In addition, she holds several positions, both voluntary and official, with different NGOs and State bodies. Khun Angkhana was a member of Thailand's Constitutional Drafting Committee (2007), its ICCPR country report drafting team (2008), the Sub-committee on the Evaluation, Investigation and Study of Violence in the Southernmost Provinces, and currently sits on the Senate and National Human Rights Commission sub-committees on the Deep South. Khun Angkhana has received a number of human rights awards, including among others, the Prominent Women Human Rights Award, the Kwangju Award for Human Rights Defenders, the Independent Woman Award from HRH Somsawalee (2008), as well as awards from the National Human Rights Commission (2006) and the May 18 Foundation, Korea (2006).

About Mr. Wilder Tayler:

Wilder Tayler, an Uruguayan lawyer, is the Secretary-General of the International Commission of Jurists, where he was Deputy Secretary-General between 2007 - 2009. He is also an elected member of the UN

Sub-Committee on the Prevention of Torture, established under the Optional Protocol to the Convention Against Torture, and a member of the Board of the International Council on Human Rights Policy. Mr. Tayler has been closely involved in the international struggle against enforced disappearances as a lawyer and human rights advocate over the past 25 years, having held senior legal positions at both Human Rights Watch and Amnesty International between 1990 and 2007. During the 1980s, he practiced law in Uruguay, where he defended political prisoners and represented the families of the "disappeared".

Definition of Enforced Disappearance in the *International Convention for the Protection of All Persons from Enforced Disappearance*:

Article 2: "For the purposes of this Convention, 'enforced disappearance' is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

For further information or interviews with Mr. Tayler, please contact ICJ (Thailand): +66 (0)2 6198477 or ICJ (Geneva): +41 (0)22 979-3800.

