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Country Report Task Force for preparation of List of Issues - THAILAND

INTRODUCTION

The following List of Issues is based on information received from independent Human Rights Defenders in Thailand alongside supporting data gathered during participatory action research carried out from May 2014 to April 2016 by Protection International. The submitted List of Issues focuses on those aspects of the ICCPR which relate directly to the security and protection of Human Rights Defenders in the current situation in Thailand.

Protection International is an international, non-governmental organisation (NGO) that brings protection strategies and security management tools to Human Rights Defenders (HRDs) at risk. Protection International envisions a world where human rights and fundamental freedoms are universally recognised and respected, and where everyone has the right to defend these rights and freedoms without fear of threats or attack.

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GENERAL CONTEXT

1. Human Rights Defenders of Thailand currently work under a system of governance that is in breach of the Thailand's obligation to the ICCPR. Of particular concern for human rights defenders are the increasingly severe violations against:
 - a. **Article 1** - Community self-determination and participation
 - b. **Article 2** - Access to justice or redress
 - c. **Article 9, Article 10 and Article 14** - Freedom from arbitrary arrest and retention
 - d. **Article 19** - Freedom of expression and information
 - e. **Article 21, Article 22 and Article 25** - Right to associate with others
2. The 2007 Constitution of the Kingdom of Thailand enshrined rights in accordance with the Convention and many National laws provided concrete right's mechanisms. However, the 2007 Constitution was removed during the Military Coup of May 22, 2014. It was replaced with The Constitution of the Kingdom of Thailand (Interim), Buddhist Era 2557 (2014) on 22 July 2014.
3. Although Section 4 of the interim constitution recognizes human rights and liberties arising from democratic traditions and international obligations of Thailand - this recognition is contingent on compliance with Section 44. Section 44 empowers the National Council for Peace and Order (NCPO) leader, currently General Prayuth Chan-ocha, to issue any order "for the sake of the reforms in any field, the promotion of love and harmony amongst the people in the nation, or the prevention, abatement or suppression of any act detrimental to national order or security, royal throne, national economy or public administration, whether

the act occurs inside or outside the kingdom". The orders so issued are all deemed "lawful, constitutional and final."

4. These powers are further reinforced as Interim Constitution (2557 B.E.) Sections 6–18 establish a single legislature called National Legislative Assembly whose members are all chosen solely by the NCPO. Sections 19–20 establish a cabinet consisting of one Royally appointed prime minister and no more than 35 other ministers selected by the prime minister. Section 42 enshrines the NCPO in existence and authorizes it to control the cabinet. Section 45 allows the Constitutional Court to remain functional, but subject to the special power of the NCPO leader. Sections 27–31 provide for extensive national reforms in 11 governmental functions: politics, public administration, law and justice, local administration, education, economy, energy, public health and environment, media, society, and others. The bodies tasked with carrying out these reforms are entirely appointed by the military junta.

SUBSTANTIVE

ICCPR Article 1 All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

5. Prior to the 2014 coup d'état the 2007 Constitution especially Part 12: Section 66 and Section 67¹ provided a guarantee for human rights protection in line with the Article 1 of the Convention, including the rights of persons to participation in the conservation, maintenance and exploitation of natural resources. The provisions contained therein also stipulated that the government would set clear policies and access to redress pertaining to protection of health, land utilization and conservation of natural resources and the environment.

¹ **Constitution of the Kingdom of Thailand (B.E. 2550, revoked 22 May 2557 B.E.), Part 12: Section 66** Persons so assembling to be a community, local community, or traditional community shall have the rights to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources, environment, and biological diversity in a balanced fashion and persistently.

Section 67 The rights of a person to give to the State and communities participation in the conservation, preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary condition, welfare or quality of life, shall be appropriately protected. Any project or activity which may seriously affect to the community in quality of the environment, natural resources, and health shall not be permitted, unless its impacts on the quality of the environment and health condition of people in the community have been studied and evaluated; and procedure on public hearing from the people and those affected, including from an independent organization, consisting of representatives from private environmental and health organizations and from higher education institutions providing studies in the environmental, natural resources, and health field, have been obtained prior to the operation of such project or activity. The rights of a community to sue a government agency, State agency, State enterprises, local government organization, or other State agencies which are juristic persons, to perform the duties as provided by this provision shall be protected.

6. These rights were further protected under National laws such as Enhancement and Conservation of National Environmental Quality Act 1992, the National Health Act 2007 and The City and Town Planning Act B.E.2518 (1975). Though not perfect these Acts were key instruments and mechanism for community-based HRDs to be able shape local development plans and work to safeguard community livelihoods and health.
7. However the protective framework has now been dismantled in direct conflict with the principles of Article 1 of the Convention. This includes decrees such as NCPO Order No. 64/2557 and Order No. 17/2558 and the Forestry Master Plan which mandate authorities to carry out forest reclamation which has impacted communities in 352 areas, and a total of 2,300 people have been forced to vacate their land.
8. NCPO Order 3/2559 removes legal hurdles for the construction of industrial plants in 10 provinces set to become Special Economic Zones (SEZ). Order 4/2559 exempts power plants, including coal-fired, biomass and waste-to-energy plant projects, across the country from complying with past land planning regulations. A new proposed Mining Act, disclosed on 11th March 2016, organised by the Department of Primary Industry removes the obligation to conduct Environmental Impact Assessments (EIA) and Environmental Health Impact Assessments (EHIA) prior to the granting of mining concessions.

SPECIFIC CASE

9. On 15th September 2015, Udon Thani Provincial Department for Primary Industries and Mining, with local authorities and the military authorities organised a public hearing inside Phrayasunthonthammathada Military Barrack, Tambon Non Soong, Udon Thani. The actions of authorities, on top of being against rules and regulations, were received as a direct violation of people's rights, as Woman Human Rights Defender, from the Udon Thani Environmental Conservation Group, Ms Manee Boonrawd said, "the village public hearing has to take place in the village. The village public hearing should not be conducted in the Army camp, this process is not interested in people's participation." On 15th September, about 20 representatives of the Udon Thani Environmental Conservation Group travelled from their villages in Tambon Huay Sam Phad and Na Muang, Prachak-sinlapakhom District, Udon Thani province, to the Military Barracks to submit a letter protesting the fact that the public hearing was being organised in an Army facility, which did not allow for the local people to freely participate and violated the procedure for organising public hearings.
10. The direct involvement of military officials in the process of concession permit granting has meant that peoples no longer have procedural guarantees to determine the kind of development that will come to their area. Human Rights Defender Mr Suwit Kulapwong, secretary of the northeastern network, Isaan Thai NGOCORD, said that "this moment is when the mining investors and the elite will allow the potash mining Udon Thani process to pass by speedily, to allow the mining company to receive the mining concession permit. This process will not be interested to listen to any process which would involve peoples' participation. Without the proper public hearing we will not be able to understand whether the project is right for the province or not, because this project is a mega-project and will have a huge impact on the environment."

Regarding ICCPR, Article 2 To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

And ICCPR, Article 9(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

11. Maintaining the Public Order and National Security Order contravenes the Convention's Article 2 and Article 9(5) by offering immunity to State actors specifically under NCPO Leader Order Number 3/2558, Article 14, issued under the powers of Interim Constitution 2557 B.E. Section 44, which provides that: *Peacekeeping Officers² and Assistant Peacekeeping Officers, who act in good faith in accordance with this order, without bias or undue severity shall be protected according to Article 17 of the Decree on Public Administration in Emergency Situations 2005, without prejudice to the rights of individuals to claim compensation from the government in accordance with the laws governing liability of officers.*
12. This clause, in an Order which is not challengeable through any State mechanisms, sets up a de facto impunity for military authorities invoking vague principles of the conduct of authorities. It is important to highlight that there is no guaranteed mechanism for people to hold authorities to these standards in a climate where HRDs are face immediate reprisals for complaining of authorities' misconduct and abuse of power.
13. Further to this, any access to legal remedy is further inhibited by NCPO Leader Order 3/2558, Article 13: *Actions under this order are not subject to the laws on administrative procedures and the Law on the Establishment of the Administrative Court and the Administrative Procedures Code.*

Specific case

14. Lahu-Thai Human Rights Defender Maitree Chamroensuksakul, is of Lahu minority group. He is the founder of the Lahu Youth Protectors Group, and a Citizen Report with Thai Public Broadcasting Service. On 31st December 2014, at around 20:30, five unidentified men, some of whom were wearing military trousers and bulletproof vests, abused and threatened villagers by slapping their faces and pointing pistols at them as they were gathering around a fire. The incident took place in Baan Pak Kong Ping village, Mueang Na, Chiang Dao, Chiang Mai province, North Thailand. In the morning of 1st January 2015, villagers and the military officials met at the headman of the village's residence, this time HRD Maitree also came. The villagers demanded apology from the man who slapped people, whom they were sure was a soldier and other military officials must know about the action. The military officials insisted that they had yet to find the wrongdoer.³ On 4 January 2015, Capt. Panomsak Kantaeng, a soldier from Baan Arunothai camp, reported an offence against Mr. Maitree Charoensuebsakul at Phunawai Police Station. He indicated that Maitree had shared a message on Facebook accusing soldiers from Baan Arunothai camp for attacking adults and

² NCPO Leader Order 3/2558, Article 2: A "Peace Keeping Officer" refers to a military officer with the rank of Lieutenant, or Midshipman or Pilot Officer or above, appointed by the Head of the NCPO to act in accordance with this order. An "Assistant Peace Keeping Officer" refers to a military officer of lower rank than a Lieutenant, or Midshipman or Pilot Officer appointed by the Head of the NCPO to act according to this order.

See full unofficial translation of this Order here: <http://www.prachatai.com/english/node/4933>

³ Thai Lawyers for Human Rights, 1/04/2016, *Witness Examination in a case of "Soldier slapped villagers" video clip at Chiang Mai Court on 2-4 February* [https://tlhr2014.wordpress.com/2016/02/01/maitree_case_en/\[Accesed 10/4/2016\]](https://tlhr2014.wordpress.com/2016/02/01/maitree_case_en/[Accesed 10/4/2016])

children. Maitree was indicted under the Computer Crime Act in May 2015 for posting a Facebook clip allegedly containing false and defamatory contents against Captain Panomsak Kantang, a military officer of Arunothai Military Post in Mae Na Subdistrict of Chiang Dao District. On 8th March 2016, over a year and three after the assault on the Lahu community, the Chiang Mai Provincial Court dropped the charges against HRD Maitree. The clip was a video recording of a heated exchange between military officers and Lahu villagers of Kong Phak Ping Village, including Maitree, who on 1st January 2015 went to the local military post to ask the officers to identify soldiers who reportedly abused them physically and demanded that the officers apologize to them⁴.

15. The case of HRD Maitree is a striking example of the retribution that people face when reporting misconduct of authorities, instead of remedies. Not only does this violate the rights of people to seek compensation and remedies under the ICCPR, but it also contributes to creating a practice of impunity where abuse of power persists.

Relating to ICCPR Article 9 Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

And ICCPR Article 10 All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

And ICCPR Article 14 Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal.

16. The right to judicial process has been drastically eroded and the protection mechanisms previously available in the Criminal Procedure Code (Amended 2551 B.E., 2008) seriously undermined. The NCPO has invoked the Statute of the Military Court Act Order, 2543 B.E. (1995), Number 37. This replaces civilian courts with military tribunals for trying various offenses. The order empowers the military court to prosecute any and all crimes in the Thai Criminal Code, including offences against national security and sedition, and the Computer Crimes Act B.E. 2550. In addition, people who violate any of the NCPO's orders are also subject to trial by military court. Arbitrary arrest and detention is clearly enabled under the in NCPO Leader Order Number 3/2558, Article 6: *Peacekeeping Officers have the authority to summon that individual to report to them for questioning or to give a deposition, and while the questioning is uncompleted the individual may be detained for not more than seven days. However, detention must be carried out on premises other than police stations, detention facilities, or prisons, and the detainee is not to be treated as an accused person.*

Specific cases

17. Young HRD Mr Sirawit Serithiwat. At approximately 22:30 on 20th January 2015, Sirawit was speedily snatched off the street in front of Thammasart University, Rangsit Campus, where he is a student, by several men who were dressed in military uniform in a pick-up car. Sirawit is an active member of the New Democracy Movement (NDM). In the early morning of 21st January 2016 it was confirmed that he was being detained at Nimitmai Police Station. This

⁴ For more information see: Thai Lawyers for Human Rights, 8/04/2016, *Court acquitted Lahu activist of computer crime offence, considered that he understood the information to be true, thus not a wrongful act.* <https://tlhr2014.wordpress.com/2016/03/08/court-acquitted-lahu-activist-of-computer-crime-offence-considered-that-he-understood-the-information-to-be-true-thus-not-a-wrongful-act/> [Accessed 10/4/2016]

abduction, which was orchestrated by military officers, is a clear violation of the Convention Articles 9.1 and 9.2⁵. This abduction took place in a context of severe intimidation against the NDM members. Sirawit, his family, and fellow HRDs publicly fighting against the restrictions on civil and political liberties enacted by the junta, have faced systematic and increasingly intimidating threats from security authorities, ranging from close physical surveillance, to charges by authorities, to being tried in military courts.

18. Namely, 11 young HRDs, including 5 prominent NDM young leaders, were accused of violating the junta's National Council for Peace and Order (NCPO) Order No. 3/2015, which prohibits political gatherings of five or more persons, after they participated in a failed excursion to Prachuap Khiri Khan Province on 7th December 2015 to investigate reports of alleged corruption. The plaintiff in the case against Sirawit, and the other 11 who received police summons following the 7 December 2015 action is a member of the military Judge Advocate General's Department. These actions by military authorities constitute direct reprisals and violations of Human Rights, as the Army is persecuting young HRDs for actions which constituted a clear exercise and defence of Human Rights as guaranteed under the ICCPR, Articles 22, 23 and 25⁶.
19. HRD Mr Pianrat Boonrit. HRD Pianrat is a prominent land rights defender from the Premsub community in Chaiburi District, Surat Thani Province, and is the President of the Southern Peasants' Cooperatives (sister organization to the Southern Peasants' Federation of Thailand). On 1 February 2015, Mr. Boonrit received a letter from the Surat Thani Provincial Army summoning him to present himself on 3 February 2015 at 10:00AM in order to attend an "attitude adjustment camp" for three days. The summons stated that the Surat Thani army command was acting in compliance with the National Council for Peace and Order (NCPO) "in order to create a good environment conducive to returning happiness to the Thai people." Mr. Boonrit complied with the summons received and presented himself at the Vibhavadi Rangsit Military Camp, Surat Thani Province on 3 February 2015. Upon arrival he was detained and transferred to the Surat Thani Army central prison. He was reportedly not informed of how long he would be detained. He was temporarily held incommunicado. His

⁵*ICCPR, Article 9*

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

⁶*ICCPR, Article 21*

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

family was not allowed to see him during this period. On 5 February 2015, Mr. Boonrit was released from detention. Before his release, he was forced to sign an agreement that he would meet with the community to convince them to leave the area. He was reportedly threatened that should he fail this condition, he would again be detained for seven days under martial law (now replaced with NCPO Leader Order 3/2558).

20. The practice of arbitrary detention in military facilities for the purposes of “attitude adjustment” have been used against community-based HRDs widely, and their supporters. It has been employed as tool of intimidation against HRDs and their communities as a means of silencing them or suppressing dissent. Such politically-motivated summons and detention are both arbitrary and dangerous to the security of community-based HRDs as they become targets of maltreatment by the authorities, whether HRDs actually comply with summons or not. Relating to Article 19; *Everyone 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.*
21. The previous Constitution B.E. 2550 (2007), revoked 22 May 2557 B.E. (2014) provided various protections for freedom of expression and information especially in Sections 45 – 61 that no longer exist under the Interim Constitution 2557 B.E. (2014) which were vital for the work of community human rights defenders. However, these protections have been removed and any form of expression is under the remit of control of the military as provided by the NCPO Leader Order Number 3/2558, Article 5: *Peacekeeping Officers are empowered to issue orders prohibiting the propagation of any item of news or the sale or distribution of any book or publication or material likely to cause public alarm or which contains false information likely to cause public misunderstanding to the detriment of national security or public order.* This draconian policy is in direct violation of people’s rights to freedom of expression as there are no guarantees for people’s rights to freedom of expression as previously provided; in its stead there are clear guarantees for military control on information.
22. Furthermore NCPO has invoked the Computer Crimes Act B.E. 2550 (2007) to empower them access online communications and suspend websites temporarily. Further to this, authorities have also charged Human Rights Defenders under the Computer Crimes’ Act, and Public Prosecutors have indicted Human Rights Defenders for alleged Computer Crimes’ Act violations, filed by authorities and private corporations. As demonstrated in the cases below, the use of Computer Crimes’ Act is a provision used by authorities and corporations alike to silence and intimidate HRDs who speak out and advocate for their rights and the rights of others.

Specific cases

23. Community-based Woman HRD Pornthip Hongchai HRD Suraphan Rujichaiwat were indicted by the Phuket Public Prosecutor, Phuket Province, in 2014, and in 2015 HRD Suraphan was indicted by the Mae Sot Public Prosecutor, Tak Province, on charges of alleged criminal defamation (Thai Criminal Code Article 326) and Computer Crimes Act violations, following complaints filed by a mining corporation operating a mine in Loei province, close to the homes of both community-based HRDs. The corporation has also filed a complaint of criminal defamation against against a 15-year-old schoolgirl HRD Wanpen Kunna, the Thai Public Broadcasting Service (Thai PBS) and four individuals employed and previously employed by Thai PBS. However, the authorities have not yet taken a decision whether to

indict Wanpen or not. Furthermore, in 2015, six community-based HRDs from Loei province, including WHRD Pornthip and HRD Suraphan were also indicted for alleged civil defamation (Thai Criminal Code, Article 423) by the Loei Public Prosecutor, as a gold-mining corporation filed a complaint claiming THB50million (EUR 1,274,000) compensation from the six community leaders. These cases were taken up against community-based HRDs from the Khon Rak Ban Kerd (KRBK) Conservation Group for exercising their legitimate rights to speak out about the impact on their livelihoods of pollution from a nearby gold-mine, and demand remedies, closure of the mine and restoration of the environment and health of the community. The Loei Provincial Court recognised these legitimate actions when they dismissed the civil defamation case against the community-based HRDs on 30 March 2016.

24. However, that these legal proceedings against community-based HRDs have been opened and processed has allowed for HRDs who voice out their concerns and publicly claim for their rights and the rights of their community will face reprisals. Alarming, the cases filed against community-based HRDs in distant provinces from their hometown further demonstrates a lack of due consideration as to the malicious intent behind the charges brought by private corporations against HRDs. The use of criminal defamation by private corporations to silence HRDs and create an environment where it is HRDs who are put on trial, is a clear violation of the authorities to guarantee people's freedom of expression exempt from fear of reprisals.

Relating to Article 21 *The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*

And Article 22(1) *Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.*

And Article 22(2) *No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.*

And Article 25 *Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:*

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives.

25. Currently these three Articles of the Convention are completely and specifically denied under the Maintaining Public Order and National Security Order Number 3/2558, Article 12: *Political gatherings of five or more persons shall be punished with imprisonment not exceeding six months or a fine not exceeding ten thousand Baht, or both, unless permission has been granted by the Head of the NCPO or an authorized representative.* Furthermore, the NCPO Leader Order 13/2559 issued on 29th March 2016 clearly outlines measures authorities take to target groups which allegedly commit "certain offences that are harmful to public order or sabotage the economic system and society of the country" including

offences relating to forge the government's document, offences relating to liberty and reputation, and offences relating to deceitful action.

Specific cases

26. HRD Lamom Boonyong and two other community-based HRDs were arrested by the Army on 28th March and released on 29th March 2016 from a military camp. They were arrested two days before the official publication of the new Order 13/2559, yet as Sor Rattanamani Polkla, a lawyer with the Community Resource Centre, said "Lamom's summons letter stated that the Army was using the power under NCPO order numbers 3 and 4/2558 regarding violation of social stability to arrest him, but the practice is clearly seen to be an exercise of power under Order 13/2559."⁷ The Order grants explicit powers to the military to conduct searches and arrests without court warrants and remedial mechanisms. Furthermore it targets community-based HRDs who are vocal and public figures on the struggle for Human Rights in Thailand. Already before the official Order being decreed, the Army arrested 3 community-leaders fighting for their community rights, in a land conflict due to the expansion of the Map Ta Phut deep water seaport "I was confused. The influential figures are -supposed to be very rich, to have millions of baht," said Lamom Boonyong, the 65-year-old community leader from Rayong province. "But now, just by working on an issue concerning the troubles of locals, I have now become the mafia."⁸
27. On Monday 15th February and Tuesday 16th February 2016, the Khon Rak Ban Kerd Conservation Group called on public officials in Loei to allow for genuine people's participation in the process of renewing a mining concession permit for gold-mining company in a forest protected area, Khaoluang Sub-district, Loei province. The Khaoluang Sub-district Administrative Organisation (SAO) Council was scheduled to hold a closed-door Council meeting, Tuesday 16th February, to consider the concession renewal. The HRDs requested access to the buildings of the Khaoluang SAO on 15th and 16th February to observe the Council proceedings. As the community did not receive a positive response to their request, they organised **an overnight sit-in action**, the SAO Council meeting did not take place. On Tuesday 16th February, approximately **300 security officials, including both Army and Police forces, were stationed in and around the Khaoluang SAO compound**. Furthermore, Police officials from the Loei Centre to Maintain Peace and Order declared the Khaoluang SAO compound a restricted area thus, the Public Assembly Law would be enforced. The authorities gave the group of villagers 30 minutes to vacate the area as they asked the Court to declare the area restricted, and close off access to the buildings from people. The authorities took these measures which could incriminate the community-based HRDs for their peaceful assembly, yet in loud-speakers officials claimed that they did not want to make anyone violate any laws and that they had taken pictures of all the villagers in the compound. The actions of authorities, namely the excessive show of force, the use of military personnel, and the threats of litigation against HRDs contributes to the **atmosphere of distrust and repression created by local authorities permitting mining concession permit processes to carry-on, but not allowing for the genuine participation and decision-making by people on this issue of general public interest**. The violation of people's right to genuine

⁷ PRATCH RUJIVANAROM, 1 April 2016, The Nation, <http://www.nationmultimedia.com/national/Activists-held-under-broad-new-Article-44-order-by-30283006.html> [Accessed on 12/4/2016]

⁸Sasiwan Mokkhasen, 31 March 2016 Khaosod English <http://www.khaosodenglish.com/detail.php?newsid=1459419611§ion=00>

participation in public affairs is thus violated not only by the removal of procedural guarantees for decisive participation, but also by the actions of authorities violating people's rights to peaceful assembly and free association to advocate for their rights and their community rights.

RECOMMENDATIONS

Access to Justice and Rule of Law - Judicial Process

1. Thailand must urgently reform the judicial system in line with International standards. This must include the end of the use of Military Courts and ensuring the judicial process protects HRDs from malicious or petty lawsuits. In addition Thailand must immediately and unconditionally release all HRDs in currently in detention. Previous convictions against HRDs must be reviewed and quashed where the sentence was passed solely on the grounds of their Human Rights work.

Protection of HRDs

2. Authorities must cease the persecution, surveillance and all other forms of harassment and intimidations of HRDs Authorities must implement measures aimed at preventing violence and crimes against HRD's Violations committed against HRDs must be fully investigated promptly and impartially. Perpetrators are to be held accountable and victims obtain appropriate remedies.
3. Ensure that community-based HRDs have effective access, on a non-discriminatory basis, to meaningful participation in the government of Thailand and in the conduct of public affairs, as provided by Article 8 UN Declaration on HRDs.

Political Participation

4. The state must Stop the current practice of public hearings in relation to development projects affecting local communities since, as implemented, they do not enable a proper public participation, including open, collective and participatory consultations with affected communities and community based HRDs on the framework and the extent of remedies and compensations mechanism.
5. The State must ensure that community-based HRDs have effective access, on a non-discriminatory basis, to meaningful participation in the government of Thailand and in the conduct of public affairs, as provided by Article 8 UN Declaration on HRDs. Until such mechanisms and an elected government are in place the current practice of "public hearings" and the passing of legislation that impacts on community HRDs, such as the Mining Bill will be suspended.
6. The state must suspend the reform on natural resource management legislation, such as the Mining Bill, until democratic and representative legislative structures have been elected, and participatory mechanisms for community and civil society input have been established;