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Lawyers Council of Thailand
7/89 Buidling 10,
Ratchadamnoen Klang Road,
Bawornnivej Sub-District,
Phranakorn District,
Bangkok 10200

FAX: +66 2282-9908

Dear Mr Dej-Udom Krairit

The International Commission of Jurists, Lawyers' Rights Watch Canada and Lawyers for Lawyers write to you today to express concern over two recent cases of intimidation and harassment against human rights lawyers in Thailand. We urge the Lawyers Council of Thailand, as the principal organization charged with protecting the interests of its members, to call on the Government of Thailand to maintain its respect for the independence of lawyers and ensure lawyers are able to conduct their professional functions without fear of official reprisals.

We write in order to draw your attention to the following cases against members of the Thai legal profession:

Case of Sirikan Charoensiri

Sirikan Charoensiri is a human rights lawyer with the organization Thai Lawyers for Human Rights (TLHR). She has provided legal aid to many individuals, including activists and human rights defenders. On 2 February 2016, Ms. Charoensiri received two summons to appear at the Chanasongkram Police Station on 9 February 2016 to be charged with two offences under the Criminal Code of Thailand: "giving false information regarding a criminal offence" and "refusing to comply with the order of an official".

On 27 June 2015, Sirikan Charoensiri refused to consent to the police to search her car in order to search for evidence belonging to her clients (14 students arrested on 26 June 2015 after carrying out peaceful protests). The charges against her seem to be in retaliation for her having filed a complaint with the police when they proceeded to impound her car and evidence contained therein. Ms Charoensiri was eventually charged with refusing to comply with a competent official (Article 368 of the Criminal Code) and concealing evidence (Article 142 of the Criminal Code). The case against her is currently in the investigation phase, pending a formal indictment. Ms Charoensiri was summoned to appear before the public prosecutor on 12 May 2016.

Case of Benjarat Meethien

Benjarat Meethien is a human rights lawyer and part of the legal team in two high profile cases: the 'Khon Kaen Model' case and the 'Bike for Dad' case. Both cases have attracted considerable attention as the charges relate to national security. In

the Khon Kaen Model case, 26 individuals were rounded up by the police during a meeting in a hotel in Khon Kaen and charged with violating the prohibition by the National Council for Peace and Order (NCPO) against political gatherings, illegal criminal organization, weapons possession and conspiring to commit terrorist acts. In the Bike for Dad case, nine persons have been accused of violating section 112 of the Criminal Code together with infringing section 14(1) of the Computer Crimes Act for communicating via a social media platform to plot an attack during the 'Bike for Dad' event, and planning to assault two political figures.

Benjarat Meethien now faces criminal charges – brought by Maj Gen Wijarn Jodtaeng, the legal chief of the NCPO, and Col Burin Thongprapai, secretary of the legal chief of the NCPO – in apparent retaliation against her involvement in political cases. The case against her relates to one of her clients, Mr Thanakrit Thongngernperm. Mr Thongngerperm is a defendant in the Khon Kaen Model case, but was subsequently accused of involvement in the Bike for Dad case, despite the fact that he was in detention in the Khon Kaen Central Prison at the relevant time. In response, on 29 November 2015, Ms Meethien filed a report to the police alleging malfeasance, false reporting and falsifying evidence against Maj Gen Wijarn Jodtaeng, the legal chief of the NCPO, and Deputy National Police Chief Pol Gen Srivara Ransibrahmanakul. On 8 December 2015, Maj Gen Wijarn Jodtaeng and Col Burin Thongprapai retaliated by filing a complaint against Ms Meethien for criminal defamation and falsely reporting the case to the police. On 15 December 2015, Ms Meethien filed her own criminal defamation case with the Criminal Court, accusing Maj Gen Wijarn Jodtaeng and Pol Lt Col Mingmontree Siripong of criminal defamation by advertising and falsely reporting the case to the police. On 28 January 2016, Ms Meethien was formally charged by the Police's Crime Suppression Division in Chatuchak District with "giving false information regarding a criminal offence" (section 172, 173, 174 and 181 of the Criminal Code) and defamation (section 328 of the Criminal Code). Ms Meethien's case is also in the investigation phase and pending a formal indictment.

Integrity and welfare of members of the Lawyers Council

Taken together, these cases have created a perception that lawyers providing legal representation in so-called 'political' cases may face harassment from police and other State authorities. They undermine the ability of lawyers in Thailand to conduct their professional functions without fear of official reprisals.

It is a fundamental principle in international law that lawyers must be able to represent their clients without fear of retaliation, interference or harassment. Principle 16 of the UN Basic Principles on the Role of Lawyers (the 'Basic Principles') states that: "Governments shall ensure that lawyers… are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference".[1] The Basic Principles have been applied in international jurisprudence, as an extension of the right to a fair trial in Article 14 of the International Covenant on Civil and Political Rights, to which Thailand is a party.[2] The Basic Principles further recognize that lawyers "shall not be identified with their clients or their clients'

[1] UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990).

[2] See, for example: UN Human Rights Committee, 'Concluding Observations: Russian Federation', UN Doc CCPR/C/RUS/CO/6 (2009), para 22; and UN Human Rights Committee, 'Concluding Observations: Libyan Arab Jamahiriya', UN Doc CCPR/C/79/Add 101 (1998), para 14.

causes as a result of discharging their functions." Indeed, lawyers must be able to act freely, diligently and fearlessly in accordance with the wishes of their clients.[3]

As the principal representative body of lawyers, the Lawyers Council of Thailand is mandated, amongst other things, to: promote the unity and the integrity of the Members; and promote and manage welfare for Members. Principle 25 of the Basic Principles requires professional associations such as the Lawyers Council of Thailand, to work with governments to ensure that "lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics."

We urgently call on you to take action to protect the interests of your members by investigating the circumstances in the above-mentioned cases and, where appropriate, call on the authorities not to interfere with a lawyer's professional independence. Lawyers must be able to work without fear of reprisal and in a manner consistent with rule of law principles.

We remain at your disposal to discuss either of the above cases in more detail and would welcome the opportunity to meet with you in person.

Yours sincerely

Ian Siederman, Legal and Policy Director, International Commission of Jurists
Gail Davidson, Executive Director, Lawyers' Rights Watch Canada
Adrie van de Streek, Director, Lawyers for Lawyers

International Commission of Jurists
Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists (ICJ) promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

Lawyers' Rights Watch Canada
Lawyers Rights Watch Canada (LRWC) is a committee of Canadian lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. LRWC promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world. LRWC campaigns for lawyers and other human rights defenders whose rights, freedoms or independence are threatened as a result of their advocacy.

Lawyers for Lawyers
Lawyers for Lawyers is an independent and non-political Dutch foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession.

[3] Draft Universal Declaration on the Independence of Justice (Singhvi Declaration), which formed the basis for the UN Basic Principles on the Independence of the Judiciary, para. 83.