

Lawyers' Rights Watch Canada

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Thailand must halt judicial harassment of human rights defenders

Phuket Journalists Ms. Chutima Sidasathian and Mr. Alan Morison prosecuted for criminal defamation for reporting on human trafficking of Rohingya and other migrants

Statement
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Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers who promote human rights and the rule of law through advocacy, education and research. LRWC is an NGO in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations (UN).

On 14 July 2015, two award-winning¹ human rights journalists, Ms. Chutima Sidasathian and Mr. Alan Morison of the online newspaper, *Phuketwan*, face a three-day trial in Phuket, Thailand, on charges of criminal defamation under section 328 of Thailand's *Criminal Code*² and section 14(1) of *Computer Crime Act*.³ The charges are based on a 17 July 2013 *Phuketwan* article quoting a Reuters story on alleged involvement of Thai authorities, including naval forces, in human trafficking of Rohingya people.⁴ The prosecution, brought against Ms. Chutima and Mr. Morison by the Royal Thai Navy, appears to be brought in retaliation for the defendants' legitimate human rights journalism and for the illegitimate purpose of punishing the lawful exercise of freedom of expression.⁵

Both the criminal defamation law and the processes by which Ms. Chutima and Mr. Morison are being prosecuted fall conspicuously short of Thailand's international obligations. The prosecution contravenes Thailand's duty to ensure and the defendants' rights to enjoy freedom of expression and the fair trial rights guaranteed by the *International Covenant on Civil and Political Rights* (ICCPR) and the *Universal Declaration of Human Rights* (UDHR). The charges have been brought under laws that fail to meet international human rights standards; Thailand's criminal defamation laws and the

¹ For their work on this issue since 2009, Chutima Sidasathian and Alan Morison and have received several awards, including a 2010 Award for Excellence in Human Rights Reporting from the Society of Publishers in Asia (SOPA). See <http://www.sopasia.com/awards/2010/groupb.html>.

² Thailand *Criminal Code*, S. 328, available at: https://www.unodc.org/tldb/pdf/Thailand/THA_Pena_CodeEN.pdf S.

³ *Computer Crime Act*, B.E 2550 (2007), unofficial translation by *Prachatai*, 24 July 2007, available at: <http://www.prachatai.com/english/node/117>.

⁴ Alan Morison and Chutima Sidasathian, "Thai Military Profiting from Trade and Boat people, Says Special Report," *Phuketwan*, July 2013, available at: <http://phuketwan.com/tourism/thai-military-profiting-trade-boatpeople-says-special-report-18454/>

⁵ For more details and explanation, see LRWC's letter to the Australian government, 5 January 2015, available at <http://www.lrwc.org/?p=8770>.

Computer Crimes Act are vague and overly broad, impose disproportionately harsh criminal sanctions and contravene Thailand's international legal obligations to ensure that all persons within its territory can exercise their lawful right to freedom of expression without risk of criminal sanctions.⁶ Also, Thailand's judicial system is not currently capable of guaranteeing fair trial rights, namely a "hearing by a competent, independent and impartial tribunal" as required by the ICCPR (Article 14) and the UDHR (Article 10).⁷ Finally, Ms. Chutima and Mr. Morison are being denied protection due to them as human rights journalists pursuant to the UN *Declaration on Human Rights Defenders*.⁸

LRWC urges Thailand to ensure the immediate discontinuance of the above noted criminal proceedings against Chutima Sidasathian and Alan Morison. LRWC also calls on Thailand to take all steps necessary to:

- comply with the ICCPR, UDHR and the *Declaration on Human Rights Defenders*;
- restore full independence of prosecutors and judges;
- restore and ensure the protection of all other international human rights binding on Thailand, including fair trial rights, the presumption of innocence and international standards of pre-trial release;
- restore democratic rule through free and fair elections.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ The UN includes human rights journalists in the category of "human rights defenders." See UN Office of the High Commissioner for Human Rights, "Who is a defender," available at <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>. Human rights defenders are entitled to conduct peaceful human rights research and writing and to be protected from retaliation including malicious prosecution and judicial harassment. See *The Declaration on Human Rights Defenders* especially Articles 1, 12 and 17. consensus of the member States of the UN General Assembly, UN General Assembly, *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 consensus of the General Assembly*, 8 March 1999, A/RES/53/144, available at: <http://www.refworld.org/docid/3b00f54c14.html>