



มูลนิธิวัฒนธรรม Cross Cultural Foundation

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For immediate release on 12 March 2011

The seventh anniversary of the disappearance of Lawyer Somchai Neelapaijit

## Public Statement

### **Seven Years and the state's failure to bring to justice Somchai's abductors The state has to answer the question raised by his relatives, Thai society and international community as to who has abducted Somchai**

On 11 March 2011, the Appeals Court reads the verdict on the case brought by the criminal case public prosecutor and Mrs. Angkhana Neelapaijit, the wife of Mr. Somchai Neelapaijit, former Chairperson of the Muslim Lawyer Club and his children. The case was brought against five police officers<sup>1</sup> on an offense concerning the use of vehicle to commit a thief, for coercing another person to commit an act or to refrain from committing an act against his or her willingness and physical assault. The case is related to the disappearance of Lawyer Somchai Neelapaijit on 12 March 2004.

According to the Appeals court's order, the alleged offense took place during the evening when it was dim and thus the witnesses could presumably not get the clear sighting of the defendants. For the benefits of the doubt, the Court reversed a judgment made by the Lower Court and ruled that the first defendant be acquitted. And as ruled by the Lower Court, the defendants no.2-4 shall be acquitted due to a lack of eye witnesses, and defendant no.5 shall be acquitted due to a lack of credibility of the phone records. Human rights organizations will pressure the Thai government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance during the UPR sessions<sup>2</sup> to be held in Geneva in October 2011 in order to show its political will to reform the failed legal and justice systems and to bring the perpetrators to justice. The government is obliged to answer to the question raised by Somchai's relatives, Thai society and international community as to who has abducted Lawyer Somchai.

**Today marks the seventh anniversary of the disappearance of Lawyer Somchai Neelapaijit, a human rights lawyer. His disappearance has drawn extensive attention from inside and outside the country.** And the defendants in this case are police officials and the case may also involve a number of high ranking police officials who have not been brought to justice. The case is also related to violence in the Deep South of Thailand. Criticisms are rife that no state officials who have committed offenses have been brought to justice and that they continue to enjoy impunity under the Thai law.

The order of the Appeals Court seems to reinforce the criticisms as to how ineffective the Thai justice system has been and how official offenders still enjoy impunity. In addition, there seems to be no law or not enough measures to ensure that the offenders are brought to justice since there is no criminalization of enforced disappearance under the Thai law. By and

<sup>1</sup> Pol. Major Ngern Thongsukand, Inspector at ISOC, temporarily serving the Crime Suppression Division, Pol. Major Sinchai Nimpunyakampong, 42 years, former inquiry official, Pol. Sergeant Major Chaiweng Paduang, 40 years, former Squad Leader of investigation unit, Pol. Sergeant Rundorn Sithiket, 38 years, former administration police official, and Pol. Lieutenant Colonel Chadchai Liamsanguan, 45 years, former Superintendent, defendants no. 1-5

<sup>2</sup> The Thailand Country Report on the situation of human rights under the Universal Periodic Review (UPR) shall be subject to a review of the Human Rights Council (HRC) on 5 and 7 October 2011. 14 March 2011 is the deadline for submission of reports by civil society organizations from inside and outside the country to the HRC. It is expected that the disappearance of Lawyer Somchai shall be one of the issues HRC feels concerned about and wants to inquire about the progress of bringing the perpetrator to justice.

large, enforced disappearances are an offence which is not recognized under the current Thai legal system.

The Appeals Court further ruled that Lawyer Somchai's wife and children are not able to prove that Mr. Somchai has succumbed to death or any grave injury that may make it impossible for him to carry out his action by himself. Therefore, they are not eligible to exercise his rights as a damaged party in his behalf. That the Lower Court allowed the five family members to be joint-plaintiffs in this case is therefore unlawful and the Appeals Court is not obliged to rule on their appeals motion.

The Court's order simply shuts the door for Lawyer Somchai's wife and children for taking part in the struggle to uncover the truth and to seek justice through the judiciary system. And the Appeals Court ruled against accepting the Appeals motion of the joint-plaintiffs even though on 18 May 2009, the Civil Court has already ordered that Mr. Somchai is a missing person after his five years of disappearance.

**“To restore trust in the justice process, the government must reform the whole justice system, particularly at the inquiry official and public prosecutor levels to address impunity enjoyed by state officials. In addition, the government should urgently consider becoming a party of the International Convention for the Protection of All Persons from Enforced Disappearance, as a result of which enforced disappearances shall be further developed as an offense under the Thai criminal law. The Thai state is also urged to abide by international obligations in order to meet the universal standards of legal and judiciary administration and to make possible effective witness protection to enhance efforts to end enforced disappearances in Thailand. The Thai state should reiterate its determination towards international forums to review its country report on human rights as per the UPR system which shall take place in October 2011”** said Mr. Somchai Hom-laor, CrCF's President.

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