

Pol.Col.Paisit Wongmuang
Director-General
Department of Special Investigations (DSI)
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8 February 2016

Dear Sir,

Re: Investigation into Enforced Disappearance of Somchai Neelapaijit

The International Commission of Jurists (ICJ) writes to urge the Department of Special Investigation (DSI) to reinvigorate its efforts to investigate the enforced disappearance of lawyer Somchai Neelapaijit, who was reportedly abducted by police officers and forcibly disappeared in central Bangkok on 12 March 2004¹. Failure to do so would breach Thailand's obligations under international human rights law and send the message, both domestically and internationally, that those responsible for enforced disappearances will not be held accountable in Thailand.

The DSI's responsibility to resolve this high profile case is more significant in light of the 29 December 2015 decision of the Supreme Court of Thailand, which upheld the acquittal of one police officer and exonerated four other police officers of charges of coercion and robbery. The Court also held that Somchai Neelapaijit's wife, Angkhana Neelapaijit, and his children could not be considered as joint plaintiffs in the proceedings. In short, 12 years after Somchai Neelapaijit was abducted in plain sight in the middle of Bangkok, there are no suspects in his case and his family must completely rely on the Royal Thai Government to resolve this case justly.

The ICJ also recalls that in April 2014, Thailand gave assurances to the UN Committee that monitors the implementation of the Convention Against Torture in Geneva that the Department of Special Investigations (DSI) was continuing to investigate Somchai Neelapaijit's case without any interference.

Under international human rights law, enforced disappearance is considered to be a continuing crime until the fate and whereabouts of a "disappeared" person are disclosed or otherwise become known. In light of this recent setback in the legal case to obtain access to an effective remedy and reparation for the victim's family, the ICJ underscores the importance of the ongoing investigation of the DSI under the Ministry of Justice (MOJ), which has been seized of the matter since 19 July 2005.

Furthermore, the ICJ understands that the Cabinet of the Royal Thai Government is

¹ For background and detailed analysis of the case, the ICJ refers to its earlier open letter to the DSI [dated 4 February 2014](#) and its report of March 2014 entitled '[Ten Years Without Truth: Somchai Neelapaijit and Enforced Disappearances in Thailand](#)', both available on the ICJ website.

currently considering a draft bill entitled, the 'Prevention and Suppression of Torture and Enforced Disappearances Act B.E.'², an essential step towards the country's eventual ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. The ICJ has not seen the latest draft bill, but it welcomes efforts to introduce legislation that will '*guarantee prompt, thorough, impartial investigation of any cases of torture and enforced disappearance.*'³ In view of this bill, it is even more important for the DSI to revive its efforts in the Somchai Neelapaijit case and to complement the Royal Thai Government's initiative to comply with its international legal obligations in this area. Together with the aforementioned Convention on Enforced Disappearances, Thailand's obligations also include the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, to which Thailand is a state party. Enforced disappearance also amounts to a violation under both of these treaties, which also require that acts constituting enforced disappearance be criminalized and that persons responsible be brought to justice.

Recommendations

In light of the above, the ICJ recalls its previous recommendations to the DSI to:

- (a) continue and reinvigorate its investigation into the enforced disappearance of Somchai Neelapaijit until his fate and whereabouts are disclosed and those responsible, including any state officials, are identified;
- (b) request such human and financial resources as are required for the DSI to ensure the investigation is effective, thoroughly and impartially carried out and to be completed without delay, including with assistance from the international community;
- (c) work with the MoJ and the Cabinet to ensure that persons under investigation are not in a position to influence the progress of the investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of Somchai Neelapaijit or their lawyers, or at persons participating in the investigation;
- (d) provide the family of Somchai Neelapaijit and the public with regular updates on the status of the investigation;
- (e) continue to provide effective DSI civilian protection to Angkhana Neelapaijit; and
- (f) take all measures necessary, including in cooperation with the Office of the Attorney General, to ensure that those responsible for Somchai Neelapaijit's enforced disappearance are brought to justice, whether or not Somchai Neelapaijit or his body is located.

The ICJ urges the DSI to take into consideration the above recommendations to comply with Thailand's obligations under international human rights law, including treaties to which it is party.

Yours sincerely

Ian Seiderman
Legal and Policy Director
International Commission of Jurists

² Ministry of Foreign Affairs of the Kingdom of Thailand press release dated 8 January 2016, available at: <http://www.mfa.go.th/main/en/media-center/14/63511-Thailand's-effort-in-providing-protection-to-victi.html>

³ *ibid*