

22 December 2015

### **Somchai Neelapaijit verdict important test of Thailand's treatment of cases of enforced disappearance**

The upcoming Supreme Court verdict in the case of Somchai Neelapaijit is an important test of Thailand's treatment of cases of enforced disappearance, the International Commission of Jurists (ICJ) said today.

The Supreme Court is expected to rule on whether the Court of Appeal was correct in overturning the conviction of one police officer for coercion and upholding the acquittals of four other police officers, and whether Somchai Neelapaijit's family should be permitted to participate in the proceedings as plaintiffs.

The case concerns the 2005 trial of five police officers for coercion and gang-robbery after Somchai Neelapaijit, a leading Thai lawyer and human rights defender, was last seen on 12 March 2004 being pushed into a car by several men in Bangkok.

In March 2014, the ICJ published [a report in Thai and English](#), which summarises the history of the case and provides a background to the upcoming decision, which will be delivered in Bangkok on 29 December 2015.

"This decision is an important milestone in the long and torturous history of this case," said Sam Zarifi, the ICJ's Regional Director for Asia and the Pacific. "But whatever the result, Thailand must not waver from its repeated commitments to promptly and effectively investigate this enforced disappearance, to seek to identify those responsible and bring them to justice, and to provide the family with full remedies and reparation."

The police never charged the five police officers with more serious crimes - despite the statements of numerous officials, including past Prime Minister Thaksin Shinawatra, expressing certainty about his death - as Somchai Neelapaijit's body or remains were never found.

The Department of Special Investigations (DSI), often described as the FBI of Thailand, is still conducting an investigation into his fate or whereabouts.

Angkhana Neelapaijit, Somchai Neelapaijit's wife and now Commissioner of the Thai Human Rights Commission, told the ICJ: "Ensuring that all victims of enforced disappearance have their rights fully recognised by the Thai courts is equally important to me as seeking justice in my own case. My long battle through Thailand's justice system has shown me Thailand's laws are currently inadequate to deal with cases of enforced disappearance and that significant reforms are needed before the rights of victims are fully recognised."

### **Background**

Somchai Neelapaijit, a lawyer and human rights defender from the South of Thailand, was stopped at a Bangkok roadside on 12 March 2004 and pulled from his car by a group of men. He has not been seen since.

At the time, Somchai Neelapaijit was defending clients from Thailand's restive southern provinces who were accused of attacking a military base as part of the ongoing insurgency in the region. Somchai Neelapaijit had alleged that police had subjected the Muslim suspects to torture.

In April 2004, the Criminal Court issued arrest warrants for five police officers for their alleged participation in robbing Somchai Neelapaijit and forcing him into a vehicle, charging the officers with coercion and gang-robbery. The trial of the five police officers commenced on 12 July 2005.

The Court handed down its verdict on 12 January 2006, acquitting four of the accused and convicting Police Major Ngern Thongsuk of the relatively minor charge of coercion.

On 12 April 2006, Police Major Ngern Thongsuk appealed his conviction. On 30 April 2006, the Prosecutor filed a cross-appeal on behalf of Angkhana Neelapaijit. All five accused appealed against the interlocutory order of the Criminal Court that permitted Angkhana Neelapaijit and her four children to join cause with the Public Prosecutor.

On 11 March 2011, five years after Angkhana Neelapaijit filed her appeal, the Appeal Court issued its decision, finding that:

- Somchai Neelapaijit's wife, Angkhana Neelapaijit, and his children could not be considered as joint plaintiffs in the proceeding;
- The conviction of Police Major Ngern Thongsuk should be overturned; and
- With respect to the remaining four accused, there was insufficient evidence to convict them.

On 10 May 2011, Angkhana Neelapaijit appealed to the Supreme Court both the decision on her family's standing and the substantive issues in the case, requesting it to consider further evidence.

On 21 May 2014, the Supreme Court ruled on a discrete appeal point, finding that it would not hear certain telephone evidence, reasoning that as the witnesses could have testified at the original trial the evidence was not "new" and therefore would not be considered.

In addition to a statement of then Prime Minister Thaksin Shinawatra on 13 January 2006 acknowledging that Somchai Neelapaijit is dead, numerous government agencies and senior government officials have publicly asserted certainty about his death.

Thailand, pursuant to its international legal obligations, including as a party to the International Covenant on Civil and Political Rights, is required to promptly, independently and effectively investigate and, where appropriate, prosecute, punish and provide a remedy and reparation for the crime of enforced disappearance.

The Royal Thai Government has signaled its recognition of the gravity of the crime of enforced disappearance and its commitment to combating it by signing (but not yet ratifying) the International Convention for the Protection of All Persons from Enforced Disappearance on 9 January 2012. The Convention affirms the absolute right not to be subject to enforced disappearance and places an obligation on states to make it a criminal offence punishable by appropriate penalties that take into account its "extreme seriousness."

The Thai Cabinet is currently considering a draft law that would make enforced disappearance and torture stand-alone crimes in Thailand.

On 11 December 2015, the ICJ published an English version of its [Practitioners Guide "Enforced Disappearance and Extrajudicial Execution: Investigation and Sanction"](#), originally published in Spanish in March 2015.

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