

Mandates of the Working Group on discrimination against women and girls; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL THA 3/2023

(Please use this reference in your reply)

18 August 2023

Excellency,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 50/18, 52/9, 50/17, 52/4, 44/8 and 50/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **lack of accountability and protection measures for the online intimidation and harassment against two women human rights defenders, Ms. Angkhana Neelapaijit and Ms. Anchana Heemmina**, despite the Bangkok Civil Court ruling on 16 February 2023. The latter reportedly recognized that they were affected by an online smear campaign, and that their work as women human rights defenders warrants State protection as per international human rights law and standards.

Reports of recurrent acts of intimidation and harassment on the Internet against Ms. Angkhana Neelapaijit and Ms. Anchana Heemmina, which appear to be in connection with the exercise of the right to freedom of expression in the realization of their human rights work, were also the subject of a previous communication sent to your Excellency's Government by Special Procedures mandate holders on 13 September 2017, ref. no AL THA 6/2017, to which a reply was received on 22 September 2017.

Concerns relating to judicial harassment by Thammakaset Co. Ltd against Ms. Angkhana Neelapaijit for denouncing exploitative working conditions of migrant workers at the poultry farm of this Thai company, were also raised by Special Procedures mandate holders in the communication sent to your Excellency's Government on 9 March 2020 with ref. no AL THA 3/2020. We note with appreciation that your Excellency's Government replied in detail on 19 November 2020.

Ms. Angkhana Neelapaijit is the current chairperson for the Justice for Peace Foundation (JPF) and a current member of the United Nations Working Group on Enforced or Involuntary Disappearances, as well as a former commissioner of the National Human Rights Commission of Thailand (2015-2019). Ms. Anchana Heemmina is a co-founder of the Duay Jai (Hearty Support), a human rights NGO which provides support to victims of torture in the Southern Border Provinces.

In this context, and in light of continuing reports of online and offline gender-based attacks on women human rights defenders in Thailand, we wish to draw your Excellency's Government attention to the following latest information received:

From 8 December 2016 to 11 November 2019, Ms. Angkhana Neelapaijit and Ms. Anchana Heemmina have been facing gender-based harassment through online smear campaigns aimed at undermining their work as women human rights defenders. They were specifically targeted on the website puliny.blogspot.com.

In 2017, the website's posts attacked Ms. Heemmina for her reports on enforced disappearances and accused her of blaming the State without sufficient proof. In 2018, the website published a total of 119 articles, with 13 of them directly related to Ms. Neelapaijit. In 2019, there were 126 published pieces, with five of them targeting her.

Some posts encouraged readers to commit acts of sexual misconduct against Ms. Neelapaijit and Ms. Heemmina. In contrast to other posts targeting male human rights defenders, the posts on Ms. Neelapaijit and Ms. Heemmina, and especially those on Ms. Heemmina, consistently employed derogatory language by using the pronoun 'she' written in English instead of in Thai, in a manner that is often seen as an insulting and degrading way of referring to a third person in the Thai context. The expression 'no brain' was used to devalue and discredit Ms. Heemmina and her work as woman human rights defender.

On 25 February 2020, during the Parliament's debate on the Annual Budget Appropriations, a Member of Parliament reportedly revealed that the Internal Security Operations Command (ISOC) had engaged in targeted information operations against human rights defenders. Classified documents presented by said Member of Parliament showed that ISOC used State funds to support the website puliny.blogspot.com, which published articles attacking and undermining human rights defenders, academics, activists, and local politicians in the southern region. The documents reportedly included instructions on creating fake social media pages and profiles and measures to avoid any associations of those accounts with the Government, dated 25 April 2019, as well as operational details and budget allocation, dated 22 November 2019.

On 27 February 2020, a spokesperson from ISOC reportedly acknowledged that they had funded the website puliny.blogspot.com, noting that the justification behind this funding was to disseminate accurate information and raise awareness about official operations, with the primary objective of promoting human rights and peace.

On 7 November 2020, Ms. Neelapaijit and Ms. Heemmina filed a lawsuit at the Bangkok Civil Court. The lawsuit was brought against the Office of the Prime Minister, which oversees ISOC, and the Royal Thai Army. Ms. Neelapaijit and Ms. Heemmina alleged that these entities arranged or permitted an online smear campaign against them, as well as the spread of disinformation through a website.

On 19 February 2021 and 31 August 2021, another Member of Parliament reportedly revealed classified documents and presented audio evidence that confirmed the military's involvement in information operations. These operations reportedly included the use of fake accounts to target voices of dissent.

From 10 May 2022 to 26 August 2022, the court was examining witnesses from the plaintiff's side. Following this, between 20 October and 22 November 2022, the court proceeded to examine witnesses from the defendant's side.

On 16 February 2023, the Bangkok Civil Court decided that Ms. Neelapajit and Ms. Heemmina were women human rights defenders and recognized that their work warrants State protection under international human rights law and standards. It also found that the posts published by the website Pulony.blogspot.com were not made in good faith but intended to smear the concerned victims and to inflict harm. However, the Court was not convinced that either the posts, or the website, were affiliated or under the charge of the ISOC or the Royal Thai Army. Thus, it dismissed the case.

While we do not wish to prejudge the accuracy of these allegations, we express our concern for the recurrent reports of acts of gendered intimidation and harassment on the internet against Ms. Angkhana Neelapajit and Ms. Anchana Heemmina, which diminish their ability to exercise their fundamental rights to freedom of peaceful assembly, association, opinion, and expression, as well as their right to freedom from gender-based discrimination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate what measures since our previous communications have been taken by your Excellency's Government to ensure that women human rights defenders in Thailand, particularly those working to document and publicize human rights violations, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or exposure to acts of intimidation and reprisals, both online and offline.
3. Please outline the measures which are being taken to ensure accountability for human rights violations, and access to truth, justice, reparation and guarantees of non-recurrence for Ms. Angkhana Neelapajit and Ms. Anchana Heemmina.

4. Please outline any specific measures which are being taken to prevent and address online and offline gender-based attacks, including online smear campaigns, against women human rights defenders.
5. Please outline the measures which are being taken to ensure the physical and psychological integrity of Ms. Angkhana Neelapaijit and Ms. Anchana Heemmina, in light of the recurring threats and intimidation which they have been facing.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

Article 3 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, provides that States Parties are to undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in said Covenant; while article 26 states that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Article 19 of the ICCPR provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. Any restrictions to the exercise of this right to freedom of expression, in accordance with article 19 (3) ICCPR, must be provided by law and necessary and proportionate.

In its General Comment No. 34 (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions referred to above as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. Further, the Human Rights Committee made clear that “It is not compatible with paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information”. In paragraph 23, the Human Rights Committee has recognized that those “persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports”, are “frequently subjected to threats, intimidation and attacks because of their activities.” The Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression.

Furthermore, we also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. Freedom of expression must be guaranteed online as well as offline.

As highlighted by the Special Rapporteur on the promotion and protection of freedom of opinion and expression in one of its reports (A/76/258), the most pervasive and pernicious form of gendered censorship is the use of online sexual and gender-based violence, hate speech and disinformation to silence women. Digital platforms have provided a vital space for women's engagement and activism but they have also perpetuated gender power structures, normalizing sexualized attacks online. Female politicians, journalists, human rights defenders and feminist activists, especially those with intersecting marginalized identities, are disproportionately targeted by State and non-State actors. The objective is to intimidate them and drive them off the platforms and out of public life. That has serious consequences for human rights, diversity in public debates and the media, and ultimately, democracy and development.

We would like to recall that articles 21 and 22 of the ICCPR guarantee the rights to freedom of peaceful assembly and of association, and the Human Rights Council has emphasized that states have the obligation to respect and fully protect these rights online as well as offline.¹ The General Assembly has also called upon all states to "ensure that the same rights that individuals have offline, including the rights to freedom of expression, of peaceful assembly and of association, are also fully protected online, in accordance with human rights law".² The Special Rapporteur on the rights to freedom of peaceful assembly and association has repeatedly recognized that digital technology is integral to the exercise of the rights of peaceful assembly and association.³ Technology serves both as a means to facilitate the exercise of the rights of assembly and association offline, and as virtual spaces where the rights themselves can be actively exercised.⁴ States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2 (1) of the International Covenant on Civil and Political Rights).⁵

We also wish to bring to the attention of your Excellency's Government article 14 of the ICCPR, which enshrines the right to a fair trial and due process. In particular, article 14(1) of the ICCPR sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent, and impartial tribunal established by law. This is particularly relevant as gendered forms of online discrimination in practice harm or hinder women's access to equality before courts and tribunals.

We would like to refer your Excellency's Government 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national

¹ See Human Rights Council resolution 38/7.

² See General Assembly resolution 73/173.

³ See A/HRC/20/27, A/HRC/38/34, and A/HRC/41/41

⁴ A/HRC/29/25/Add.1, para. 53 and A/HRC/41/41 para 10 – 11.

⁵ A/HRC/41/41, para 13.

and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the fundamental principles set forth in the UN Declaration on Human Rights Defenders. Of particular relevance are: article 5 (a), which provides for the right to meet or assemble peacefully; article 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with nongovernmental or intergovernmental organizations; article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;. Article 6 points b) and c), which provide for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies and article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Specifically, we would like to draw your attention to the General Assembly Resolution 68/181, which urges States to acknowledge publicly the important and legitimate role of women human rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7). We invite you to refer to the Human Rights Council resolution 31/32 as well, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

We also refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms. We would also like to refer to Human Rights Council Resolution 22/6, which indicates that domestic law should create a safe and enabling environment for the work of human rights defenders (PPs 10-13).

We would like to bring to the attention of your Government to article 8, paragraph 1 of the UDHR which provides for the right to effective and non-discriminatory access to participation in public affairs.

Furthermore, we would like to remind your Government of article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), acceded by Thailand on 9 August 1985, which provides that states parties

will take all appropriate measures to eliminate discrimination against women in political and public life.

We also wish to draw the attention of your Excellency's Government to the UN General Assembly Resolution 68/181 as well as Human Rights Council Resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women human rights defenders. Such policies and programmes should be developed with the participation of women human rights defenders themselves (OP5, 19 and 20).

As emphasised by the Working Group on discrimination against women and girls in one of its reports (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

Moreover, in a joint [statement](#), the Working Group on discrimination against women and girls emphasized that today's rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule and uncontrolled greed for profit-making further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. Women human rights defenders working on rights contested by fundamentalist groups such as women's sexual and reproductive health and rights and those denouncing the actions of extractive industries and businesses are at heightened risk to attacks and violence.

In addition, another report (A/HRC/41/33) by the Working Group on discrimination against women and girls, stressed that women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, (A/HRC/40/60, para. 28), are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism (see A/HRC/16/44 and Corr.1). This is because stereotypes about a woman's "proper" role dictate not only how she should (not) behave within the home but also in public, and defying those standards in public may put women at risk of deprivation of liberty. Women who seek to participate in political, economic, social or cultural leadership in their communities or nations may be acting in defiance of stereotypes obliging women to stay quiet and invisible and defer to male governance. They may thus be stigmatized, or even criminalized or confined, to prevent them from speaking out or taking action (see A/73/301).

The Special Rapporteur on violence against women and girls, its causes and consequences also drew attention to the heightened risk and exposure of women

human rights defenders to gender-based violence (A/73/301). In another report on online violence against women, the Special Rapporteur underscored that women and girls may receive misogynistic sexualized threats online, and that women human rights defenders may be targeted by violence facilitated online and by information and communication technology (A/HRC/38/47). The Special Rapporteur called for perpetrators of online violence to be brought to justice.