A portrait of a man with glasses and a mustache, wearing a suit and tie, is visible in the background. The image is overlaid with a semi-transparent dark red filter.

# **TWO DECADES IN SEEKING TRUTH AND JUSTICE**

**COMMEMORATING 20 YEARS SINCE  
THE ENFORCED DISAPPEARANCE OF LAWYER SOMCHAI NEELAPAIJIT**

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# 20 YEARS FOR SEEKING JUSTICE

12 March 2024 marks the 20th anniversary of the enforced disappearance of Somchai Neelapaijit, a lawyer and human rights defender from Bangkok Thailand. Somchai was the former President of the Muslim Lawyers Club, and Deputy Head of the Human Rights Commission of Thailand's Lawyer Council. Despite two decades having passed, his spouse Angkhana Neelapaijit and other family members are no closer to knowing the truth about what happened to him on the evening of 12 March 2004, after eyewitnesses saw a group of men forcing him into a car on Ramkhamhaeng Road, a busy street in Bangkok.

## SOMCHAI NEELAPAIJIT

Somchai Neelapaijit spent around 20 years defending the rights of people, mostly Muslims of ethnically Malay descent, in Thailand's restive 'deep South,' encompassing the provinces of Yala, Pattani, Narathiwat, and Songkhla. He frequently represented those accused of acting against perceived government interests and regularly challenged government officials. As concerns regarding the rights to fair trial of suspects involved in violent incidents, in the context of special laws enforcement in the deep South, arose, so did Somchai Neelapaijit's efforts to protect and promote human rights in the area since the late 1980s.



## RIGHT BEFORE HIS DISAPPEARANCE

Somchai Neelapaijit and other colleagues from the Muslim Lawyers Club met with five suspects held in custody following a significant robbery of military weapons from an army camp and arson attacks in 18 locations in Thailand's deep South on 4 January 2004. These suspects claimed that the police had coerced them into confessing to offenses involving national security, conspiracy to commit rebellion, recruitment of individuals, gathering of arms for rebellion, functioning as a secret society, and acting as a criminal gang. Specifically, the men alleged that the police had subjected them to torture. Based on these allegations of abuse, on 4 March 2004, Somchai Neelapaijit petitioned the court to release the five detained men, but the petition was rejected on the same day. On 11 March 2004, the day before his disappearance, Somchai Neelapaijit's law office submitted a petition alleging abuse to several ministries and bodies.

4 JANUARY 2004

4 MARCH 2004

11 MARCH 2004

12 MARCH 2004

16 MARCH 2004

PRESENT

MET WITH FIVE ARMED  
ROBBERY SUSPECTS  
HELD IN CUSTODY

PETITION TO THE COURT  
FOR RELEASE  
FIVE DETAINED [REJECTED]

SOMCHAI'S LAW OFFICE  
SUBMITTED PETITION  
ALLEGING ABUSE TO  
MINISTRIES/BODIES

SOMCHAI DISAPPEARED

SOMCHAI'S CAR  
FOUND ABANDONED

# THE DISAPPEARANCE

On the following day, 12 March 2004, Somchai Neelapaijit went to work as usual in his car, a dark green Honda Civic. That evening, at 8:00 PM, he went to the lobby of the Chaleena Hotel on Ramkamhaeng Road, accompanied by his intern lawyer, to wait for another lawyer from the Muslim Lawyers Club. At 8:15 PM, the lawyer telephoned Somchai Neelapaijit and informed him that he could not go to meet with him. Consequently, Somchai Neelapaijit decided to stay overnight with his friends on Ramkamhaeng Road.

According to eyewitness testimony provided during the criminal trial, Somchai Neelapaijit then drove alone to Ramkhamhaeng Road, Soi 65, toward Suan Son village. At approximately 8:30 PM, a car behind him forced him to stop outside Mae Lah Pla Phao Restaurant, opposite Hua Mak Police Station. He exited his car and was seen conversing with five men who had emerged from the other vehicle. These men were later observed pushing Somchai Neelapaijit into their car. Somchai Neelapaijit's car was subsequently found abandoned on Kamphaeng Phet Road near Mor Chit bus terminal in northern Bangkok on 16 March 2004, which is located more than 10 kilometers from the abduction site.

## CRIMINAL PROCEEDINGS

On 8 and 29 April 2004, Thailand's Bangkok Criminal Court issued arrest warrants for five police officers allegedly involved in robbing Somchai Neelapaijit and forcing him into a vehicle, charging them with coercion and gang robbery. Notably, enforced disappearance was not recognized as a crime under Thai law at That time.

One of the accused, Police Major Ngern Thongsuk, served in the Crime Suppression Division (CSD) and was among the officers investigating the weapons robbery on 4 January 2004. Another accused, Police Lieutenant Colonel Chadchai Liamsanguan, supervised Police Major Ngern Thongsuk and the other accused, and was also responsible for investigating the weapons robbery.

The trial of the five police officers began on 12 July 2005.

### **Definition of Enforced Disappearance in the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED):**

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 places such a person outside the protection of the law." (Article 2)

### **Definition of Enforced Disappearance in Thailand's Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 (2022):**

"A person who is a public official and has detained or abducted a person, and whereby a public official denied committing such act or conceal the fate or whereabouts of such person, resulting in the exclusion of such person from legal protection, such person shall be held accountable for committing enforced disappearance." (Section 7)

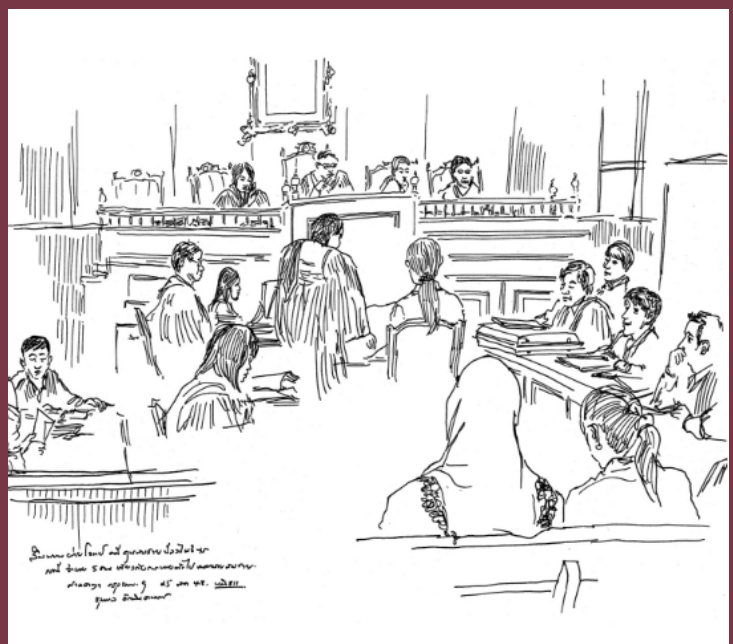
Here, "detention" is defined to encompass "an arrest, deprivation of liberty, confinement, isolation, incarceration, or any other similar acts to restrict a person's liberties in their body." (Section 3)

The Criminal Court handed down its verdict on 12 January 2006. The court acquitted four of the accused but convicted Police Major Ngern Thongsuk of the relatively minor charge of coercion. The court sentenced Police Major Ngern Thongsuk to three years in prison but released him on bail of THB 1,500,000 (approximately USD \$41,000), pending his appeal.

On 19 September 2008, the police reported that Police Major Ngern Thongsuk had gone missing in a landslide. To date, his whereabouts or the location of his remains have not been established, and the Civil Court has declared him to be a missing person in 2011.

A more detailed summary of the evidence presented at the trial is included in the ICJ's March 2009 report: "Report on the Criminal Trial and Investigation of the Enforced Disappearance of Somchai Neelapaijit". This report identified serious irregularities in the overall criminal investigation and the prosecution's case, including: failure of the prosecution to charge the defendants with offenses reflecting the seriousness of the crime; serious questions regarding the independence and impartiality of the original investigation; credible reports of evidence destruction and obstruction of the investigation process by state officials; substantial gaps in the physical forensic evidence submitted to the court; and inadequate investigation and preparation of expert evidence regarding the mobile phone records of the five defendant.

## **THE VERDICT**



On 11 March 2011, five years after Angkhana Neelapaijit filed her appeal, the Appeal Court issued its decision, finding that the conviction of Police Major Ngern Thongsuk should be overturned, ruling that there is a reasonable doubt on the evidence adduced by the Prosecutor, i.e., eyewitness evidence, and therefore the “benefit of the doubt” should be given to Police Major Ngern Thongsuk. With respect to the remaining four accused, the Court ruled that there was insufficient evidence to convict them.

On 29 December 2015, more than four years after Angkhana Neelapaijit filed her appeal, the Supreme Court upheld the Appeal Court’s decision, confirming the acquittal of all five accused policemen.

## DSI INVESTIGATION

In October 2004, Angkhana Neelapaijit, requested the Department of Special Investigation (DSI) under the Ministry of Justice (MoJ) to take up the case for its investigation. Since 19 July 2005, the DSI has been investigating Somchai Neelapaijit’s enforced disappearance. However, there is little information in the public domain regarding its progress other than a number of searches for his remains. In March 2007, DSI reported that it had enough evidence to indicate Somchai’s death but had been unable to locate his body.



On 5 October 2016, after 11 years and 3 months of investigation, the DSI sent a letter to Angkhana Neelapaijit, informing her that the investigation into Somchai Neelapaijit's disappearance would be closed due to the inability to find any culprits.

On 13 March 2017, Thailand indicated during a review of Thailand’s compliance with the International Covenant on Civil and Political Rights (ICCPR) that the investigation had been closed since September 2016 but could be reopened “if a perpetrator was subsequently identified.”



# INVESTIGATION INTO FATE AND WHEREABOUTS

On 23 May 2017, Thailand set up the National Committee for Managing Cases Relating to Torture and Enforced Disappearance with mandates to investigate and provide remedies in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and ICPPED. On 26 June 2017, the Committee reportedly stated that it would consider past, pending, and new cases of enforced disappearance, including cases that had already been reported to the UN Working Group on Enforced or Involuntary Disappearances, and the case of Somchai Neelapaijit. However, during the time the Committee has been in effect until it was replaced, authorities did not inform the Neelapaijit family about whether Somchai Neelapaijit's case was taken into its investigation or about any progress or development in the case.

## **Article 17 of the UN Declaration on the Protection of All Persons from Enforced Disappearance provides:**

“Acts constituting enforced disappearance shall be considered a continuing offence as long as perpetrators continue to conceal the fate and whereabouts of persons who have disappeared.”

As provided in the General Comment of the UN Working Group on Enforced or Involuntary Disappearances (WGEID), one consequence of such a continuous nature is that it is possible to prosecute someone for enforced disappearance based on a legal instrument enacted after the disappearance began, since the crimes continue as long as an alleged victim's fate or whereabouts remain unclarified.

Such notion also reflects in Thailand, where Article 7 of Thailand's Prevention and Suppression of Torture and Enforced Disappearance Act recognizes the continuous nature of enforced disappearance crime.

On 22 February 2023, the Committee on the Prevention and Suppression of Torture and Enforced Disappearance was established by virtue of the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565, replacing the aforementioned Committee. It was mandated to inquire about the information and facts pertaining to the act of torture or the cruel, inhuman, or degrading treatment or the enforced disappearance, and to receive and carry out investigations on received complaints.

Section 10 of the Act further stated that the investigation shall be pursued until a disappeared person can be found or until plausible evidence can be acquired to ascertain the death of such person and to shed light on the details of the commission of the offence and the perpetrator.” However, authorities have not informed the Neelapaijit family about any progress or development in the case. The family has never been reached out to by any officials since the enforcement of this Act to discuss further procedures.

# WITNESS PROTECTION PROGRAM

In March 2008, the DSI agreed to provide protection to Angkhana Neelapaijit under the Witness Protection Program.

In response to the statement Thailand made to UN Human Rights Committee in March 2017, despite the closure of the investigation, the DSI decided to continue providing protection program to Angkhana Neelapaijit, on the basis that the case could be reopened if any new evidence was found.

On 22 March 2022, the DSI informed Angkhana Neelapaijit that its Special Case Investigation Division had decided to end her protection program from 1 April 2022 following the decision made by the Witness Protection Committee of the Witness Protection Act B.E.2546. Angkhana Neelapaijit was further informed by the DSI that there had been no threats or intimidation incidents against her for four years.



Angkhana Neelapaijit appealed the DSI's decision to the Criminal Court. The Court admitted her request, but advised that the trial would be held in secret, with the Court's hearing not open toed for observation by independent observers and human rights defenders. In October 2022, despite of a report of an incident in April 2022, when an unidentified assailant threw a pair of 9-inch-long scissors at Angkhana Neelapaijit's house in Bangkok, the Court ruled to allow the DSI to stop providing witness protection to her, citing no accurate risk against her considering the investigation on her husband had been closed for a long time.

# RECOMMENDATIONS

1. Continue to conduct thorough, prompt, effective, and impartial investigation into the enforced disappearance of Somchai Neelapaijit with the aim of providing Angkhana Neelapaijit and her family with knowledge and clarification of the facts leading to the enforced disappearance, and bringing perpetrators to justice; and
2. Continue to ensure the safety and security of Angkhana Neelapaijit and her family, and provide her with adequate witness protection measures.



ICJ's report on the criminal trial and investigation of the enforced disappearance of Somchai Neelapaichit



Ten Years Without Truth: Somchai Neelapaijit and Enforced Disappearances in Thailand



ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act

## COMMEMORATING 20 YEARS SINCE THE ENFORCED DISAPPEARANCE OF LAWYER SOMCHAI NEELAPAIJIT

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