

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
THA 4/2015:

8 June 2015

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations relative to the **arbitrary detention, torture and ill-treatment of Mr. Sansoen Srioonruen, Mr. Norapat Luaphon, Mr. Wichai Yoosuk and Mr. Chanwit Jariyanukul by Bangkok military police officers.**

Mr. Sansoern Srioonruen is a taxi driver and social activist. He is also a board member of the Heroes of Democracy Foundation, a non-governmental organization with the aim to provide support for families of victims of crackdowns on political demonstrations and to disseminate knowledge on democratization. Mr. Srioonruen is a former advisor to the Social Democrat Party.

Mr. Norapat Luaphon is a chief of staff at Rodenstock, a German company. He is an opponent to the military coup d'état and, since 2015, a member of the LINE chat group "Sereechon", a group of approximately 90 members exchanging political ideas.

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His Excellency
Mr. Thani Thongphakdi
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Permanent Mission of Thailand
to the United Nations Office in Geneva

Mr. Wichai Yoosok is an employee of Rodenstock Company.

Mr. Charnwit Jariyanjukul participated as a speaker at the 14-15 February 2015 meeting in the Khon Kaen province.

All four individuals participated on 14 and 15 February 2015 in a peaceful meeting of approximately 30 individuals in the Khon Kaen Province organized by the LINE chat group "Sereechon" in order to exchange about Thai history and democracy.

"Sereechon" ("Free People") is a LINE chat group founded in 2015 by approximately 90 individuals. The members of "Sereechon" do not necessarily know each other, but reportedly share similar political ideas and some are associated with the United Front for Democracy Against Dictatorship. The members meet to socialize from time to time.

The allegations described below reportedly take place in a context of increased restrictions on multiple rights and fundamental guarantees; including on the right to freedom of opinion and expression, as well as restrictions against political opponents, since the Armed Forces assumed administrative control on 22 May 2014, as expressed by several Special Procedures in previous communications, including a Joint Urgent Appeal, sent to your Excellency's Government on 8 December 2014 (THA 13/2014) by several Special Procedures, concerning allegations related to the detention or conviction of 21 persons in relation to *lèse-majesté* offences. Special Procedures expressed concern, *inter alia*, on the use of criminal law to silence dissenting opinions and expressions of discontent and criticism to the Government. We take note of the response provided by your Excellency on 10 December 2014, awaiting the reply from the Government authorities concerned. It is indicated in your Excellency's letter that several of the cases addressed in the joint communication are "ongoing cases from previous governments". In this regard, we would like to recall that States remain bound by international human rights norms, including the International Covenant on Civil and Political Rights (ICCPR), notwithstanding change in government of the State party (see General Comment of the Human Rights Committee 26, para. 4).

We therefore reiterate the Special Procedures' call to your Excellency's Government to take all necessary measures to restore and protect the rights of the persons charged, detained or sentenced for their legitimate exercise to the right to freedom of expression, including in the case of persons affected by decisions of previous Governments.

According to information received:

On 14 and 15 of February 2015, the above mentioned individuals participated in a meeting in Khon Kaen Province organized by the "Sereechon" group to exchange views and ideas about Thai history and democracy. As a member of the

“Serechoon” group, Mr. Norapat Luaphon functioned as an organizer of the meeting, while Mr. Charnwit Jariyanukul and Mr. Sansoern Srioonruen were invited as speakers and Mr. Wichai Yoosok was a participant in the meeting.

On 7 March 2015, a grenade exploded at the Bangkok Criminal Court, by which no one was injured. The military officials arrested two suspects at the scene, and subsequently issued arrest warrants against several other individuals, including Mr. Srioonruen, Mr. Luaphon, Mr. Yoosuk and Mr. Jariyanukul.

Between 9 and 10 March 2015, Mr. Srioonruen, Mr. Luaphon, Mr. Yoosuk and Mr. Jariyanukul were arrested by military officials, under martial law, and detained in military custody for several days, during which they were subjected to torture and ill-treatment, notably beatings and electrocution. None of them have had access neither to a lawyer, not to medical treatment or to family members.

The four individuals are suspected of having planned the grenade attack during the meeting on Thai history and democracy held in Khon Kaen Province on 14 and 15 February 2015, and having continued their planning via LINE chat applications. They are currently under investigation for the following charges: (1) being complicit in an act of terrorism (article 135/1 of the Criminal Code); (2) being a member of a secret society of criminal association (article 211); (3) being complicit in premeditated murder (article 289(4)); (4) causing an explosion which could be harmful to other persons or their belongings (article 221); (5) possession and using ammunitions which are exclusively used for warfare and cannot be issued with licenses by the registrar (articles 7 and 72 of the 1974 Firearms, Ammunition, Explosives, Firework and Equivalent of Firearms Act and the 1979 Ministerial Regulations No.11); and (6) possessing firearm and ammunition without permission (articles 8 and 72(2) of the 1974 Firearms Act).

Mr. Srioonruen

On 9 March 2015, around 7.00 p.m., Mr. Srioonruen was detained by police officers in front of Krung Thai Bangk, Buddha Monthon Branch in the Nakhonpathom Province. The police officers did not inform Mr. Srioonruen about the charges against him. He was then taken to the Crime Suppression Division of the Royal Thai Police in Bangkok. The police confiscated his taxi. Approximately around 10.00 p.m. Mr. Srioonruen was blindfolded and taken away from the Crime Suppression Division. He guessed from the sense of direction that he was being brought to the Provost Marshal General’s Department.

On 10 and 11 March 2015, Mr. Srioonruen was interrogated extensively while blindfolded and handcuffed. He insisted on not having any connection to the events of 7 March 2015 and on having only participated in the 14-15 February

meeting to speak on history and democracy. Military officers [REDACTED] and kicking him. He was hit in the face approximately 50 times and electrocuted on his right thigh about 30 times. During the electrocution, he was asked [REDACTED].

On 13 and 14 March 2015, Mr. Srioonruen was subjected to continuous interrogation about his background and activism.

On 15 March 2015, Mr. Srioonruen was brought to the Bangkok Metropolitan Police Bureau for a background check. Subsequently he was brought to the Sutthisan Police station where he spent the night.

On 16 March 2015, Mr. Srioonruen was brought to the Bangkok military court. Some bruises and scars were still visible from the torture suffered days before. The court granted the police's request to detain him. He is currently held at the Bangkok Remand Prison. Upon arrival to the prison, he received a physical examination by prison officers but did not have access to medical treatment.

Mr. Luaphon

On 9 March 2015, approximately around 7 p.m., Mr. Luaphon was arrested, handcuffed and blindfolded by five to six plainclothes military officers at his workplace. In the police car he was questioned; verbally insulted; threatened and twice elbowed in his chest. He was forced to call Mr. Jariyanukul, who did not answer the phone. Mr. Luaphon gave the police all the information he had about the Khon Kaen meeting and the 7 March 2015 grenade explosion. He was brought to an unknown location where he was interrogated, still blindfolded. During the interrogations, he heard a constant noise close to his head which sounded like an electrical shock device and he was pinched several times on the shoulder by the police officers. On 10 March 2015, Mr. Luaphon was subjected to "attitude adjustment": Military officers lectured him, while he was blindfolded, about the "correct" ideology. Mr. Luaphon insisted that the 14-15 February meeting in Khon Kaen was an exercise of their right to freedom of expression. On 11 March 2015, Mr. Luaphon was asked to sign a document that contained all the information he had provided.

On 15 March 2015, Mr. Luaphon was brought to the Bangkok Metropolitan Police Bureau for a background check and interrogation by the police. He spent the night at the Phahonyothin Police Station in Bangkok.

On 16 March 2015, Mr. Luaphon was brought to the Bangkok military court that granted the police's request to detain him. He is currently held at the Bangkok Remand Prison.

Mr. Wichai Yoosok

On 9 March 2015, Mr. Yoosok was arrested. During the interrogation, the officials threatened to electrocute him. He was punched on his head and abdomen.

On 16 March 2015, Mr. Yoosok was brought to the Bangkok military court that granted the police's request to detain him pending the investigation. He is currently detained at Bangkok Remand Prison.

Mr. Charnwit Jariyanjukul

On 10 March 2015, Mr. Jariyanjukul was arrested in Soi King Kaew in the Samutprakarn Province, where he was taken into a minivan and blindfolded. All his belongings, worth about 2293.17 US\$, were seized, including his mobile phone and a laptop.

From 10 to 15 March 2015, Mr. Jariyanjukul was interrogated by military officers in an unknown location. He was blindfolded, questioned, mainly about the 14-15 February meeting in Khon Kaen, and [REDACTED] by a military police officer who pounded and stumped on his chest and strangled him. On 15 March 2015, Mr. Jariyanjukul was brought to the Bangkok Metropolitan Police Bureau. He spent the night at the Tao Poon Police Station in Bangkok.

On 16 March 2015, Mr. Jariyanjukul was brought to the Bangkok military court that granted the police's request to detain him, pending investigation. He is currently detained at the Bangkok Remand Prison.

Following events while in detention

On 18 March 2015, the Thai Lawyers for Human Rights, a local human rights organization providing legal aid, released a public statement urging the National Council for Peace and Order (NCPO), the Royal Thai Police, and the Department of Corrections, to conduct an independent investigation into the allegations of torture of the four individuals. On 19 March 2015, the Spokesperson of the NCPO denied the torture allegations against the four individuals.

On 20 March 2015, the National Human Rights Commission of Thailand (NHRCT) sent a letter to the Department of Corrections to visit nine individuals detained in relation to the 7 March explosion at the Bangkok Criminal Court, including the four individuals mentioned in this communication, after having received complaints that they were subjected to torture and ill-treatment while in

military custody. This procedure is in line with the NHRCT's role as provided by section 257 of the Constitution of 2007.

On 25 March 2015, the NHRCT team, led by the NHRCT Commissioner and head of the NHRCT Sub-Committee on civil and political rights, was denied access to the nine individuals. However, on 3 April 2015, the NHRCT was granted access to meet and interview seven of the nine individuals who were allegedly tortured and ill-treated during the interrogation by military officers, including Mr. Sansoen Srioonruen, Mr. Norapat Luaphon, Mr. Wichai Yoosuk and Mr. Chanwit Jariyanukul, under the presence of the military officer and the prison officer.

On 10 April 2015, a lawyer associated with the Thai Lawyers for Human Rights and assigned as a legal representative for these four individuals, received a letter from the Bangkok Remand Prison under the Department of Corrections denying his request to obtain the prison registration record; the medical treatment records, and photos of the four individuals. The Bangkok Remand Prison cited that disclosure of such documents could damage national security and could violate the privacy of the individuals.

Grave concern is expressed at the alleged arbitrary detention, torture and ill-treatment of the above mentioned individuals while in police custody. Further concern is expressed given that the arrests seem to be linked to the individuals' participation in a meeting to discuss and exchange opinions and their legitimate exercise to their right to peaceful assembly and the rights to freedom of opinion and expression.

Without expressing at this stage an opinion on the facts of the case and whether the detention of the above mentioned persons is arbitrary or not, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as an international norm of *jus cogens*, and as codified, *inter alia*, in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which your Excellency's Government acceded on 2 October 2007. Moreover, we would like to recall articles 7 and 12 of the CAT as well as paragraph 7b of the Human Rights Council Resolution 16/23, which require the competent authorities to undertake prompt and impartial investigations and prosecutions in alleged cases of torture. In this regard, we would like to recall also paragraphs 8a and 8b, respectively, of Human Rights Council Resolution 16/23 concerning coercion, intimidation, and incommunicado detention.

Furthermore we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of the four mentioned individuals not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of

Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) to which your Excellency's Government acceded on 29 October 1996. In this context we would like to recall article 21 of the Basic Principles on the Role of Lawyers requesting the competent state authorities to provide lawyers access to appropriate information and files in their control.

We would like to recall articles 19 and 21 of the ICCPR and refer to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; in particular articles 1 and 2 concerning the rights to promote human rights; and article 12, paragraphs 2 and 3, concerning States' protection duties.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of the four individuals in question, including the allegations that their detention results from the legitimate exercise to their rights to peaceful assembly and to freedom of expression, indicating how these measures are compatible with international norms and standards as codified, inter alia, in the UDHR and the ICCPR.
3. Please provide detailed information, and where available, the results of any medical examinations, investigation, judicial or other inquiries carried out in relation to the allegations that the four mentioned individuals were submitted to torture and ill-treatment. Please provide detailed information on the grounds on which the National Council for Peace and Order denied the accusations of torture. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please explain how the decision to refuse the lawyer of the four mentioned individuals access to the prison registration record, the medical treatment records, and

their photos for reasons of national security and privacy of the four individuals is in line with international norms and standards referred to above.

5. Please provide information on the measures taken to protect the security and integrity of the four persons mentioned above, following the presentation of a complaint relative to allegations of torture and ill-treatment in detention.

6. Please provide information on measures taken, or to be taken, in order to ensure that persons are not arrested and detained in an arbitrary manner; that persons arrested and detained are not submitted to torture and that any limitation imposed on the right to freedom of expression and opinion are consistent with the provisions of the ICCPR.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Seong-Phil Hong
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Juan E. Méndez
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