



มูลนิธิวัฒนธรรม Cross Cultural Foundation

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Press statement: Three human rights activists submitting petition to demand justice from the Pattani Provincial Public Prosecutor and the Attorney General, as the inquiry official recommended the prosecutor to prosecute them of criminal defamation accused by the ISOC Region 4

Today, 21 February 2017 at 14.00, the three human rights activists, Somchai Homla-or, Pornpen Khongkachonkiet, and Anchana Heemmina, have submitted a petition seeking for justice from the public prosecutor at Office of Pattani Provincial Public Prosecutor. They demanded the public prosecutor to ensure justice and uphold human rights. They further demanded that in performing their duties with regard to prosecution, the public prosecutor should make their decision on the merit of the case and instruct the inquiry official to examine the evidence and interrogate the witnesses as proposed by the accused. In addition, attention should be given to the fact and legal principle that the Penal Code provides for defamation offence intends to protect dignity of individuals from impairment, while it does not intend to protect a legal entity. The Internal Security Operations Command (ISOC) which is merely a legal entity not a natural person does not have legal standing to take legal action against the three activist. Further, ISOC is a state agency and it's execution of duties may effect to the rights and liberties of the people, therefore, ISOC shall be subject to scrutinizing and criticism by the people. Therefore, ISOC is not eligible to accuse the three activists of defamation.

The Chairperson of the Cross Cultural Foundation (CrCF), Surapong Kongchantuk said that the "Torture Report in Pattani 2014-2015" has been made based on well trained documentation and is useful to the public. It simply intends to draw attention of the concerned authorities to the allegation of torture for further investigation. The torture alleged in the report has also been perpetuated by the security officials. Such documentation shall help to uphold people's rights and liberties, and strengthen the rule of law and justice. The prosecution against the three human rights activists is not justify and does not serve the public interest."

An act of torture and other cruel, inhuman or degrading treatment is a grave human rights violation. It is a violation of both domestic law and international law. Still, torture has been rampant in Thailand's Deep South during the past 13 years since the unrest was incurred on 4 January 2004. And the Thai government as a state party of the 1984 UN Convention Against Torture and other Cruel, Inhuman or

Degrading Treatment or Punishment (CAT) failed to prevent the torture which absolutely prohibited under the treaty.

According to the domestic and international laws, the torture is a crime. But in this case the inquiry official recommended the public prosecutor to prosecute the three activists who reported the torture. This caused a serious concern among civil society organizations, international human rights organizations and diplomate community. Today, representatives from embassies, national and international human rights organizations, the UN Office of the High Commissioner for Human Rights (UNOHCHR), academics, lawyers and local civil society and citizens have been there to give moral support to the three human rights activists.

For more information, please contact, Mr. Surapong Kongchantuk, Chairperson of the Cross Cultural Foundation (CrCF), phone 081-6424006

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Background

The Patani Human Rights Organization, the Duay Jai Group and the Cross Cultural Foundation (CrCF) have jointly published the report "Torture and ill treatment in The Deep South Documented in 2014-2015" documenting 54 cases of individuals who alleged that they had been tortured by the officials. The report has also been submitted to the Internal Security Operations Command Region 4 (ISOC 4) Forward and Gen. Aksara Kerdphon, leader of the negotiation team on 8 January 2016, The authorities were asked to inquire into the alleged cases and the report was then launched in a public seminar held in one of the Southern Border Provinces on 10 February 2016.

Later on 17 May 2016, ISOC Region 4, a security agency responsible for security in Thailand's Southern Border Provinces, has reported a case to the inquiry official at the Pattani Muang Police Station asking for a legal action against the three human rights activists for criminal defamation and violating the Computer Crimes Act of 2007 since the three of them were listed as editors of the publication. In reporting the case, the official claimed the report had caused an impairment to the reputation of the Royal Thai Army and that previously, the activists had never cooperated with the authorities when asked for further information about the individual cases included in the report. Some official has even made a claim that after receiving the documentation from the activists, they had asked for a grace period of time for three months to conduct an inquiry. All the claims are untrue. Upon the submission of the report to the ISOC Region 4, its spokesperson and spokesperson of the ISOC headquarters in Bangkok have come out to lambast the report accusing it of presenting fake information. They further alleged that the report had

been made purposefully to discredit the authorities and for the sake of vying for funding from abroad. Instead of conducting any inquiry as to the cases documented, the authorities have strongly criticized the civil society organizations for their attempt to hold accountable the performance of duties by the officials.

Mr. Somchai Homla-or is a senior advisor to CRCF, and Ms. Pornpen Khongkachonkiet is its Director. CRCF has been conducting documentation on cases of human rights violations, particularly torture and cruel, inhuman and degrading treatment. Assistance including legal aid and the submission of complaint has also been given to help the injured parties have access to justice. Ms. Pornpen has also been elected as Chairperson of the executive board of Amnesty International Thailand in June 2016. Ms. Anchana Heemmina is founder and Director of the Duay Jai Group, a civil society organization working with families of victims of torture. The Group also works effectively on getting access to remedies and rehabilitation among the victims in the Southern Border Provinces.

Previously, the Cross Cultural Foundation (CrCF) and Cross Cultural Foundation (CrCF) had been summoned to meet the inquiry official in August 2014 after a report had been made to the police accusing CRCF and Ms. Pornpen of committing an impairment to the Royal Thai Army' reputation. They were then accused for intentionally distorting facts and distributing false information to public. The case had stemmed from the publishing of an open letter in late April 2014 in which the Thai authorities were demanded to carry out an investigation as to the claim that public officials had committed an act of torture against suspects in security cases in the Southern Border Provinces. The public prosecutor, then, decided to not indict the case in September 2015.

Since the seizure of power in a coup by the military in 2014, a number of human rights defenders in Thailand have been subject to intimidation and prosecution on defamation and other charges as a result of their role to demand accountability and their criticisms of the military junta as well as their call for the investigation of human rights violation and remedies for the victims.

By levying defamation charges against those criticizing the officials and the authorities, Thailand is violating its obligations to respect and protect the right to freedom of expression as provided for by the International Covenant on Civil and Political Rights (ICCPR) to which Thailand is a state party. Previously, the UN Human Rights Committee has urged governments of countries to consider revoke the offence of criminal defamation to ensure that the states would be able to perform their duties while not infringing upon the right to freedom of expression of their people.