

Thailand: Strategic Law Suits Against Public Participation (SLAPPs)

Judicial harassment of human rights defenders and whistleblowers

Criminal defamation SLAPPs against Dr. Chutima Sidasathian and Ms. Phasini Khemmalang

Report and Recommendations

25 January 2024

Corrigendum at footnote *

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1. Introduction

Lawyers' Rights Watch Canada

This report has been prepared by Lawyers' Rights Watch Canada (LRWC), a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights defenders, the integrity of legal systems, and the rule of law through advocacy, education and legal research. LRWC has held Special Consultative Status with the Economic and Social Council of the United Nations (UN) since 2005. LRWC has made numerous submissions on human rights issues in Thailand since 2006, including letters to the Royal Government of Thailand, *amicus curiae* briefs to courts in Thailand,¹ and written and oral statements to the UN Human Rights Council.²

Overview of this report

Thailand's criminal defamation laws are regularly misused to silence and criminalize human rights defenders, journalists, and whistleblowers through illegitimate and protracted strategic lawsuits against public participation (SLAPPs).³ A current illustration is the judicial harassment of human rights defenders and whistleblowers, Dr. Chutima Sidasathian and Ms. Phasini Khemmalang.

According to information received by LRWC, a local elected official has privately laid a total of nine criminal defamation charges against Dr. Chutima, and one against Ms. Phasini, in apparent reprisal for their allegations that he was involved in misappropriation of microcredit monies loaned by Thailand's National Village and Urban Community Fund (Village Fund), resulting in harm to villagers in numerous communities in Nakhon Ratchasima Province. Dr. Chutima faces a trial on 6-8 February 2024 on the first three of nine criminal defamation charges carrying penalties of fines and prison sentences of up to two years on each count. These three charges were laid against her on 27 May 2022. Six additional charges by the mayor were laid against her on 10 and 11 January 2024.

Analysis of the facts received by LRWC suggests failures by multiple government bodies in Thailand to effectively investigate and remedy the alleged financial irregularities or halt the misuse of Thailand’s criminal defamation laws.

United Nations (UN) human rights bodies,⁴ other States,⁵ anti-corruption bodies, and human rights organizations⁶ have for years urged Thailand to reform its defamation and anti-corruption laws and processes to comply with international law and standards. Thailand is seeking election to the UN Human Rights Council⁷ for the years 2025-2027. Every State elected to the Council is required to “uphold the highest standards in the promotion and protection of human rights, [and] fully cooperate with the Council.”⁸ To meet this standard, Thailand should immediately implement all recommendations of UN bodies to reform its defamation and anti-corruption laws and halt all judicial harassment of human rights defenders and whistleblowers. Specific recommendations are found in section 5 of this report.

2. Criminal defamation SLAPPs against whistleblowers Dr. Chutima Sidasathian and Ms. Phasini Khemmalang

Dr. Chutima Sidasathian and Ms. Phasini Khemmalang are community-based human rights defenders. Dr. Chutima is an award-winning investigative journalist who from 2009 to 2016 exposed human rights violations against Rohingya people.⁹ Since 2022, Dr. Chutima has been subjected to nine criminal defamation charges by the mayor of Banlang District, Nakhon Ratchasima Province (also known as Korat), after Dr. Chutima exposed allegations of misappropriation of Village Fund loan monies intended for villagers in Banlang District. Ms. Phasini Khemmalang has acted as a spokesperson for residents of one village who made a complaint to Thailand’s Department of Special Investigation (DSI) about misappropriation of the loan funds.

In early 2021, Dr. Chutima learned that a substantial number of residents in several villages in Nakhon Ratchasima Province were experiencing severe problems with Thailand’s Government Savings Bank (GSB) as a result of loans made through the Village Fund and administered through the GSB. In 2019, the GSB had begun a series of civil court actions against villages aimed at recovering Village Fund debts alleged to be owing by villagers.

A number of villagers protested that they had never received the loan monies. Scores of impoverished farming families – the intended beneficiaries of Village Fund loans – faced financial ruin.*

By the time Dr. Chutima began her inquiries in February 2021, a number of lawsuits by GSB against villages had been launched, and several had already been concluded.¹⁰ In the months following, she interviewed scores of villagers, singly or in groups. Her investigations uncovered allegations of misappropriation of funds and other financial irregularities on the part of public

* **Corrigendum:** The following sentence has been deleted from this paragraph. “The resulting financial problems experienced by villagers had led to three suicides.” LRWC has learned that this information is not correct.

officials, including the mayor of Banlang and local officers of the GSB in Banlang District. LRWC has no information about what if any investigations or actions were taken by the GSB in response to information about the alleged misappropriation of funds.

In early 2021, Dr. Chutima began making Facebook posts about what she had learned, reportedly for the purpose of exposing the nature of villagers' financial problems in the region, and to explain avenues for affected villagers to secure their rights. Findings were also reported to Village Fund headquarters in Bangkok on 21 March 2022.

Meanwhile, the GSB continued with its lawsuits against several more villages.¹¹

In May 2022, the mayor of Banlang began to file criminal defamation lawsuits against Dr. Chutima. During 2023, Dr. Chutima reportedly filed complaints with several government agencies, including the National Human Rights Commission of Thailand (NHRC), the National Anti-Corruption Commission (NACC), and the Office of the Ombudsman (see further detail below).

As of the date of this report, the mayor of Banlang has initiated nine criminal defamation lawsuits against Dr. Chutima. One case with three charges was laid at Nonthai police station in Korat on 27 May 2022.¹² Four additional charges were laid at Nonthai police station on 10 January 2024,¹³ and two more at Chaloeem Phra Kiat Police Station in Korat on 11 January 2024.¹⁴ All the charges pertain to Dr. Chutima's Facebook posts.

Dr. Chutima has twice been subjected to finger printing at Nonthai police station. Ahead of her first court hearing on 22 December 2022, she was placed in detention in a courthouse cell for a short time before being granted bail in the amount of 35,000 baht (approximately US \$1,000 or 916 Euros).

During a judicial mediation session in January 2023, the mayor reportedly advised that he was seeking compensation of 100,000 baht (approximately US \$2,859 or 2,617 Euros) and two apologies, one at the office of the district chief, the other at the GSB branch in Nonthai. At the mediation hearing, the judge reportedly advised Dr. Chutima that if she did not accept the mayor's proposal, he might have to jail her after the trial. However, Dr. Chutima rejected the mayor's mediation proposal on the basis of her intention to plead not guilty to all the charges.

The mayor of Banlang has also filed a criminal defamation lawsuit against a village spokesperson, Ms. Phasini Khemmalang, after the villagers lodged a complaint with the DSI on 25 October 2022.

3. Attempts to seek remedies for villagers

All the SLAPPs against Dr. Chutima and Ms. Phasini are associated with efforts by Dr. Chutima and villagers to seek remedies through several government agencies and courts, as follows.

National Village and Urban Community Fund (Village Fund)

On 21 March 2022, Dr. Chutima reportedly advised the National Village and Urban Community Fund (Village Fund) headquarters in Bangkok of findings of her investigation. The Village Fund attempted unsuccessfully to have the mayor of Banlang district added as a co-defendant in one of the debt collection lawsuits against villages. Village Fund officials also attended several meetings with villagers in Banlang District. Village Fund officials are part of a joint Special Commission of Investigation into the matter (discussed below).

Department of Special Investigation (DSI)

On 25 October 2022, a number of villagers reportedly travelled to the DSI headquarters in Bangkok to file complaints. This resulted in a DSI field visit to the region in June 2023. The DSI reportedly conducted no interviews with villagers. The DSI reportedly designated Ms. Phasini Khemmalang, a resident of Village 3, to act as spokesperson for the villagers. On 16 August 2023, the DSI issued a letter to Ms. Phasini reporting its general finding of “no criminal activity” with an invitation to submit more evidence. Also on 16 August 2023, Ms. Phasini was herself charged with criminal defamation by the mayor.¹⁵ When presented with the summons, Ms. Phasini was reportedly told by a police officer: "It can be fixed by paying the mayor." DSI officials are included as members of a joint Special Commission of Investigation (discussed below).

National Anti-Corruption Commission (NACC)

On 9 April 2023, Dr. Chutima filed a complaint with the National Anti-Corruption Commission (NACC) seeking an investigation into allegations of corruption. The NACC reportedly asked the Provincial Governor to investigate. The Governor in turn asked the Nonthai District Chief Officer to investigate. The District Chief Officer made a general finding of “no criminal activity,” reportedly without interviewing villagers. LRWC has no information as to whether the NACC has undertaken its own independent investigation.

National Human Rights Commission of Thailand (NHRC)

On 13 March 2023, Dr. Chutima filed a complaint with the NHRC that she was being subjected to SLAPPs by the mayor of Banlang. On 27 October 2023, the NHRC issued a report¹⁶ which classified the pattern of criminal prosecutions against Dr. Chutima as SLAPPs, acknowledged her as a human rights defender, and urged that authorities assist her in the forthcoming cases against her. However, the NHRC terminated the case on the grounds that the subject matter was already being addressed in the criminal defamation court proceedings against Dr. Chutima.

Office of the Ombudsman

On 5 July 2023, Dr. Chutima made a written complaint to the Office of the Ombudsman. The Office of the Ombudsman appears not to have conducted an independent investigation. Rather, it reportedly made inquiries with the NACC, which in turn contacted Dr Chutima, who reportedly asked the NACC for detailed responses to 10 points she had set out in her complaint, rather than a blanket finding that there was no incriminating evidence.

Special Commission of Investigation (Special Commission)

In December 2023, a Special Commission of Investigation (Special Commission) was formed to receive oral and written testimony from villagers. It is composed of 18 officials from the GSB, the Department of Justice, the Department of the Attorney General (AG), the DSI, and the Village Fund. The Special Commission reportedly expects to conclude its hearings in early February 2024. LRWC has no information as to which entity has convened the joint commission, its mandate, or to whom it will make its report. The NACC and the Ombudsman are not part of this Special Commission.

Civil and criminal cases

There have also been several civil and criminal court cases filed by residents of a number of villages seeking to recover funds that had been allegedly misappropriated.

On 8 February 2022, one of the affected villages, Baan Satakei Moo 8 (Village 8), filed a civil suit against the mayor of Banlang and 15 of his associates, seeking repayment of 3.2 million baht (US \$91,202 or 83,088 Euros) to the village committee for Village 8.¹⁷ On 26 April 2022, lawyers acting for the mayor and his associates applied to have Dr Chutima charged with contempt of court over two of her Facebook posts. On 9 May 2022, the court rejected the contempt application on the grounds that the Facebook posts did not affect the case. (It is noted that the mayor filed the first three criminal defamation charges against Dr. Chutima a short time later, on 27 May 2022.)

On 13 December 2022, Baan Nong Jang Moo 9 (Village 9) filed a criminal case against the Manager of the Community Financial Institute of Banlang. On 17 May 2023, after a preliminary hearing of the plaintiff's claim, the judge reportedly rejected the case on the grounds that the GSB had not sued Village 9, so there was no damage to the village.

On 12 April 2023, a criminal case of misappropriation of funds in the amount of one million baht (US \$28,630 or 26,188 Euros) was filed by Baan Tham Nop Pattana Moo 17 (Village 17) against the Manager of the Community Financial Institute of Banlang¹⁸ and a GSB loan officer. The trial is scheduled for 5-7 June 2024.

On 20 June 2023, Baan Noi, Moo 5 (Village 5) filed a criminal case of misappropriation against the mayor of Banlang and the Manager of the Community Financial Institute of Banlang. The trial was set for September 2024. However, the trial was cancelled after a mediated settlement was reached in which the mayor agreed to pay one million baht. The mediated settlement is scheduled to be confirmed by the court in April 2024.

These cases have resulted in the villagers' achieving partial relief; however, to date, criminal processes against the mayor and his associates have resulted in no criminal accountability, and SLAPP cases against Dr. Chutima and Ms. Phasini have persisted.

4. Thailand's international law obligations

The SLAPPs against Dr. Chutima and Ms. Phasini are not isolated instances. A number of other human rights defenders, journalists, and others in Thailand have been subjected to lengthy and unfounded SLAPPs as a result of their reporting of human rights violations, maladministration, or corruption.¹⁹ These SLAPPs have resulted in debilitating legal expenses, travel restrictions, time away from work, time-consuming travel to respond to police summonses, detention and bail expenses, court hearings, convictions (overturned on appeal), and numerous other stressful hardships for defendants who are innocent of any internationally legitimate criminal offence.

Plaintiffs, however, have enjoyed the advocacy of public prosecutors at public expense.

International human rights law and standards

As a State Party to the *International Covenant on Civil and Political Rights* (ICCPR) since 1996,²⁰ Thailand has the duty to implement the provisions of the Covenant. This duty applies to all branches of government, including legislative, executive, and judicial branches.²¹

Thailand's criminal defamation provisions set out in Sections 326 through 333 of the Criminal Code do not accord with Thailand's international human rights law obligations to ensure the right to freedom of expression under the ICCPR. At international law, the right to freedom of expression may not be restricted or limited except under the strict provisions of ICCPR Article 19(3), which states that any restrictions must be provided by law and be necessary to protect the rights or reputations of others or to protect national security, public order, or public health or morals.

The provisions of Criminal Code Section 326 are vague and overbroad, in violation of the international law principle of legality. Section 326 provides that any "imputation" may be defamatory if it "impairs" a person's reputation or "expose[s]" them to hate or scorn. This wording is unclear and allows for such a broad range of interpretation that the section is unclear as to its scope and meaning. At international law, no one is to be punished without laws that are sufficiently clear to enable reasonable persons to know in advance how to conduct themselves so as to avoid criminal liability for breaching the law.²²

The UN Human Rights Committee, the body of independent experts established by the ICCPR to provide authoritative interpretations and recommendations regarding the treaty, has stated that any restrictions on the right to freedom of expression must be the least restrictive means and be necessary to achieve a legitimate aim. The Committee has urged that defamation laws established to protect the reputations of others should include truth as a defence.²³ Sections 329 and 330 do not do so. The Committee has also stated that criminal liability is not a necessary or proportionate way to protect the reputations of others; civil remedies are sufficient. The Committee has emphasized that imprisonment is "never an appropriate penalty" for defamation.²⁴ For these reasons, the Committee has called on all States, including Thailand, to consider abolishing criminal defamation laws and to provide only civil remedies for cases of defamation.²⁵

Thailand's overbroad criminal defamation laws are regularly misused to harass, criminalize, and

disproportionately punish human rights defenders, journalists, and others who uphold human rights. This violates Thailand's obligations under the ICCPR and the UN Declaration on Human Rights Defenders,²⁶ and undermines Thailand's promises²⁷ and stated plans, including Thailand's National Action Plan for Human Rights Defenders contained in its National Action Plan on Business and Human Rights.²⁸ While Thailand has enacted anti-SLAPP provisions in its Criminal Procedure Code, Section 161/1, there is no indication that this provision has ever been used by courts to curtail the misuse of criminal defamation laws or other SLAPPs.

UN Convention Against Corruption

Thailand has been a State Party to the *UN Convention Against Corruption* (UNCAC)²⁹ since 2011, and is obligated by the treaty to ensure that those reporting alleged corruption are not subjected to retaliation or reprisals. Thailand has not fulfilled recommendations by the Organisation for Economic Cooperation and Development (OECD)³⁰ and others to create stand-alone whistleblower protection legislation, and to ensure that the NACC is enabled to conduct thorough, effective, and transparent investigations of all allegations of corruption while ensuring protection of whistleblowers.

5. Conclusions and recommendations

LRWC notes the finding of the NHRC that the criminal defamation cases against Dr. Chutima are SLAPPs. These charges have been initiated and pursued under Criminal Code provisions and procedures that fail to measure up to international law and standards. The case against Ms. Phasini is also a SLAPP.

Dr. Chutima and Ms. Phasini have made their concerns public in the apparent absence of effective remedies from Thailand's designated institutions. While judicial harassment cases proceed unabated against these two human rights defenders and whistleblowers, so far none of Thailand's relevant government bodies – the Village Fund, the GSB, the DSI, the NACC, or the Ombudsman – appear to have conducted credible, effective, or transparent investigations or provided effective remedies for the financial irregularities that have been alleged. The result has been years of unjustified suffering not only on the part of Dr. Chutima and Ms. Phasini, but also by numerous villagers severely affected by the reported misappropriation of funds they were supposed to have received.

LRWC recommends that Thailand take immediate steps to:

- a. Immediately drop and dismiss all criminal charges against Dr. Chutima Sidasathian and Ms. Phasini Khemmalang.
- b. Ensure that the Village Fund, GSB, DSI, NACC, Office of the Ombudsman, and the NHRC are fully empowered and resourced to conduct prompt, thorough, and effective investigations of all allegations of corruption, misappropriation, or maladministration, and to ensure effective remedies in accordance with their mandates and responsibilities.

- c. Implement the 2017 recommendation of the UN Human Rights Committee to: “...consider decriminalizing defamation and, in any case, countenance the application of criminal law only in the most serious of cases, bearing in mind that imprisonment is never an appropriate penalty for defamation. The State party should also refrain from using its criminal provisions [...] as tools to suppress the expression of critical and dissenting opinions.”³¹ Legislation should be clarified to ensure that truth is a defence in cases of defamation.
- d. Review and amend the Criminal Code and other legislation to ensure compliance with the UN Declaration on Human Rights Defenders, and enact a stand-alone law for protection of human rights defenders in accordance with 2016 recommendations of the UN High Commissioner for Human Rights³² and the model law on protection of human rights defenders developed by the International Service for Human Rights.³³
- e. Amend and ensure implementation of the Criminal Procedure Code Sections 161/1 and 165/2 to ensure that human rights defenders and whistleblowers are effectively protected from SLAPPs.
- f. Review the role of public prosecutors in Section 21 of the Public Prosecution Institution and Public Prosecutors Act, 2553 BE (2010) to ensure that public prosecutors accept criminal defamation cases only when it is clearly in the public interest to proceed with a criminal prosecution and that there is sufficient evidence to secure a conviction beyond a reasonable doubt.
- g. Ensure that all mediation processes conducted by judicial or other personnel are conducted in accordance with the UN *Basic Principles on the Use of Restorative Justice Programme*,³⁴ and particularly that no mediation takes place unless it is clearly established that there is sufficient evidence to convict the accused of a criminal offence beyond a reasonable doubt, and that neither the accused nor the target of alleged criminal defamation are “coerced or induced by unfair means, to participate in restorative processes or to accept restorative outcomes...”³⁵
- h. In accordance with the UNCAC and the OECD recommendations to Thailand, create dedicated whistleblower legislation that facilitates reporting of alleged corruption, and effectively prevents retaliation against whistleblowers, ensuring sanctions against those who use Thailand’s legal system to engage in reprisals against those reporting allegations of corruption or other suspected integrity violations by officials.

Further information:

Lawyers’ Rights Watch Canada (LRWC)
www.lrwc.org. Write lrwc[at]lrwc.org

6. References

- ¹ See LRWC's joint amicus curiae briefs with the International Commission of Jurists (ICJ) to courts in Thailand: LRWC and ICJ, Amicus curiae brief, case of Chutima Sidasathian, forthcoming January 2024; LRWC and ICJ, Amicus curiae brief, case of Pratch Rujivanarom, <https://www.icj.org/thailand-the-criminal-law-must-not-be-used-in-defamation-cases-and-to-inhibit-freedom-of-expression/>; LRWC and ICJ, Amicus curiae brief, case of Suchanee Rungmuanporn, 2020 <https://www.lrwc.org/thailand-icj-and-lrwc-intervene-in-criminal-defamation-proceeding-against-thai-journalist-suchanee-rungmuanporn-cloitre-amicus-brief/>; LRWC and ICJ, Amicus curiae brief, case of Sutharee Wannasiri and Nan Win, 2019, <https://www.lrwc.org/thailand-lrwc-and-icj-submit-amicus-brief-to-a-thailand-court-in-criminal-defamation-proceedings-against-human-rights-defenders-sutharee-wannasiri-and-nan-win/>; LRWC and ICJ, Amicus curiae brief, case of Andy Hall, 2016, <https://www.lrwc.org/thailand-amicus-curiae-brief-in-the-case-of-andy-hall-amicus-brief/>;
- ² See LRWC's letters, statements, and UN submissions on Thailand at <https://www.lrwc.org/category/publications/campaigns/countries/thailand-letters/>.
- ³ Article 19, *Truth Be Told: Criminal defamation in Thai law and the case for reform*, <https://www.article19.org/wp-content/uploads/2021/03/Thailand-Truth-be-told-decriminalise-defamation-1.pdf>.
- ⁴ UN Working Group on Business and Human Rights, Press release, December 2022, <https://www.ohchr.org/en/press-releases/2022/12/un-experts-concerned-systematic-use-slapp-cases-against-human-rights>;
- ⁵ Human Rights Council. Universal Periodic Review of Thailand, 2021, <https://undocs.org/A/HRC/49/17/Add.1>;
- ⁶ E.g. Article 19, *supra* note 3; Human Rights Watch, <https://www.hrw.org/news/2023/03/16/thailand-drop-charges-against-rights-defenders>; Fortify Rights, <https://www.fortifyrights.org/tha-inv-2022-03-31/>; ICJ, <https://www.icj.org/wp-content/uploads/2020/03/Thailand-SLAPP-Lawsuits-Letter-2020-ENG.pdf>; LRWC <https://www.lrwc.org/thailands-slapp-suits-against-defenders-one-acquittal-and-one-case-dropped-update/>.
- ⁷ Cabinet informed of Thailand's bid for seat on UN Human Rights Council, *The Nation*, 23 August 2022, <https://www.nationthailand.com/in-focus/politics/40019262>.
- ⁸ UN General Assembly, A/Res/60/251, 15 March 2006, <http://www.un-documents.net/a60r251.htm>.
- ⁹ Society of Publishers in Asia (SOPA), 2010 Award for Excellence in Investigative Reporting, <https://sopasia.com/awards/2010/groupb.html>. From 2013 to 2015, journalists Dr. Chutima Sidasathian and her colleague, Mr. Alan Morison, were prosecuted by the Thai Royal Navy for criminal defamation as a result of their reporting of atrocities crimes against Rohingya. See LRWC, 10 July 2015, <https://www.lrwc.org/thailand-phuket-journalists-ms-chutima-sidasathian-and-mr-alan-morison-prosecuted-for-criminal-defamation-for-reporting-on-human-trafficking-of-rohingya-and-other-migrants/>. They were acquitted by the court on 1 September 2015.

OMCT, 1 September 2015, <https://www.omct.org/en/resources/statements/press-release-acquittal-of-two-reporters-a-positive-step-for-media-freedom>.

¹⁰ The list of the eight lawsuits commenced in 2019 and 2020 is as follows:

- GSB v. Village 14, verdict 28 September 2019 (Case No 251/2562): The judge ordered the village to pay back the full amount plus interest within five years.
- GSB v. Village 6, verdict 6 November 2020 (Case No 674/2563): The judge ordered the village to pay back the full amount plus interest within five years.
- GSB v. Village 13, verdict 6 November 2020 (Case No 672/2563): The judge ordered the village to pay back the full amount plus interest within five years.
- GSB v. Village 8, verdict 2 December 2020 (Case No 1243/2563): The judge ordered the village to pay back full amount plus interest within five years.
- GSB v. Village 1, verdict 14 December 2020 (Case No 38/2563): The judge ordered the village to pay back full amount plus interest within five years.
- GSB v. Village 16, verdict 26 October 2021 (Case No 2456/2563): The judge ordered the village to pay back full amount plus interest within five years.
- GSB v. Village 3, verdict 28 February 2022 (Case No 2457/2563): The judge ordered the village to pay back full amount plus interest within five years.
- GSB v. Village 18, verdict (date unknown) (Case No 637/2563): The judge orders village to pay back full amount plus interest within five years.

¹¹ During 2021 and 2022, the GSB continued to sue villages for recovery of Village Fund loan monies; however, ongoing advocacy by Dr. Chutima and villagers appears to have resulted in better outcomes for villagers:

- GSB v. Baan Mueang kao Moo 12 (Village 12), Civil Case No. 47/2564 (2021) seeking loan repayment of 3.67 million baht. On 22 June 2023, the GSB and village 12 reached a mediated agreement requiring the villagers to repay 2.8 million baht without interest, and giving villagers seven years to repay the money.
- GSB v. Village 17, Civil Case No. 48/2564 (2021). On 24 August 2023, the court ordered the Village 17 committee to pay back the original sum within five years without interest and should help Village 17 to recover misappropriated money.
- GSB v. Baan Noi Moo 5 (Village 5), Civil Case E6/2565 (2022). On 19 October 2023, the court ordered the Village 5 committee to pay back the original sum within five years but without interest, and said GSB should help Village 5 to recover the misappropriated money.

¹² Criminal Case No. 970/25652.

¹³ Criminal Case No. 26/2567

¹⁴ Criminal Case No. not available at the time of publication of this report.

¹⁵ Criminal Case No. 202/2566.

¹⁶ A copy of the NHRC report is in possession of LRWC.

¹⁷ Criminal Case No. 380/2565.

¹⁸ The Community Financial Institute of Banlang was founded in 2011 as an unregistered entity and erected a building in Banlang Subdistrict in 2014. The plaintiffs in the Village 17 law suit against the Mayor and the Community Financial institute of Banlang allege that some of the misappropriated funds were used to erect the building.

¹⁹ See, e.g. Front Line Defenders, “Women human rights defenders Angkhana Neelapaijit, Puttane Kangkun and Thanaporn Saleephol acquitted of criminal defamation, 2022,

<https://www.frontlinedefenders.org/en/case/women-human-rights-defenders-angkhana-neelapaijit-puttanee-kangkun-and-thanaporn-saleephol>; Front Line Defenders, Criminal & Civil Cases Against Andy Hall, 2020, <https://www.frontlinedefenders.org/en/case/criminal-civil-cases-against-andy-hall>; LRWC, Thailand's SLAPP suits against defenders: One acquittal and one case dropped, October 2020, <https://www.lrwc.org/thailands-slapp-suits-against-defenders-one-acquittal-and-one-case-dropped-update/>, and also see <https://www.lrwc.org/new-lawsuits-brought-by-thammakaset-company-limited-against-human-rights-defenders/>; LRWC, Thailand: LRWC Calls for Withdrawal of Charges Against Three Thai Human Rights Defenders, 2016, <https://www.lrwc.org/thailand-lrwc-calls-for-withdrawal-of-charges-against-three-thai-human-rights-defenders-letters/>; LRWC, Thailand: Phuket Journalists Ms. Chutima Sidasathian and Mr. Alan Morison prosecuted for criminal defamation for reporting on human trafficking of Rohingya and other migrants, 10 July 2015, <https://www.lrwc.org/thailand-phuket-journalists-ms-chutima-sidasathian-and-mr-alan-morison-prosecuted-for-criminal-defamation-for-reporting-on-human-trafficking-of-rohingya-and-other-migrants/>. OMCT, Press Release: Acquittal of two reporters a positive step for media freedom, 1 September 2015, <https://www.omct.org/en/resources/statements/press-release-acquittal-of-two-reporters-a-positive-step-for-media-freedom>.

²⁰ *International Covenant on Civil and Political Rights*, 16 December

1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

²¹ UN Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, 12 September 2011, para 7, <https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>.

²² *Ibid*, CCPR/C/GC/34, para 25.

²³ *Ibid*, CCPR/C/GC/34, para 47.

²⁴ *Ibid*, CCPR/C/GC/34, para. 47.

²⁵ *Ibid*, CCPR/C/GC/34, 2–4; UN Human Rights Committee, *Concluding Observations on the Second Periodic Report of Thailand*, 25 April 2017, CCPR/C/THA/CO/2, paras. 35-36, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTHA%2fCO%2f2&Lang=en.

²⁶ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: resolution / adopted by the General Assembly*, 8 March 1999, A/RES/53/144, (UN Declaration on Human Rights Defenders), <http://www.refworld.org/docid/3b00f54c14.html>.

²⁷ See Thailand's support of recommendations made during the Human Rights Council's Universal Periodic Review, 2022. See the Report of the Working Group on the Universal Periodic Review: Thailand. Addendum, A/HRC/49/17/Add.1, 17 February 2022, para 19, <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/49/17/Add.1&Lang=E>.

²⁸ Royal Government of Thailand, Ministry of Justice, Rights and Liberties Protection Department, First National Action Plan on Business and Human Rights (2019–2022), pp 102-126, <https://globalnaps.org/wp-content/uploads/2017/11/nap-thailand-en.pdf>

²⁹ UN General Assembly, *United Nations Convention Against Corruption*, 31 October 2003, A/58/422, <https://www.unodc.org/unodc/en/corruption/uncac.html>.

³⁰ Organisation for Economic Cooperation and Development (OECD), *OECD Integrity Review of Thailand: Towards Coherent and Effective Integrity Policies*, OECD Public Governance Reviews, OECD Publishing, Paris, 2018, <https://doi.org/10.1787/9789264291928-en>.

³¹ CCPR/C/THA/CO/2, paras. 35-36, *supra* note 26.

³² OHCHR, Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned - Report of the United Nations High Commissioner for Human Rights, A/HRC/32/20, 11 April 2016, <https://www.ohchr.org/en/documents/reports/ahrc3220-practical-recommendations-creation-and-maintenance-safe-and-enabling>.

³³ International Service for Human Rights, Model National Law on the Recognition and Protection of Human Rights Defenders, 2017, <https://ishr.ch/defenders-toolbox/resources/model-law/>.

³⁴ UN ECOSOC, Basic Principles on the Use of Restorative Justice Programmes, 2002, available at: <https://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf>; United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes Second Edition, 2020, https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf

³⁵ UN ECOSOC, Basic Principles on the Use of Restorative Justice Programmes, 2002, principle 13, <https://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf>.