



# Reading Between the Lines

Angkhana Neelapaichit

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Writer Ankhana Neelapaichit  
Translator WGJP  
Editor Roj Komolbutra  
Editorial Staffs Kaniittha Saeearw Angkarn Charnmuang  
Front Cover Choopol Akpantanon  
Back Cover Somchai Neelapaichit's Calendar

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Tel. 0-2975-9975 E-mail: wjgp.bkk@gmail.com

## Foreword

**4 years or 1,460 days is a long enough period of time for many people** to pass through important stages of life. Some will start walking and talking for the first time. Some lives pass from infancy to school age. Some move on from school to work. And some can return to the embrace of their family in splendour after years of seeking refuge.

But for some people it's not like that. 4 years in some lives have to be suffered in dire pain, struggling forward to get through an important period of one's life where the end is still far off, when one cannot see clearly to the end of the road...

Angkhana Neelapaichit, *my mother*, is an ordinary woman. She is one of those in society who must still struggle through a horrific period in her life. If you wish to understand the fate that *my mother* faces, you must try to imagine a middle-aged woman who must force her eyes closed to sleep and open them to awake so that she can live her life each day, having to fight, to contemplate, to stand firm, to suffer from the past, going over the old questions and answers, hearing only bad news and keeping guard over the hope vanishing bit by bit before one's eyes over the past 4 years, not knowing if the way and time that has gone by is only the beginning, or the mid-point, or the finishing line.

Everything has one purpose: the search of an individual, precious to his family, who was disappeared.

The forced disappearance of one person is the *most monstrous* and *inhuman* thing that people in civilized society can do to each other. Humans are social animals who live together with the guarantee of rights and freedoms. When anyone has these guarantees violated, the important mechanism needed to protect human rights and freedoms is the *judicial process*.

The judicial process means a service of the state with the aim of creating legitimacy in society by safeguarding rights and freedoms, and sovereignty.

Since the disappearance of *my father* 4 years ago, questions have been raised in society: *What is the judicial process? Who does the judicial process work for? Is there really a judicial process or not?*

My point of view, and that of many people in society, is that the judicial process is a matter of contrast. For example, there are cases where influential politicians can rely on the judicial process to call easily for justice, fame, honour and property for themselves. But ordinary villagers do not get the same service from the state. Even worse, they are obstructed head on.

The failure of the judicial process of the state demonstrates the inability of the state to safeguard the inalienable rights of individuals. This triggers the emergence of political movements, not of parties, but of the people. Since the disappearance of *my father*, I have seen *my mother* struggle to demand justice through every means available, whether through the state judicial process, civil society, or international movements.

*My mother* compiled this book as a record of the fate that has befallen her in her search for justice for *my father*. Some of the facts and feelings that *my mother* recounts in this book have surprised her children and others in our family. We never knew about them, especially the 'delay and justice' which goes on in Thai society. When I started to read this book, I got the feeling that I wasn't sure of reading it to the end. I wasn't brave enough to learn how much grievous suffering *my father* and *mother* had to undergo.

In addition to the facts and feelings, *my mother* has included letters and a record of the steps she has taken in her search for justice. *My mother* hopes that this book will be used as a torch and a map to guide those who follow in the search for justice. But deep down, all her children know that *my mother* hopes that this story will be an adventure story of the

things that she has experienced, for others to enjoy reading.

We only ask that no one has to meet the same fate as *my mother* and has to open the book to follow the same story. If this has to be, we implore that person to move forward and fight like *my mother* in this book, and win justice after just the first 10 pages. We do not want any person or family to have to fight as long as the hundred and more pages in this book.

This book talks of the struggle for justice of *my father* and *mother* and is a reflection of the injustice that happens in Thai society. For our family, every day there is, other than Almighty God, only *my father* and *mother* as the hope for everyone in our family. I want to insist, on behalf of my family, that the struggle that of *my father* and *mother* has no end and *my father* and *mother* are our role model and pride. We will follow their path whenever and wherever in this world.

As the representative of all my siblings, I hope that the Thai state, which has a relationship of power with society, will recognize and learn from this sorrowful drama that *a barbaric, primitive society* and violence in all its forms will never extinguish truth from the hearts of individuals. On the contrary, such a society can only create more conflict among people. Everyone in our family begs that my father will be the last to suffer in Thai society and we appeal to the Thai government to carry out its duty to follow the judicial process and restore justice to everyone in society, without discrimination, on the basis of a respect for human dignity.

**We call for the old system of justice, based on reputation, fame and wealth, never to re-appear again.**

With love and faith

**Korbkusol Neelapaichit**

## Statement

**The Asian Human Rights Commission (AHRC) never thought that one day we would work so closely on the same path as Khun Angkhana Neelapaichit, because we never even knew Khun Somchai Neelapaichit before he was disappeared. But it is perhaps due to our principles, our type of work, the result of fate or the path that God ordained. Who can, in the end, explain it? We got to know and become acquainted with Khun Angkhana Neelapaichit and worked together from when Khun Angkhana first began to appear in public after a period of about one year of looking after herself and her family. AHRC believes that one reason that we became allies from the first day that we met until now is the similarities between us, especially our attitude to various things, from the personal to the professional.**

Khun Angkhana as a person really comes out in this book—her individuality and her high degree of privacy. She said that she wanted a rest after her youngest son entered university, but she says in this book:

*“Sometimes we can’t avoid doing what needs to be done, so I have just tried to do my best in everything that has happened.”*

There cannot be a family in this society who imagines that one day one of their members will end up disappeared, or ‘snatched’ in colloquial language. But changes like this happen all the time. It’s just a question of how we deal with these changes.

The Neelapaichit family asked this question when their husband and father disappeared, and the answer that they chose was to fight back. This answer is much more difficult than choosing to back out and hide in some corner of society, because you have to face derision from various kinds of prejudice. And this is what actually happened to Khun Angkhana and her family.

This book is a good narrative of their efforts, their struggle and the multitude of problems and obstacles that Khun Angkhana had to experience in her efforts to call for justice for her husband. When you read it, you will find that it is really not easy, but you will see what it is like for one person and one family to stand up and fight. These notes should help build enthusiasm for others who suffer human rights violations to take up the fight. The case of Khun Angkhana is a good example of non-violent struggle, an example for those wondering whether to fight or to withdraw for the sake of themselves and their families.

AHRC believes that the choice to fight for justice for a member of one’s family or society is a difficult one. But it is the only real way of dealing with the problem, because we can proudly tell ourselves that we have done our duty as well as we can, and this view is one where AHRC and the Neelapaichit family agree.

With respect

**Puttanee Kangkun**

Asian Human Rights Commission

## Eulogy

**On 12 March 2004, Khun Somchai Neelapaichit, President of the Muslim Lawyers Association and Deputy Chair of the Human Rights Committee of the Law Society, was disappeared.** This was a tragic loss for the Neelapaichit family and for the circle of human rights lawyers, as well as for the Muslim friends and colleagues in the southernmost provinces, who have to face injustice every day.

Four years have passed. The Neelapaichit family have transformed their loss into a great blessing for Thai society, especially with regard to human rights, the law, and the struggle for justice for those in the three to four southernmost provinces.

In the past 4 years, even as violence has doubled in the southernmost provinces, some suspect that thousands have been arrested in connected with separatism. There is credible evidence that tens of people have been disappeared or shot dead as a result of actions by state officials. Hundreds have been charged with serious crimes. But there have been enough lawyers, both Buddhist and Muslim, to provide assistance to these people in fighting these charges, to campaign for justice, and even to file cases against state agencies while threatened by state officials. Enforced disappearances, torture and extrajudicial execution of suspects are issues where society is taking a greater interest. Society now has an awareness of, and interest in, international human rights law. Mechanisms to promote and protect human rights, especially UN mechanisms, are increasingly being applied to violations of human rights in Thailand. This should form an important basis for progress in Thai human rights. This process is the transformation of a crisis into an opportunity, of a loss into a blessing for society.

*One important consequence of this has come from the struggle and*

*efforts of the Neelapaichit family, led by Khun Angkhana Neelapaichit.*

Khun Angkhana Neelapaichit is unlike many other victims of injustice. In this society, most people falling victim to the state are likely to give up for a variety of reasons and excuses. Certainly many people have to give in like this, although it goes against their sense of fairness, because they do not face the same circumstances and opportunities as Khun Angkhana.

Khun Angkhana Neelapaichit's fight in her appeal for justice over the past 4 years has not been without obstacles. She has had to face bullying, threats, financial difficulties, and complications in her case and circumstances.

Khun Angkhana has had the strength to rise to the challenge of fighting for justice. Khun Angkhana has fought for justice in the case of Khun Somchai's disappearance not for the sake of her family alone, but has used the opportunity to fight for justice for others and for society, especially for marginalized people, like our Muslim sisters and brothers in the three southernmost provinces, some of whom have fallen victim to injustice by police officers. It is a fight for what is right, for justice and for the truth.

This book contains the record of Khun Angkhana's story and the events in her fight for justice and human rights and the comradeship over the past four years.

This book will be more valuable to the reader if you, whatever your side, either of the oppressor or the oppressed, the violator or the violated, state officials or the people, the perpetrators of violence or the victims of violence, take inspiration in uniting for justice and human rights in our society.

**Somchai Homla-or**

Cross-Cultural Foundation

23 March 2008

## When Somchai Neelapaichit disappeared

<b>Foreword</b>	<b>3</b>
<b>Statement</b>	<b>6</b>
<b>Eulogy</b>	<b>8</b>
When Somchai Neelapaichit disappeared	11
On the trail of Khun Somchai	18
From the UN to the Prime Minister	24
Appeals, appeals, appeals	29
Closing Statement	40
Verdict of the court	48
'Looking for' Somchai in Ban Pong	55
Out of the frying pan, into the fire?	64
DSI 'results'	69
Letter to the CDR	77
Meeting PM Surayud	86
Events in Ratchaburi	94
Suing the Royal Thai Police	100
Petition to the NACC	114
Samak government moves the DSI Director-General	117
4 years of being disappeared	122
<b>Biography: Somchai Neelapaichit</b>	
<b>Lawyer and Human Rights Defender</b>	<b>132</b>
<b>Somchai Neelapaichit: Chronology</b>	<b>141</b>

*"Mr Somchai Neelapaichit, lawyer for the defendants in the J1<sup>1</sup> case, has not disappeared. He just had problems with his wife, so he ran away to Bangkok and he hasn't contacted anyone."*

Pol Lt Col Thaksin Shinawatra<sup>2</sup>

16 March 2004

After Khun<sup>3</sup> Thaksin's<sup>4</sup> statement to the press, I immediately became the first defendant in the disappearance of Khun Somchai. But the words of Khun Thaksin taught me one truth, that Thaksin had never known Khun Somchai and his family at all. Personally, I sympathize with Khun Thaksin. I believe that the people around him who gave him information that was incorrect had an important part in many of Thaksin's decisions which have repercussions for Thaksin's fate<sup>5</sup> today.

But the repercussions for Thaksin's life cannot be compared to the immense losses of the large number of people in the war on drugs<sup>6</sup> and of those whose human rights are violated in the three southernmost provinces<sup>7</sup>.

*Or even to the family of Somchai Neelapaichit.*

I lived with Khun Somchai for 30-odd years amid all the concerns of

being close to someone, since Khun Somchai and I come from completely different families and environments.

I am a convent student, while Khun Somchai studied in a temple school.

I liked science, while Khun Somchai hated it heart and soul.

I am a very private sort of person and prefer to keep quiet, while Khun Somchai's personality was outgoing with lots of friends.

So we had very different outlooks on the world and life, but in our life together, we each respected the other's privacy. We had our private spaces where the other did not trespass, except when it affected us as a family and we made decisions together.

Khun Somchai liked to help others, both those who were inferior and those who were stronger. Khun Somchai used to tell me:

*"There is one person I have never helped—my own wife."*

Khun Somchai always helped people in the three southernmost provinces, ever since I knew him. Many times I saw him dejected about some problem or other that had come up, but in a short while he got over it and was ready to fight on.

Later, when his health began to weaken, he started to grumble about wanting to rest, about wanting a new generation of lawyers to make a greater sacrifice working for the disadvantaged.

He helped others without ever hoping that he would be rewarded. Our home was full of certificates of honour and dozens of prizes. The only thing he got very little of from his hard work all his life was money.

He helped so many people that I began to ask him why people who had been denied justice didn't stand up and fight for themselves.

I believed that the plaintiffs and all the various victims of violence were the people with the greatest right to call for justice for themselves and their families.

*But the answer that I always got from Khun Somchai was 'Fear'.*

Khun Somchai always told me that I was lucky to have been born without knowing fear. For me, the best way to manage fear is to meet it head on.

Many times I have thought that fear makes us selfish, protecting ourselves and our families without caring how much people around us are suffering; some people must suffer injury or even death so that the rest of us are kept safe.

About 1 month before Khun Somchai was disappeared, I started to get a strange feeling which slowly grew, both from Khun Somchai and from what was happening outside.

Khun Somchai seemed to be easily startled and wary, while around the house there were often strangers standing and sitting around. But Khun Somchai was Khun Somchai; he wouldn't say what was happening.

Many times I pressed him, because I felt something was wrong. But the answer was always silence. Sometimes I had to go and ask the people standing outside late at night if there was anything I could do to help them.

About 2 weeks before Khun Somchai's enforced disappearance, he told me that he had a friend who was an Assistant District Officer<sup>8</sup> in Narathiwat Province, who had told Khun Somchai that his name was on a backlist as Terrorist #1.

After Khun Somchai was disappeared, this friend was transferred to a nearby province with a promotion.

Khun Somchai also spoke about a case where police officers from the Crime Suppression Division had gone to investigate the theft of weapons from Pileng Camp in Narathiwat and had arrested and detained 5 people, all of whom complained of being tortured.

I saw that he was very bitter when he heard this, which appeared in the letters that he wrote, appealing for justice, to various state agencies on 11 March 2004, just one day before he was disappeared.

*"...as a result of these actions, all 5 defendants were forced to make confessions as desired by the police officers. Confessions and evidence*



*obtained from confessions using physical ill-treatment, intimidation, denial of family visits and denial of opportunities to meet lawyers while being interrogated are a violation of all the rights of the defendants.*

*“Such actions are not allowed under criminal procedure law. This is a complete negation of basic judicial process.”*

While he was appealing the case of the tortured defendants, he was trying to collect 50,000 signatures<sup>9</sup> (according to the 1997 Constitution) to repeal martial law<sup>10</sup>.

Khun Somchai said that martial law gave a great deal of power to the military, who could detain suspects for 7 days without a court order or charge, and family and lawyers were not allowed visits. Most people who had been detained complained of torture while in detention. At the same time, there were reports that a number of people had disappeared without trace after being taken away by unidentified young men.

Khun Somchai said that he would take only 2 weeks to collect the signatures to present to the Prime Minister on 14 March, since on that day, Khun Thaksin was going to hold a cabinet meeting in the three southernmost provinces.

I worried about what would happen if it was not possible to collect 50,000 signatures in 2 weeks.

*Khun Somchai said, “If the people think this is good for them, they have to sign. But if not, it’s really the end for the villagers.”*

About 2 days before he was disappeared, he said that someone who had come to train with him, called Mr San Chokphong-udomchai, an advisor to the Prime Minister’s Deputy Secretary at that time (Mr Kuthep Saikrajang<sup>11</sup>), had taken him to see a ‘big shot’, but he wouldn’t say who this big shot was or what they had talked about. I kept asking Khun Somchai who this Mr San was and why he needed to train in law when he already had a master’s degree and had a good job. But Khun Somchai was still Khun Somchai. He didn’t want to answer these questions and he

wasn’t suspicious about associating with and trusting people close to him.

**11 March 2004.** Khun Somchai stayed overnight at a friend’s house but called to talk to the children as always.

**12 March 2004.** Khun Somchai phoned home early but I was not there because I had gone to take our fourth daughter to school. In the evening Khun Somchai called to talk to the children as before.

About 9 pm I tried to call Khun Somchai. It was Friday night and normally Khun Somchai would not bring work home to do at night since the next day was the weekend. But I couldn’t contact him. I thought he was probably tired and wanted to rest, so I just left a message.

**13 March 2004.** I woke up early as usual. Later I tried to contact Khun Somchai but still couldn’t get through. I remembered that he had told me that on that Saturday he had a meeting of the Muslim Lawyers Association in Khlong Tan<sup>12</sup>.

I didn’t try calling him again. Only the children tried to call their father, until on Sunday the 14<sup>th</sup>, I was sure that whatever had happened, Khun Somchai would definitely come home because that evening he had to travel to Had Yai<sup>13</sup> to plead a case in Narathiwat the following day.

In the afternoon his colleagues from the office came to the house and asked for Khun Somchai. When the children said he wasn’t there, they went away.

Towards 4 o’clock in the afternoon I was beginning to realize that something was wrong, because every time he had gone upcountry before, he always came home first.

At about 7 pm, a friend who was going to plead the case in Narathiwat called our house as the children and I were sitting down to dinner. This friend told me to be prepared, but he thought something untoward had happened to Khun Somchai because no one had been able

to contact him since the night of Friday 12 March. Khun Somchai was very responsible about his work and no matter what happened, he would never miss a court appointment unless it was unavoidable.

I had just taken that call when two of Khun Somchai's friends were waiting at the gate. One of them was Mr San Chokphong-udomchai. These two had come to say that *Khun Somchai had disappeared*, together with his white Honda Civic, registration number Pho Ngo 6786, which he normally used.

When Khun Sak Korsanguang, at that time a Senator, called to ask about Khun Somchai's disappearance, I realized that all Khun Somchai's friends clearly knew that he had disappeared. It was myself and the children who were the last to know.

After listening to various accounts, I drove to Bang Yi Ruea<sup>14</sup> Police Station to make a statement for the police to investigate further. I believed in my heart that Khun Somchai had had some kind of accident.

**But after the police investigated in detail, they found that no accident had been reported involving anyone like Khun Somchai and there was no trace of his car.**

.....

- 1 Jemaah Islamiyah is a terrorist organization active in Southeast Asia and is believed to be involved in the insurgency in southern Thailand. Following the attack on Pileng Camp in Narathiwat province on 4 January 2004, 5 Muslim men were arrested and accused of the robbery. They were represented by Somchai Neelapaichit who publicly claimed that his clients had been tortured by the Thai security forces. The 5 suspects were subsequently released before the case came to trial.
- 2 Prime Minister of Thailand from 2001 to 2006 and one of the richest people in Thailand. He resigned from the police in 1987, but is still commonly referred to by his police rank.
- 3 'Khun' is a general honorific equivalent to 'Mr', 'Mrs', 'Miss' or 'Ms' in English.
- 4 Thais are referred to by their first, given names, rather than their family names,

as in most western languages.

- 5 Prime Minister Thaksin was overthrown in a coup on 19 September 2006 while he was waiting to address the UN General Assembly in New York. At the time this book was written he was still in exile and facing numerous court cases in absentia. He since returned to Thailand, was sentenced to prison for corruption, but again fled the country into exile.
- 6 In 2003, PM Thaksin ordered a war on drugs which resulted in over 2,500 unexplained murders. Official reports blamed the killings on disputes among drug dealers. It is widely assumed that many of these were in fact extrajudicial executions by state officials.
- 7 The Muslim majority provinces of Pattani, Yala and Narathiwat were formerly part of the Sultanate of Pattani and became part of Thailand over a century ago. Separatist sentiment has waxed and waned and the latest period of relatively high levels of violence began in 2004. There are persistent reports of violations of human rights by state agencies.
- 8 District Officers and Assistant District Officers are government officials appointed by the Department of Provincial Administration of the Ministry of Interior, and are only rarely from that district.
- 9 The 1997 Constitution allowed citizens to propose laws by gathering the signatures of 50,000 eligible voters.
- 10 Martial law was imposed on Pattani, Yala and Narathiwat provinces in January 2004 and it is still in force.
- 11 Lt Kuthep, a lawyer, was an executive member of Thaksin's Thai Rak Thai Party, and spokesman for the successor People Power Party.
- 12 A district in the west of Bangkok.
- 13 Hat Yai is the largest city in the south of Thailand with an airport and important rail junction.
- 14 A district in the east of Bangkok where the Neelapaichit home was located.

## On the trail of Khun Somchai

**15 March 2004.** In the morning I took the children to school as normal and tried to tell them to live as before. When I got home, I found many of Khun Somchai's friends waiting.

I have already said that he had many friends. I spent many days answering questions that I couldn't answer, from the police, relatives, friends, and all the people who cared for Khun Somchai.

*This was the time when I really suffered, because I had hardly any time to talk to my children, although at that time I should have spent as much time as possible with them.*

What I really wanted to do was to close the gate and be alone with the children, to explain to them everything that had happened, and to prepare them to face what was waiting for us in the future.

The children at that time were coming to the end of their school term<sup>1</sup>. Only Na<sup>2</sup>, the eldest daughter, had to go to work at the Administrative Court every day and Mee<sup>3</sup>, my fourth daughter, wanted to take special classes with her friends.

One evening after Khun Somchai had disappeared, a representative of the Royal Thai Police brought a basket of fruit for us. This made me wonder why they had sent it, because at our house we had all the food we

needed from our friends.

The next morning, Pol Lt Gen Wongkot Manirin<sup>4</sup> was waiting for me in front of the house when I got back from taking the children to school.

He sat and chatted for many hours. He tried to ask how we were, offered friendship, and asked about Khun Somchai, his character, his way of life, and even what books he liked to read.

*But even though he tried to appear friendly, I still had the feeling that day that it was exactly like being interrogated...*

**16 March 2004.** In the afternoon I received a telephone call from Pol Gen Sombat Amornwiwat<sup>5</sup>, who at that time was Director-General of the Department of Special Investigation and was serving as the head of the working group to investigate the disappearance of Khun Somchai which Khun Thaksin had set up, which also included the Attorney-General and Dr Pornthip Rojanasunand<sup>6</sup>, Acting Director of the Central Institute of Forensic Science of the Ministry of Justice.

Khun Sombat informed me that Khun Somchai's car had been found abandoned in the car park of Mo Chit Bus Station<sup>7</sup>. He needed me to bring Khun Somchai's spare car keys.

At that time I was being questioned by the police at home. So I went to Mo Chit Bus Station with the police from Bang Yi Ruea to take the car keys to the Director-General.

On the way there, I got a phone call from the Director-General telling me that the officers were going to move Khun Somchai's car to the Scientific Crime Detection Division of the Royal Thai Police and asked me to meet him there.

When I got there I was surprised not to meet the Director-General. Instead I met only Pol Col Saruetchai Anekwiang (his rank at the time), Deputy Metropolitan Police Commissioner 8, and what surprised me even more was why they did not take the car for examination at the Central Institute of Forensic Science rather than to Scientific Crime Detection

Division of the Royal Thai Police.

*In the end, the examination of Khun Somchai's car, the single most important piece of evidence in this case, found...nothing.*

**19 March 2004.** I remember that night was a Friday. There was a phone call to the house from a reporter who said that there was good news. "They will set Khun Somchai free in Prachinburi<sup>3</sup>, but there is still no confirmation. I know that Khun Somchai is badly hurt."

From then on there was news every hour on every TV station that Khun Somchai would be released. The phone never stopped ringing with questions about the story.

I remember the children's feelings. Everyone at home was fine; everyone was very pleased and hopeful. There was the sound of laughter and smiles appeared.

But I had my suspicions, especially because everyone thought that I should be the one to know best what was happening and I should be the one to be contacted to fetch Khun Somchai.

But the answer I gave everyone was that I didn't know much more than what everyone else was getting from the media.

*The children waited for news until they fell asleep and when the next day began, they went back to how they were before...*

The private life of my children and myself began to change after Khun Somchai's disappearance. From being someone who liked to work behind the scenes, who liked her privacy, I had to become someone who had to answer questions, both from the media and from well-wishers (and from those who did not wish us well), someone who had to appear on TV almost every day, and everywhere I went, people turned to look at me.

From being a person who did not like using a mobile phone, I had to adapt and use one, because I had to answer questions from everyone all the time.

I began to feel oppressed by the changes in my life. Many people loved Khun Somchai and tried to help me and the children. Friends from the office said at the beginning that they would look after our family and many groups wanted to help.

As I have already said, Khun Somchai helped many people. The day he wasn't there, many people wanted to look after his family.

But I and our family were not used to *receiving* help and many people maybe did not know us very well or understand what kind of people we are. So some people looked at me as arrogant and proud.

And because of my calm nature, I wasn't used to expressing anger, sorrow or aggression. This meant that no one knew what I was thinking.

I believe that anger and ignorance are fires that cannot burn others but can burn and destroy ourselves and harm the ones who we love and who love us. So I never let anger and ignorance arise in me or our family.

I also believe that the feeling of anger will prevent us from enjoying peace of mind and make us lose the path of wisdom in solving our problems.

I spent about almost one full year mending the spirits of myself and our children by not joining any activities, not talking about Khun Somchai's disappearance and trying not to think about what had been done to Khun Somchai. Most of my time was spent with our children. I was constantly persecuted and threatened, even to the point of people coming in and opening their bag to show many guns in it.

I had never been angry with Khun Somchai when he devoted his work to others without thinking of himself or his family but I was surprised that no matter how much Khun Somchai sacrificed and dedicated himself, he could not strengthen civil society in the three southernmost provinces to the point where they could stand up and demand their just rights by themselves.

Today I have the opportunity to reach these people myself. Most

poor people lack education and cannot access various resources by themselves. This is not like high-class people, the intelligentsia or politicians, who try to propose ways to solve problems which I believe are not in the least what local people need.

I am not interested in why Khun Somchai was disappeared, but I often ask myself why society allows people to disappear without feeling that it is something unusual that society must take responsibility for.

One year after Khun Somchai's disappearance, I began to ask the children what we should do.

We had the choice of doing nothing, with many people trying to make things better. Or we could stand up to demand justice, when we would not know what we would face in the days to come and whether, in the end, there would be any justice for little people like us.

We could lose family and friends who may not be able to put up with the threats and intimidation. In the end, the family agreed that we should not allow Dad to be disappeared without us doing anything.

So we had no pleasure in accepting the huge amounts of help that was offered in exchange for the pain of Khun Somchai.

**When the children began to understand, I began to think what we could do, apart from fight the case in court.**

. . . . .

- 1 Thai school terms run from May to September and November to March.
- 2 Na is the nickname of Sudpradthana Neelapaichit. Thai nicknames are used among family members, friends and peers.
- 3 Mee is the nickname of Krongtam Neelapaichit.
- 4 At the time, Commissioner of the Central Investigation Bureau.
- 5 Younger brother of Sompong Amornwiwat, a Thai Rak Thai/People Power Party politician and former Minister of Justice and of Foreign Affairs, Pol Gen Sombat is considered a 'political' policeman closely allied to former Prime Minister Thaksin.

- 6 Dr Khunying (Lady) Pornthip, famous for her dyed spiky hair and flamboyant jewelry, is widely regarded as an outstandingly incorruptible public servant. This has led on many occasions to conflicts between her and the Royal Thai Police.
- 7 Mo Chit Bus Station in the north of Bangkok is the terminal for inter-provincial bus services to the north and northeast.
- 8 Prachinburi Province is approximately 135 km to the east of Bangkok, near to the Cambodian border. It includes a number of military camps.

## From the UN to the Prime Minister

**The Thaksin government seemed to be sincere in resolving the case** of Khun Somchai's disappearance by issuing an arrest warrant for 5 police officers in April 2004 under public pressure. These were **Pol Maj Ngoen Thongsuk, Pol Lt Sinchai Nimpunyakaphong, Pol Sgt Maj Chaiweng Phaduang, Pol Sgt Randon Sittikhhet and Pol Lt Col Chatchai Liamasanguan** of the Crime Suppression Division, named as Defendants 1-5 respectively, charged with gang robbery and coercion of others using violence.

*But a charge of murder or other more serious charges could not be brought because there was no dead body or other evidence to indicate that Khun Somchai was dead.*

Eventually all were granted temporary release. One was released from prison after 30 days detention and was able to return to government service immediately as if his time in prison was regular official duty, even though civil service laws specify that government officials are not allowed to be absent from work for more than 15 days without a suitable reason.

I tried to question investigating officers on the evidence against the defendants but everything was kept secret. Even the material evidence was not disclosed, although the injured party should have the right to be

informed of the evidence as appropriate.

**18 April 2005.** A Central Bureau of Investigation officer, who had been investigating a few days after Khun Somchai disappeared, telephoned me at home to ask how I was and about progress in the search for Khun Somchai.

I asked him in turn whether he should tell me and the family about progress in the search for Khun Somchai, rather than ask the injured party, like me, who cannot access any of the evidence in the case.

The CBI officer went silent and tried to ask again whether I was thinking of appealing to the United Nations. "Do you want to meet the Prime Minister (Khun Thaksin) or send him a letter telling him what you need? I can contact him directly and will be happy to help."

I felt very uneasy that day because I did not know why I should have to answer these strange questions about what I was going to do...

**21 April 2005.** All the media had stories that I had been threatened. This must have been because I complained to friends that someone had telephoned to warn me to be careful and had opened their bag to show me weapons of various kinds.

**22 April 2005.** I was contacted by the Minister of Justice, Khun Suwat Liptapanlop<sup>1</sup>, who wanted to see me urgently. If I would not go to meet him at the Ministry, he would come to meet me at home.

I decided to go to meet him at the Ministry of Justice. I learned that he was very concerned about the threats against me.

He wanted me to accept witness protection. When I refused, implored, "If anything happens to Khun Angkhana, the government could not last."

*So I had to make sure that nothing happened so that the Thaksin government could go on as normal and it was extremely necessary for me*

*to be under the protection of the police!*

**30 May 2005.** A meeting of the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) was held at the UN building in Thailand, the first meeting of the group outside Geneva, Switzerland.

I had the opportunity that day to meet Prof Stephen J. Toope, chair of the Working Group, and the Working Group, to request them to take on the enforced disappearance of Khun Somchai as a UN case.

Prof. Toope and the Group spoke to me in a pleasant way but they did not promise whether they would accept Khun Somchai as a UN case.

**1 June 2005.** UNWGEID telephoned to say they were pleased to tell me that the Group had considered the case of Khun Somchai's disappearance and had resolved to accept the case of Khun Somchai as UNWGEID Case Number 1003249.

One year later, on the occasion of the second anniversary of Khun Somchai's disappearance, the Asian Human Rights Commission presented a Human Rights award to Khun Somchai, which I accepted in his place. I received a message of congratulation from Prof. Toope, which included these words:

"I well remember during the 75th session of the Working Group, held in Bangkok last June, the other members of the Working Group and I met with Mrs Angkhana Neelapaichit, and we witnessed the courage and strength Somchai's family has shown in the face of his tragic disappearance. We were heartened by the meeting and the support many in the NGO community showed for Somchai's family. I encourage you in your work, and wish you all such strength and courage."

**2 June 2005.** A reporter asked Khun Thaksin about UNWGEID's acceptance of Somchai's case. Khun Thaksin became very angry and the

newspaper headlines read "Thaksin says 'the UN is not my father'."<sup>2</sup>

**16 June 2005.** A person who I greatly respect telephoned to inform me that Khun Thaksin wanted to meet me. I told this person that I had no business that would bother Khun Thaksin, but this person emphasized that at least Khun Thaksin and I would have the opportunity to meet and exchange views and feelings and understand each other better. So I agreed to meet Khun Thaksin.

**20 June 2005.** In the afternoon I went to meet Khun Thaksin at Baan Phitsanulok alone. Dr Prommin Lertsuridej, the Prime Minister's secretary, joined the conversation.

We spoke in a pleasant atmosphere. I asked Khun Thaksin about his interview reported in all the media where he said that Khun Somchai had problems with his family and had run away from home. Khun Thaksin said that he did not know the truth but had been told this by someone close to him.

I asked him again directly about news that there was a phone call from Government House to one of the defendants in the case of Khun Somchai's disappearance, and he seemed to be aware of Khun Somchai's abduction. Khun Thaksin said that he didn't know about it and really was not involved in it.

I asked him many other things that troubled me, such as reports that Khun Somchai had been taken to Mae Hong Son<sup>3</sup>. He said that these reports were false. He promised to look into some issues and assigned Dr Prommin to coordinate with me.

I myself did not really believe that Khun Thaksin, the Prime Minister, would be interested in the problems of someone as insignificant as me, and that really was the case.

Many questions that I asked have never been answered, or it may be because he himself really could not give answers.

## Appeals, appeals, appeals

The last question I asked was “Is Khun Somchai still alive?” to which his reply was “He is probably dead, because there can’t be anyone who has taken Khun Somchai to look after him.”

Khun Thaksin wanted to sympathize with me and show concern. He tried to ask how I was. He wanted to help me. He wanted to support the children to have the opportunity to study to high levels and to help improve the family’s life.

**It looked like he really wanted to help me but what I wanted was something he could not give, because what I wanted was the truth and justice.**

. . . . .

- 1 Suwat Liptapanlop, a veteran politician from the northeast and many times minister, was among the 111 executives of the former Thai Rak Thai Party who were banned from politics for 5 years in 2007 when the party was dissolved when found guilty of electoral fraud. After he was banned, his wife, who had no previous political experience, was named Minister of Energy.
- 2 This is incorrect. Thaksin did say ‘The UN is not my father’, but in March 2003 in response to criticism by the UN High Commission on Human Rights about suspected extrajudicial killings in the war on drugs.
- 3 Mae Hong Son is a mountainous province bordering Burma in the extreme northwest of Thailand, approximately 925 km from Bangkok.

**15-23 July 2005.** I had the opportunity to travel to Geneva, Switzerland, with the support of the Asian Human Rights Commission. Thailand was making its report to the UN under the International Covenant on Civil and Political Rights and the disappearance of Khun Somchai was one of 26 questions that the UN had about progress in cases of threats against human rights defenders in Thailand.

**18 July 2005.** Today the representative of the Thai government had to present the report on the status of human rights in Thailand to the UN Human Rights Committee. There were many questions that the Thai government representative could not answer, including questions relating to the disappearance of Khun Somchai.

On the same day in Thailand, the Department of Special Investigation held a ‘special’ meeting to accept Khun Somchai’s disappearance as a special case. I had previously tried appealing to the Department of Special Investigation to take on Khun Somchai’s case, but had always been refused.

**9 August 2005.** Today was the opening of Khun Somchai’s court



case. I was the first witness to testify in the case of Khun Somchai's disappearance. Previously there had been testimony from the people who Khun Somchai claimed had been tortured by high-ranking police officers. The court had sent the case to Narathiwat province, but the lawyers for the 5 defendants filed a petition to have the witnesses testify in Bangkok since both the lawyers and the defendants feared for their safety if they had to travel to Narathiwat.

*That day was the first day I had to sit and face the 5 policemen who were the defendants.*

**23 August 2005.** I sent an appeal letter to the Chairperson of the National Human Rights Commission over not receiving justice for over one year and 5 months from relevant officials of all ranks and in all agencies in the investigation of Khun Somchai's case.

The National Human Rights Commission therefore set up a sub-committee to investigate Khun Somchai's disappearance and conducted inquiries with the sources of information, but since information had been concealed and was limited, the efforts of the National Human Rights Commission were not successful.

**17 October 2005.** Officials of the Department of Special Investigation made an appointment for me to ask questions of the special case prosecutor. This was the first time that the Department of Special Investigation had shown any movement in Khun Somchai's case since it accepted the case on 18 July 2005. Before answering any questions, the special prosecutor had the kindness to ask me if anyone had proposed to help or not. I answered that there was. He then kindly told me:

*"In this kind of case, there is no way to do anything. You should accept help. It will be better..."*

**19 October 2005.** On the last day of examining prosecution

witnesses, the Chief Judge on the bench said in court that he was moving to work at the Supreme Court and another judge would take his place.

I wondered how the verdict could be written if one judge hears the testimony of the prosecution witnesses and another hears the defence witnesses and maybe yet another writes the verdict without having heard the testimony from the beginning. The 1997 Constitution prescribes in Section 236:

*"The hearing of a case requires a full quorum of judges. Any judge not sitting at the hearing of a case shall not give judgement or a decision of such case, except for the case of force majeure or any other unavoidable necessity as provided by law."*

**30 October 2005.** I wrote a letter to the President of the Supreme Court and the Director-General of the Criminal Court Bench, asking them to delay the transfer of the Chief Judge in the case of Khun Somchai until a verdict was reached.

**31 October 2005.** I met Mr Charan Pakdithanakul, then Secretary to the President of the Supreme Court, to submit my letter requesting a delay of the transfer order, and later received a letter in reply saying that the Chief Judge would stay to judge the case.

73/5 Soi Issaraphab 11  
Issaraphab Road  
Thonburi, Bangkok 10600

21 October 2005

Re: Transfer of the Chief Judge in the case of Mr Somchai Neelapaichit  
To: President of the Supreme Court

Prosecutors from the Attorney-General's Office are prosecuting Pol Maj Ngoen Thongsuk and 4 others as defendants in the case of the kidnapping of Mr Somchai Neelapaichit, Criminal Court Case Number Black 1952/2547. I, Mrs Angkhana Wongrakhen, wife, and the children of Mr Somchai Neelapaichit, numbering 5 persons, are joint plaintiffs. In the aforementioned case, Mr Suwit Pornpanich is the President of the Bench of Judges.

During the trial on 18 and 19 October 2005, I was informed that the aforementioned President of the Bench of Judges will be transferred to other duties and his last day hearing this case will be Friday, 21 October 2005, although examination of witnesses ends on 30 November 2005 or at the latest on 15 December 2005. As wife of Mr Somchai Neelapaichit and joint plaintiff in the case, and as the injured party directly affected by the disappearance of Mr Somchai Neelapaichit, I am very concerned and anxious that the transfer of the President of the Bench during the trial before the verdict will affect the justice of this case. This transfer may also not conform to the provisions of Section 236 of the 1997 Constitution of the Kingdom of Thailand, which states that court hearings must have a quorum of judges and that any judge who has not sat in the trial cannot deliver a verdict or judgment in that case.

For this reason I respectfully request that you consider procedures under your powers as President of the Supreme Court in order for Mr Suwit Pornpanich to remain sitting in this case until a verdict is achieved, for the purposes of justice.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

[Garuda]

Ref: So Yo 001/4626

Office of the President of the Supreme Court  
No 6 Court of Justice Building  
Ratchadamnoen Nai Avenue, Bangkok 10200

5 November 2005

Re: Appeal for Justice

To: Mrs Angkhana Neelapaichit

With reference to: Your letter dated 21 October 2005

In the above-mentioned letter, you, as wife of Mr Somchai Neelapaichit and joint plaintiff in Case Number Black 1952/2547 of the Criminal Court, bring to the attention of the President of the Supreme Court the case of Mr Suwit Pornpanich, Chief Judge of the Criminal Court Bench, who is Chief Judge in the aforementioned case and who will move to a position in another court. You request that Mr Suwit remain to try this case until a verdict is given, for the reasons stated in your letter.

The Office of the President of the Supreme Court has taken your submission to the President of the Supreme Court for consultation and wishes you to know that at present the Chief Judge in this case has not yet been transferred to a position in another court and will continue as judge considering the verdict in the aforementioned case.

For your information

Yours respectfully,

[Signature]

(Mr Charan Pakdithanakul)

Secretary to the President of the Supreme Court

Law and Regulations Group

Tel: 0 2221 2101

Fax: 0 2224 4912

**1 December 2005.** I sent a letter to the Deputy Prime Minister and Minister of Justice, Pol Gen Chitchai Wannasathit, and the Director-General of the Department of Special Investigation, Pol Maj Gen Sombat Amornwiwat, calling for urgency in the case of Khun Somchai's disappearance and for a broader investigation and additional charges, since the court hearings were simply a case of robbery and coercion, and this could not bring about full justice with respect to the disappearance of an individual, especially a disappearance carried out by agents of the state.

I went to wait for the Deputy Prime Minister and Minister of Justice and the Director-General of the Department of Special Investigation as I had informed both in advance. An official of the Ministry informed me that both men were in a meeting on special cases and could not come out to receive my letter and asked me to leave my letter with him instead. But I insisted that I wanted to meet them. I asked for the kindness of only 10 minutes to present my letter in person.

I waited for almost half an hour without the opportunity to meet them. There were only officials who welcomed me and said it was better for me to leave my letter with them.

A reporter then phoned to tell me that the Minister and Director-General were leaving the meeting room on a different floor from where the officials had had me wait. I therefore knew the truth that I really had been tricked into waiting on the wrong floor. However, I was eventually able to meet the two men.

73/5 Issaraphab Rd 11  
Thonburi, Bangkok

1 December 2005

Re: Request for justice in expediting the search for Mr Somchai Neelapaichit  
To: Deputy Prime Minister and Minister of Justice Pol Gen Chitchai Wannasathit

It is now more than 1 year and 9 months since Mr Somchai Neelapaichit, human rights lawyer, President of the Muslim Lawyers Association, Deputy Chair of the Human Rights Committee of the Lawyers Council and Outstanding Lawyer of the Year for 2003, was disappeared on the night of 12 March 2004. I and my family have suffered severe distress as a result of the disappearance of my husband and the father of our children and I have constantly tried to appeal for justice from the government system in the search for Mr Somchai.

Since July 2005, prosecutors of the Attorney-General's Office have brought a case against Pol Maj Ngoen Thongsuk and 4 others. All of whom are police officers, on charges of gang robbery and coercion of Mr Somchai Neelapaichit, Criminal Court Case Number Black 1952/2547, with myself, Mrs Angkhana Wongrakhen, wife, and the 5 children of Mr Somchai Neelapaichit as joint plaintiffs. Court hearings have been going on since August 2005 and will finish on 2 December 2005, and a great deal of evidence has been presented.

On 19 July 2005, the Department of Special Investigation accepted the disappearance of Mr Somchai Neelapaichit as a case under its responsibility by establishing a case working committee, following an order of the Prime Minister on 9 September 2005. I believe that the evidence and witnesses that the investigating officers, prosecutors and lawyers for the plaintiffs have submitted for the court's consideration, together with the evidence of the 5 defendants, which are to be considered in the case,

should be used by the Department of Special Investigation as information in conducting an efficient investigation into the disappearance of Mr Somchai. However I have not been informed whether or not the Department of Special Investigation has operated sincerely in its investigation to seek evidence and question individuals who may be involved in the disappearance, or how this may have been done. Almost two years have now passed. Evidence and witnesses may disappear until we lose hope of ever knowing where Mr Somchai has disappeared to and whether he is still alive. I believe that no person should suffer a disappearance without a proper search.

Also, one of the police officers who has been charged with robbery of Mr Somchai has returned to police service in his former position, because the results of the examination of the evidence were not sufficiently clear for disciplinary punishment, and the remaining 4 officers are about to return to government service, according to testimony given during court hearings.

I therefore plead to you in your capacity as a person with full operational authority, to follow up the search for Mr Somchai Neelapaichit with justice, urgency and sincerity in order to provide answers for myself, my family and society.

For your consideration

Yours respectfully,



(Mrs Angkhana Neelapaichit)

Wife of Mr Somchai Neelapaichit

**8 December 2005.** I submitted a letter to the Inspector-General of the Royal Thai Police to protest the fact that a police officer who was a defendant in the case of gang robbery and extortion of Mr Somchai was still in government service and carrying out duties while the case was in progress and the other defendants were in the process of asking to return to government service after court proceedings were finished. Normally government officials who are charged with crimes must first be suspended from government service by requesting a disciplinary hearing. (But even until today I have never been informed of the results of these hearings.)

73/5 Issaraphab Rd 11

Thonburi, Bangkok

8 December 2005

Re: Request to return to government service by police officers who are defendants in the case of gang robbery and coercion of Mr Somchai  
To: Inspector-General of the Royal Thai Police

Pol Lt Col Chatchai Liamsa-gnuan, Defendant 5 in the case of gang robbery and coercion of Mr Somchai, testified in court on 15 and 16 November 2005 that he had already returned to his position as Deputy Commander, 3<sup>rd</sup> Command, Crime Suppression Division. In addition, Pol Lt Col Chatchai Liamsa-gnuan further testified in court that Defendants 1-4, who were suspended from government service since their arrest in April 2004, have appealed to return to government service and will do so in December 2005.

In court there was reference to disciplinary investigation reports of the Royal Thai Police specifying that the evidence was insufficiently clear to impose disciplinary punishment on Pol Lt Col Chatchai Liamsa-gnuan, and

that he should be transferred back to the Crime Suppression Division after completion of a period of 6 months since the date of the order of 20 April 2004 transferring him to assist government service elsewhere. It also appears, according to sensational newspaper reports, that this police officer has been participating in official operations since June 2005, such as the destruction of the Taopoon gambling den and the arrest of murderers.

I, as the wife of Mr Somchai and the injured party, and as joint plaintiff, have heard disturbing reports that Pol Lt Col Chatchai Liamsguan has already returned to work as of October 2004 and the other 4 police officers are about to return to government service in December 2005, even though they remain as defendants in this criminal case. Perhaps the disciplinary procedure, which was not transparent, did not take into consideration the consequences for witnesses and the case, which may be a contravention of the 1992 Civil Service Act.

I therefore respectfully request that you use your authority to investigate whether the procedure to return these 5 police officers to government service was conducted in a proper, correct and transparent manner.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

Wife of Mr Somchai Neelapaichit

- .....
- 1 Thailand ratified the ICCPR in 1996 and is thus required to present regular reports to the UN Human Rights Committee. Its first report was delayed until 2005 when a shadow report was also presented by Thai civil society.
  - 2 The National Human Rights Commission was established under the 1997 Constitution as one of the independent agencies in a system of checks and balances among the executive, legislature, bureaucracy and courts. It is one of the few to have achieved true independence, but its reports have been regularly ignored by the government.
  - 3 Thai law does not allow jury trials. Cases are adjudicated by a panel of judges.
  - 4 In June 2005, police raided an illegal gambling den in the Taopoon area of Bangkok. One of those arrested was Sapol Kong-udom, giving rise to speculation that the casino was an operation of Chatchawal Kong-udom, known popularly as Chat Taopoon, who was at the time a member of the elected senate and proprietor of Siam Rath newspaper, with a long history of suspicion of involvement in illegal gambling operations.

## Closing Statement

**30 Dec 2005.** I went to submit the closing statement of the case at the Criminal Court before the reading of the court verdict on 12 January 2006.

### Closing Statement

Case Number Black 1952/2547

Case Number Red /25

Criminal Court

Date...30...Month...December...Year...2005

Criminal...Case

Public Prosecutor (Department of Special Litigation,

Criminal Case Section 6)

Plaintiff

Mrs Angkhana Neelapaichit, Joint Plaintiff 1, and others Joint Plaintiff

between

Pol Maj Ngoen Thongsuk, Defendant 1, and 4 others Defendant

I, Mrs Angkhana Neelapaichit, request to submit the following statement.

Item 1 In this case, the Court has set 12 January 2006 at 13.30 hours, for a hearing of the verdict and I, Joint Plaintiff 1, request to make a closing statement for the judgement of the Court.

Item 2 In this case, the Plaintiff has presented evidence from the records of telephone usage that Defendants 1-5 followed Mr Somchai Neelapaichit from after 08.00 hours on the morning of 12 March 2006 from Soi Rachadaphisek 32 (the office of Mr Somchai) until between 20.30 and 21.00 hours, at which time Mr Somchai left the Chaleena Hotel on Soi Ramkhamhaeng 65 and turned into Ramkhamhaeng Road<sup>1</sup> in the direction of Lam Sali intersection, according to the testimony of Mr Pathomphong Likhit and Mr Kitja Ali-haso and eyewitnesses Miss Chawiwat Yutthahan, Miss Sunan Khlongkhem, Miss Kamonthip Phromsi and Mr Siam Pliansam-ang, whose evidence is consistent that there were two cars parked together in front of house number 2367. The car in front was white and the car behind was a darker colour. There were 3-4 men standing and talking together. There was later the sound of a cry and a man who came from the first car was pushed into the second car, which was driven away. All eyewitnesses believe that the man who was pushed into the car was Mr Somchai Neelapaichit. All 5 defendants deny this, by claiming that they were not at the scene and by denying the records of their telephone usage. From this evidence, it must be considered whether the 5 defendants are guilty as charged, with the following points to be considered.

2.1 The Joint Plaintiffs respectfully present the history of the work of Mr Somchai Neelapaichit. Mr Somchai Neelapaichit earned a Bachelors Degree in Law from Ramkhamhaeng University<sup>2</sup> in 1979 and worked consistently to provide legal assistance to the people, especially in national security cases in the south, work which requires high levels of sacrifice and bravery, since very few lawyers place importance on, or interest in, assisting in this problem. In the case under Mr Somchai's responsibility, the

Court dismissed charges for lack of evidence. In addition, Mr Somchai expressed his opinion on the way police officers carried out their duties, calling for improvements and calling on lawyers to give importance to problems with the conduct of police officers which affect the protection of human rights and the development of more effective judicial processes. Details of this can be found on pages 37-50 of the document 'The Snatching of Lawyer Somchai Neelapaichit', Attachment Number 1 to this Statement.

The important point to be considered is that during the period of time before the disappearance of Mr Somchai, the violence in the south increased greatly, starting with the theft of weapons on 4 January 2004. Mr Somchai expressed his opinion on the violence in the three southernmost provinces and the improper conduct and violations of human rights by state officials. This is shown in the VCD of Mr Somchai's last meeting on 27 February 2004, two weeks before Mr Somchai disappeared. Details can be found in the VCD recording of the seminar, Attachment Number 2 to this Statement.

2.2 The reason leading to the abduction of Mr Somchai Neelapaichit comes from the fact that Mr Somchai submitted a complaint about the torture of 5 defendants in the case of stealing weapons and burning down schools. These 5 defendants are Mr Makata Harong and associates. Mr Sak Korsangruang testified to the court that he, together with Dr Pradit Chareonthaitawee<sup>3</sup> and Dr Khunying Pornthip Rojanasunand, visited the accused (Mr Makata and associates) in Bangkok Prison, where all five reported that after being arrested they were manhandled and ill-treated using methods of torture in order to make them confess. The methods included electrical shocks to the genitals. Some were suspended by the neck and made to stand naked on tiptoe on a chair. The accused showed scars on their bodies, as seen in Exhibit Jo 8. This agrees with the testimony of Pol Gen Sombat Amornwivat, Director-General of the Depart-

ment of Special Investigation, as chair of the committee to investigate the truth behind the disappearance of Mr Somchai to the Senate Committee, that his assistance to the 5 accused was one of the reasons for the disappearance of Mr Somchai Neelapaichit. If any action taken as a result of the complaint of the 5 accused found out the truth, then it would be a criminal offence and those involved would be charged with a crime. In fact, Exhibit Jo 128 is an order appointing Defendant 5 to the investigation committee and Defendant 1 took part in the arrest of the 5 accused in the arms theft case. Mr Chudirueman Male, one of the 5 accused, claims in Exhibit Jo 23 that Defendant 1 was one of those who assaulted him, and while Mr Sukri Maming was detained in Bangkok Prison, he was visited by Defendants 1 and 5, according to Exhibit Jo 23. The entire investigation into the security case in the south at that time was in the hands of a team from the Crime Suppression Division, although defence witnesses Mr Chiawchan Chotiban, Pol Maj Nitinai Langyanai, Pol Maj Somkiat Kaewwiset, Pol Maj Chairat Kanchanant, Pol Maj Somkuan Phuengsap and Mr Chaiya Intharamongkon testified that the accused Mr Makata Harong and associates were not assaulted. They testified in the status of those responsible for the conduct of their unit which they must protect. Therefore no weight should be given to the credibility of this testimony, because they are among those who stand to lose and get into trouble and so certainly must testify to protect themselves and their units rather than respect justice.

2.3 Defendants 1-5 have testified to the court that the 5 defendants were not associated with each other but that they merely knew each other by sight. Only Defendant 4 was under the command of Defendant 2. But evidence to the court reveals that Defendants 1, 3 and 5 previously served together in the Tourist Police and were jointly involved in many important cases. These include the murder of the Ratchathewa garbage dump leader and the theft of radioactive caesium where Defendants 1 and 5 were

both part of the investigation and arrest. In the murder of Kamnan<sup>4</sup> Prayoon Sithichok<sup>5</sup>, Defendants 2 and 5 were both part of the investigation and arrest, and according to Exhibit Number Lo 78, Case 1-4, Defendant 3 claimed to have been part of the arrest and Defendant 5 participated in the investigation and arrest. This shows the relationship among all 5 Defendants, who have worked together over many of the past years. On the day that Defendants 1, 2 and 4 gave themselves up, Defendant 5, together with Pol Col Phisit Phisutthisak, who was part of the team who arrested Mr Makata Harong and associates (according to Exhibit Jo 1), were the ones who brought them to surrender. The fact that Defendant 5 brought witnesses in the case to identify suspects shows that Defendant 5 already knew there would be an arrest warrant for Defendants 1, 2 and 4 and so prepared individuals for the witnesses to identify. And after the arrest of Defendants 1, 2, 3 and 4 on 8 April 2004, there was an investigation of Pol Lt Col Nophadon Pankaew and Pol Sgt Maj Mit Khiamsuwan at the Police Station of Mueang District, Ratchaburi<sup>6</sup>. According to the court testimony of Defendant 5, Defendant 5 travelled to the Police Station of Mueang District, Ratchaburi, to surreptitiously watch this investigation, even though this investigation took place between approximately 16.00 hours on 14 April 2004 and 02.00 hours on 15 April 2004, according to the court testimony of Pol Sen Sgt Maj Mit Jhiamsuwan, which is outside normal hours. On that day, Defendant 5 had still not been charged and no arrest warrant has been served. If Defendant 5 was not involved in the disappearance of Mr Somchai Neelapaichit, there was no reason at all for Defendant 5 to surreptitiously observe the investigation by the officers investigating this case. From the evidence of Pol Maj Thinakon Kesonbua on the telephone calls, Defendants 1-5 telephoned each other continuously from 12 March 2004, the day when Mr Somchai disappeared, until after the incident, when they were still in contact, and contact became more frequent on 16 March 2004, the day Mr Somchai's car was found.

2.4 The prosecution in this case has stated to the court that it is not possible to find scientific evidence to incriminate the accused, other than the records of telephone calls by Defendant 5. Since Defendant 5 is an investigator and has received training in investigation and evidence from the FBI in the United States, he will know methods of destroying evidence, such as removing fingerprints. This may be the reason why no evidence or evidentiary materials were found in Mr Somchai's car. This corroborates the testimony of Pol Maj Chuan Worawanit, an officer of the Scientific Crime Detection Division, Royal Thai Police. Therefore the records of telephone calls by Defendant 5 in this case have great importance and I request that the court take this evidence into consideration.

2.5 Defendant 5, who for the most part has been an officer in the Crime Suppression Division, has tried to prove that his arrest in this case was because of institutional rivalry between the Metropolitan Police Bureau and the Crime Suppression Division and he was picked on by the Metropolitan Police Bureau. In the opinion of honest people, this should not be possible since this is an important case in which the public both inside and outside the country have a great interest. It is also related to the violence and unrest in the three southernmost provinces and affects the reputation of Thailand in the eyes of the international community. It is therefore impossible for police in any unit to fabricate evidence merely for personal revenge. Also this case involves powerful people. This has led to witnesses and the joint plaintiffs receiving various kinds of threats. Even investigating officers themselves have been pressured in their investigations, as appears in the verdict in Case Number Black 1469/2547 between Pol Gen Sant Sarutanond<sup>7</sup>, plaintiff, and Mr Sondhi Limthongkul and Miss Sarocha Porn-udomsak<sup>8</sup>, 1<sup>st</sup> and 2<sup>nd</sup> defendants on a charge of defaming an official, which I attach to this closing statement. On page 21, lines 11-18 and page 22, lines 1-10 of the verdict, it says "...and a former advisor to the Deputy Prime Minister for security affairs, who had been in charge



of the Royal Thai Police, was the same person as the one who in fact was involved in the problems in the south in Plea 3.4 and testified that in the case of the disappearance of Mr Somchai Neelapaichit, Deputy Prime Minister Gen Chaovalit Yongchaiyuth ordered prosecution of this case. The investigation was headed by the Commissioner of the Metropolitan Police Bureau and the Assistant Commissioner-General of the Royal Thai Police, who were responsible for this matter. They asked to meet Gen Chaovalit secretly to report that there many obstacles to pursuing the case and to ask Gen Chaovalit to support their activities and help protect their team from pressure. The witness believed that the request for a secret meeting may have been because of great pressure and obstacles...”, and “...also the fact that the investigating officers, Commissioner of the Metropolitan Police Bureau and the Assistant Commissioner-General of the Royal Thai Police, responsible for the case of Mr Somchai Neelapaichit, requested a secret meeting with Gen Chaovalit and asked him to help protect them makes it appropriate to believe that persons much more powerful than the aforementioned investigating officers had become involved in the work of the investigators to prevent clarity and transparency in this matter...”. The details appear in Attachment 2 to this Concluding Statement.

Relying on the reasons presented here for your attention, I request the court to consider all details of this Closing Statement and request the court to sentence all 5 defendants to the maximum punishment in accordance with the law.

As it please the court.

Signed  Joint Plaintiff 1

I, Mrs Angkhana Neelapaichit, Plaintiff 1, drafted/printed this Closing Statement.

Signed  Drafter/Printer

- .....
- 1 Ramkhamhaeng Road is a major road leading east out of Bangkok.
  - 2 Ramkhamhaeng University was the first 'open' government university in Thailand, accepting all students with the necessary qualifications, without the need to pass the competitive entrance examinations required by other government universities.
  - 3 A member of the National Human Rights Commission.
  - 4 A 'kamnan' is the elected head of a Subdistrict.
  - 5 Prayoon Sithichok, a local influential figure was shot dead at a wedding reception in Chonburi Province in March 2003. An even more influential figure, Somchai Kunplome, better known as 'Kamnan Poh' was charged with ordering the killing and has since fled the country. Somchai, widely thought to be a criminal godfather, backed a number of political parties in his time and his son, Sonthaya, was a minister in the Thaksin government.
  - 6 Ratchaburi Province is approximately 100 km west of Bangkok.
  - 7 Former Royal Thai Police Commissioner-General.
  - 8 Respectively media owner and TV presenter who together hosted a political TV programme.

## Verdict of the court

**12 January 2006.** The Criminal Court read its verdict.

“At the Criminal Court at 13.30 hours, the court set the reading of the verdict in the case where the Public Prosecutor, Criminal Case Division 6, together with Mrs Angkhana Neelapaichit, wife of Mr Somchai, and children, are joint Plaintiffs charging Pol Maj Ngoen Thongsuk, aged 45 years, Inspector, ISOC<sup>1</sup>, seconded to the Crime Suppression Division, Pol Maj Sinchai Nimpunyakamphong, aged 38 years, Investigator, Subdivision 4, CSD, Pol Sgt Maj Chaiweng Phaduang, aged 36 years, Commander of Investigation Group 4, Subdivision 2, Tourist Police Division, Pol Sgt Randon Sitthikhet, aged 34 years, Administrative Officer, Subdivision 4, CSD, and Pol Lt Col Chatchai Liamsa-ngnuan, aged 41 years, Deputy Superintendent 3, CSD, as Defendants 1-5, on the charge jointly of gang robbery using a vehicle to commit the crime, and jointly of coercion of another to act or not to act through assault with the use of force in a group of 5 persons or more.

“The plaintiffs filed the case on 16 June 2004, charging that during the evening of 12 March 2004, the Defendants joined in driving into the back of a white Honda Civic car, registration number Pho Ngo 6768,

Bangkok, of Mr Somchai, in the area in front of the Mae La Roasted Fish Restaurant Soi Ramkhamhaeng 65, Hua Mak Subdistrict, Bang Kapi District, Bangkok. When Mr Somchai got out of his car to look, he was abducted while his attackers seized his possessions, comprising his car, 1 Rolex wristwatch, 1 Montblanc pen, and 1 mobile phone, with a total value of 901,460 baht. The reasons for the Defendants’ action was their dissatisfaction that Mr Somchai had drawn attention to the ill-treatment of accused persons in a case concerning the unrest in the 3 southernmost provinces, where the accused issued a complaint to various agencies. This led to the issuance of arrest warrants against all 5 defendants. All later surrendered to investigating officers while denying all charges.

“The court has considered the evidence. The prosecution brought as witnesses the investigating officers, whose testimony was consistent as to both time and place. It is to be believed beyond doubt that Mr Somchai was disappeared. With respect to the information entered by the prosecution on the use of mobile phones by the 5 defendants, who contacted each other many times in different locations in the period before the incident and on the day of Mr Somchai’s disappearance, the court believes that there is still doubt about the documentary evidence of telephone use, since the prosecution did not bring Pol Lt Gen Bunruet Ratanaphon, Assistant Commissioner-General, and Pol Maj Gen Krisada Phankhongchuen, Deputy Commissioner, Metropolitan Police Bureau, who are said to be the coordinators of the aforementioned documents from the mobile phone company, to testify to confirm this to the court. This prevented the lawyers for the defense from cross-examining on this evidence, so the evidence has insufficient weight.

“In addition, the court has two eyewitnesses who clearly described the appearance of Defendant 1, Pol Maj Ngoen, as a person of large build with a bald head, and were able to point him out correctly. They confirmed that when the incident occurred, they say Pol Maj Ngoen as the person who pushed Mr Somchai into the car. Neither eyewitness has any prior

cause or reason to be resentful. It can be believed that their testimony is in good faith. The defendants' claim that the investigating officers of the Metropolitan Police Bureau filed charges in order to malign the defendants so that they would all be punished, because of rivalry between the Crime Suppression Division and the Metropolitan Police Bureau, is merely an idle claim without any weight. With respect to the charge of gang robbery, the prosecution has no eyewitnesses to confirm that Pol Maj Ngoen joined the other perpetrators, and therefore the defendant is given the benefit of the doubt.

"After due consideration, the Court believes that Pol Maj Ngoen committed the offence of assaulting another, in accordance with Section 319, Paragraph 1, of the Criminal Code and jointly coerced another into performing an act or not performing an act by the use of force, in accordance with Section 309, Paragraph 2 of the Criminal Code and imposes the maximum penalty of imprisonment for a period of 3 years. The charges against Defendants 2-5 are dismissed in the absence of any evidence that they committed the offence as charged."

*After hearing the verdict, I found that the car in which I had travelled to the court and which was parked in front of the Criminal Court, had had its headlamps smashed without anyone seeing the incident!*

**13 January 2006.** After the court verdict that one police officer and 3-5 other people had pushed Khun Somchai into a car before he disappeared, all the media printed the same story saying 'Thaksin says Somchai is dead according to circumstantial evidence'. Many reporters asked me about this news which I personally wasn't very surprised at, because Khun Thaksin had told me this when we met on 20 June 2005.

**16 February 2006.** I went to submit a letter to the Special Prosecutor and Director-General of the Department of Special Investigation, point-

ing out details and observations of the evidence in the disappearance of Mr Somchai for the Office of the Attorney-General to consider carefully in seriously expanding the investigation.

73/5 Issaraphab Rd 11  
Thonburi, Bangkok

16 February 2006

Re: Request for expedited follow-up in the search for Mr Somchai Neelapaichit and arrest of the perpetrators

To: Director-General, Department of Special Investigation

The lower court delivered its verdict on 12 February 2006, sentencing Pol Maj Ngoen Thongsuk to 3 years imprisonment. The verdict found that Pol Maj Ngoen, together with 3-5 others, pushed Mr Somchai Neelapaichit into a car and caused him to disappear. Even today, no one knows whether Mr Somchai Neelapaichit is alive or not. On 13 January 2006, Pol Lt Col Thaksin Shinawatra, the Prime Minister, gave an interview to the media, stating clearly that Mr Somchai had died according to circumstantial evidence which confirmed his death. At present, your agency represents the hope of bringing about the disclosure of the truth of Mr Somchai's disappearance. The case was transferred directly by the Prime Minister to your agency as a special case for investigation, to arrest and bring to justice all those involved on a charge of murder, and to answers the questions of where Mr Somchai is and what his condition is.

Not only have I and my family suffered severely in the past from the disappearance of my husband and of my children's father, but I have tried to appeal for justice from the government system in the search for Mr Somchai. It is today almost 2 years since Mr Somchai was disappeared on

12 March 2004. Today it has been proved at one level that Mr Somchai's disappearance was the result of actions by officials of the state. But I and my family, and society as a whole, have become increasingly concerned at the failure to arrive at the truth in this matter, due to limitations in the system of justice, especially the difficulties in finding evidence, the cover-up of evidence, the failure to apply scientific forensic procedures, and the lack of cooperation from knowledgeable and concerned individuals who are state officials, even though their acts are a violation of the law, a violation of discipline and a violation of the morality of those who the people rely on to protect the public peace.

I believe that with the evidence which the investigating officers prosecutors and lawyers for the prosecution submitted for the consideration of the court, together with the evidence from the 5 defendants, all of which appears in the case proceedings, even though the investigations were flawed, concealed and deliberately restricted, the Department of Special Investigation has the authority and personnel to submit the information that exists to bring a case regarding the disappearance of Mr Somchai.

1. A search should be made for individuals involved at the level of giving orders, from the phone records of Defendant 1, who the court judged to be one of those participating in the offence, and of Defendant 5, who should be suspected of involvement in giving orders. Investigations should be conducted, for example, of the telephone contacts of Pol Gen Phisit Phisutthisak and others who worked together in the Crime Suppression Division. Investigations should be conducted of the phone numbers of those involved with the site in Ratchaburi Province, since in June 2005, I personally met the Prime Minister, who provided information that Mr Somchai was probably taken to Ratchaburi Province; on the phone numbers of Pol Lt Col Chatchai Liamsa-gnuan, Pol Lt Col Nophadon Pankaew and Pol Sgt Maj Mit Khiamswan, who appear to have used their phones to contact one another continuously from late on 12 March until 13 March 2004; and on Pol Sgt Maj Khamnoeng Kochali, who made phone contact on 12

March 2004 with Defendant 3, Pol Sgt Maj Chaiweng Phaduang, more than 30 times. The Department of Special Investigation has the proper authority and the ability under the law to request documents from the companies providing phone services, to investigate thoroughly and exhaustively, and to draft a precise report for use in proceeding with a case and making the phone use evidence credible, together with other circumstantial evidence which can be used against those involved in committing the offence.

2. In his testimony to the court, Pol Maj Thinakon Kasenbua said that at one time on the morning of 12 March 2004, Pol Lt Col Chanchai Likhithkhanthason met a group of people in front of the Crime Suppression Division. Pol Lt Col Chanchai then asked the group where they were going and received the reply that they were going to snatch a rogue lawyer. He then told Pol Lt Gen Tawee Sodsong, Deputy Director-General of the Crime Suppression Division. There has been no investigation as to how this is connected, by expanding the investigation to include everyone involved.

3. From the examination of the evidence found in the car of Mr Somchai Neelapaichit, from the report of Scientific Crime Detection Division, Royal Thai Police, 20 strands of hair were found. In a later examination of the homes of all 5 defendants, officers took hair samples and combs from Pol Maj Ngoen Thongsuk and Pol Sgt Randon Sitthikhet for DNA analysis. These were found to be different from the hair sample found in the car of Mr Somchai Neelapaichit and the analysis found no DNA. But what is noteworthy is that the hairs found and taken from the homes of Pol Maj Ngoen Thongsuk and Pol Sgt Randon Sitthikhet may not be the hairs of Pol Maj Ngoen or Pol Sgt Randon. In the collection of evidence, there was no collection of hairs samples that truly came from 4 of the defendants, namely Pol Maj Ngoen Thongsuk, Pol Maj Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang and Pol Sgt Randon Sitthikhet, for comparison with the hairs found in the car of Mr Somchai Neelapaichit.

I firmly believe that if the Department of Special Investigation operates independently, transparently, justly and sincerely, it should be possible

to find my husband and investigate those who jointly committed the offence. I and my family still hope to retrieve the body of Mr Somchai Neelapaichit, whatever its condition, in order to conduct the ceremonies appropriate for our religion..

This is presented for your consideration.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

Wife of Mr Somchai Neelapaichit

- .....
- 1 Internal Security Operations Command, formerly Communist Suppression Operations Command, a unit of the security forces with wide powers, staffed by military and police officers. Its budget and operations are largely secret and it has been implicated in many human rights violations.

## 'Looking for' Somchai in Ban Pong

**8 March 2006.** I received an award as Woman Human Rights Defender from the National Human Rights Commission.

**12 March 2006.** Today was the second anniversary of Khun Somchai's disappearance. The Asian Human Rights Commission gave the 2<sup>nd</sup> Asian Human Rights Defender Award to Khun Somchai. He had been nominated on 12 January 2006, the day the court delivered its verdict. The statement of the Asian Human Rights Commission read:

"...Somchai was a world-class human rights lawyer and defender of basic human freedoms. He frequently represented clients accused of threatening state security. He confronted powerful state agents without fear. He was highly successful, and relentless in his efforts to hold government authorities accountable for their actions... Somchai has become a symbol of tremendous importance for the movement against forced disappearances not only in Thailand but indeed throughout Asia. The AHRC earnestly believes that both Somchai's name and what it represents will in time obtain global proportions. It hopes that the giving of this award will be a small step in that direction..."

**17-25 March 2006.** The Department of Special Investigation and the Central Institute of Forensic Science, Ministry of Justice sent officers to seek evidence in Ban Pong District, Ratchaburi Province. On the evening of one day, an oil drum was found with the remains of fat, together with one long bone, from which Dr Pornthip took a sample for evidence.

Later, officials of the Department of Special Investigation brought in a team of archaeological divers from Silpakorn University to help in the search, using equipment to scan under the water and conduct analyses.

I and Khun Nitithon Lamluea, a friend and lawyer who was standing by to give advice to follow up the work of the search team, heard the sound of a whisper from a person who walked past who said “Don’t waste time. You won’t find anything. It’s all burned up.”

Normally, whenever we went to ‘grope’, ‘dig’ or ‘scrape’ in search of Khun Somchai in various places, there was often a stranger who looked familiar, who walked to and fro as if he was waiting for something or worried about something. But this time I felt unusually lonely. The stranger who was waiting and watching disappeared as if he was no longer concerned, or something like that.

At the end of about one week, the archaeological diving team halted the search. Acharn Oebprem, the head of the archaeological diving team, told me, “This scanning equipment is very efficient. It can find even a needle, if there really was any evidence.” What Acharn Oebprem really meant was “Whatever you’re looking for, it isn’t there.”

*What I felt at that moment was “I’ve been tricked”.*

**22 March 2006.** I submitted a letter to the Ombudsman asking for justice and for an administrative case to be opened on behalf of the injured party, inasmuch as I was the injured party in the disappearance of Mr Somchai Neelapaichit and I had not received justice from the actions of police officers as the court had decided to punish Pol Maj Ngoen Thongsuk for coercing Mr Somchai on the day that he disappeared. It was found

that one police officer was not ordered suspended while the case was being heard and was able to return to work as normal after being detained in prison for more than 30 days.

73/5 Issaraphab Rd 11  
Thonburi, Bangkok

22 March 2006

Re: Appeal for justice and for an administrative case on behalf of the injured party

To: The Ombudsman

1. I, Mrs Angkhana Neelapaichit, have suffered loss and hardship as a result of the disappearance of Mr Somchai Neelapaichit, who was kidnapped by criminals and disappeared on 12 March 2004. Mr Somchai Neelapaichit is my husband and the head of a family of 5 children requiring support, i.e. Miss Sudpradthana Neelapaichit, Miss Praturajit Neelapaichit, Miss Korbukon Neelapaichit, Miss Krongtham Neelapaichit and Mr Korbtham Neelapaichit. I have received information from witnesses near to the place where Mr Somchai Neelapaichit was kidnapped that they saw criminals with the appearance similar to that of police officers kidnap my husband.

2. I fear that I will not receive justice from police officers investigating the case of Mr Somchai’s kidnapping. I therefore requested on 16 June 2005 to be named as joint plaintiff in the criminal case before the Criminal Court together with the public prosecutor. As plaintiffs we entered charges with the Criminal Court as Criminal Case Number Black 1952/2547 with the Public Prosecutor of the Office of the Attorney-General (Special Case Prosecution Office 6, Criminal Case Office) charging that police officers jointly kidnapped Mr Somchai, namely Pol Maj Ngoen Thongsuk as Defend-

ant 1, Pol Maj Sinchai Nimpunyakamphong as Defendant 2, Pol Sgt Maj Chaiweng Phaduang as Defendant 3, Pol Sgt Randon Sitthikhet as Defendant 4, and Pol Lt Col Chatchai Liamsa-gnuan as Defendant 5. They were jointly charged with gang robbery using a vehicle and with coercing another to something or suffer something, jointly committing the offences in a group in 5 or more people. The court decided on 12 January 2006 in summary that Pol Maj Ngoen Thongsuk, who at the time of the incident was a police officer in government service, was the person who kidnapped Mr Somchai Neelapaichit, according to the details of the verdict attached to this appeal.

3. Since this offence was committed by police officers who kidnapped and disappeared Mr Somchai 2 years ago and since it is not known of Mr Somchai is still alive or not, or in what condition, this is an illegal and unjust offences against the injured party. This group of individuals are police officers with the duty of maintaining the law and protecting the public, but they have themselves committed a crime. I therefore submitted a letter to the Royal Thai Police in 1 December 2005, which was sent by mail out of fear of police officers.

4. Since my aforementioned appeal to the Royal Thai Police through the Police Inspector of more than 3 months ago, I have not received any explanation or results of their consideration. I received only a reply by mail on 13 December 2005 from the Royal Thai Police.

5. At the same time, I know that one police officer, namely Pol Lt Col Chatchai Liamsa-gnuan, a defendant in the criminal case of gang robbery and coercion, against whom charges were dismissed for lack of sufficient evidence, is at present in government service and was carrying out duties in his former unit while the case was being heard, whereas police service regulations prescribe that officers who have been charged in a criminal case must be suspended from service. Also, 3 other defendants in the case against whom charges were dismissed, namely Pol Maj Sinchai Nimpunyakamphong, Defendant 2, Pol Sgt Maj Chaiweng Phaduang, Defendant 3, and Pol Sgt Randon Sitthikhet, Defendant 4, are in the process

of requesting a return to government service. Previously, these 4 defendants, together with Pol Maj Ngoen Thongsuk, Defendant 1, who was found guilty, had been ordered suspended by the Royal Thai Police.

6. From the facts above, I believe that the Royal Thai Police has neglected and failed to operate in accordance with various government regulations, in that officials under their supervision have broken regulations without being punished, even though I have made requests for justice to various government agencies, both verbally and in writing. For example, I met the Prime Minister at Government House on 20 June 2005; I submitted letters to the Minister of Justice and Deputy Prime Minister and to the Director-General of the Department of Special Investigation on 1 December 2005; and I again submitted a letter to the Director-General of the Department of Special Investigation on 16 February 2006.

7. In consideration of these facts, together with details of the verdict of the Criminal Court Case Number Black 1952/2547, Case Number Red Oo 48/2549 on 12 January 2006 that Pol Maj Ngoen Thongsuk and the above-named police officers, who were officers of the state, jointly committed an offence in that they kidnapped Mr Somchai and caused his disappearance, even though some of these officers will not suffer criminal punishment according to the verdict, the actions of these officers can be held to be illegal in that they caused injury to the government and can be held to be gross misconduct. In their capacity as persons acting jointly, it is believed that their behaviour constitutes gross misconduct in accordance with Section 85, Paragraph 2 and Section 98, Paragraph 2 of the 1992 Civil Service Act.

8. The facts of the verdict are that these officers were charged with gross misconduct in accordance with Section 85, Paragraph 2 and Section 98, Paragraph 2, with preliminary evidence already available as a result of investigations, the charges of the prosecution, and the verdict of the Criminal Court. Therefore, the Royal Thai Police, as the commanding agency, must take disciplinary action against these officers immediately

according to Section 99 Paragraph 4 of the 1992 Civil Service Act. (This case is a matter of obligatory authority or the compulsory duty of immediate disciplinary action, not discretionary authority which may or may not be exercised.) If a supervisor does not take immediate disciplinary action in accordance with these regulations, then the law prescribes that the supervisor shall be held to have committed an offence under Section 99, Paragraph 7, and possibly a criminal offence also. Nevertheless, from the time when this group were charged with a criminal offence until the present, when clear facts have emerged according to the verdict of the court, the supervisors have not taken any disciplinary action in accordance with the law. Apart from the fact that this is neglect of official procedure (Section 99, Paragraphs 4 and 7), it can also be held to be improper according to Section 70, Paragraph 1 of the Constitution of the Kingdom of Thailand.

In addition, since the incident, I, as wife of Mr Somchai Neelapaichit and the injured party, have made appeals for justice to the supervisors of these officers and to many other related agencies. These include an appeal to the Commissioner-General of the Royal Thai Police through the Lawyers Council, who made the appeal on my behalf. But the supervisors have not yet explained the reasons to the appellant in a reasonable period of time, even though it is the duty of the supervisor, as an official of the state, to operate in accordance with the law and to provide justice to the people. This case can therefore be considered an improper act according to Section 61, Section 70, Paragraph 3, and Section 75 of the Constitution of the Kingdom of Thailand.

9. I have not been able to rely on any organization to solve the problem of my distress. I therefore rely on the legal authority of the Ombudsman to invoke Section 197 (1) (Ko) (Kho) in considering and investigating the facts of this case and all persons involved in failing to follow the law, or neglecting to perform their duty according to the 1992 Civil Service Act and the Constitution of the Kingdom of Thailand. Under

Section 443 of the Administrative Court Act, this matter must be placed before the Administrative Court for judgement on the issues of neglect of duty by state officials, relating to acts in violation of Section 61, Section 70 and Section 75 of the Constitution of the Kingdom of Thailand and Section 99, Paragraphs 4 and 7 of the 1992 Civil Service Act.

For your kind consideration.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

**13 March 2006.** The Subcommittee on Justice and Disappearances of the National Human Rights Commission visited a site in Phetchaburi Province<sup>1</sup> to look for Khun Somchai after someone gave information. 3 members of the Subcommittee took part in the search.

*But in the end they found nothing.*

**7 April 2006.** I received a summons from the court informing me that the lawyers for Defendants 2 and 4 objected to the order of the lower court allowing me to file as joint plaintiff. This was in order to remove my right to appeal the verdict. I have 15 days to object.

The objection of the lawyers for the defence surprised me. Lawyers are the ones who know the law, so why did they not know how much distress the loss of any one person cause to their family, and who could suffer more as the injured party than a family member? Or was the idea to keep making trouble for someone who is weaker and inferior?

**1 May 2006.** I went to make an appeal at the Criminal Court and also discovered that I had won the Gwangju Human Rights Award.

I was excited a pleased to hear this news because the prize is very



significant among human rights defenders. Previous winners of this award are famous for defending democracy and human rights, such as Xanana Gusmao of Timor Leste; Basil Fernando, the Executive Director of the Asian Human Rights Commission; the Korean Association of Bereaved Families for Democracy; the Monument for the Disappeared of Sri Lanka; Aung San Suu Kyi, the leader of the struggle for democracy in Burma; and Wardah Hafidz, an activist for the human rights of the poor and for democracy in Indonesia.

3 May 2006. I received a letter (Most Urgent) from the Office of the Ombudsman (first copy), acknowledging receipt of my appeal. It is at present being examined. At the bottom of the letter is printed "*Delay is Injustice*".

Most Urgent [Symbol of Office of Ombudsman]  
Ref: Pho Ro 22/4839 Office of the Ombudsman  
1191 Exim Bldg 20<sup>th</sup> floor  
Phahonyothin Road  
Sam Sen Nai, Phya Thai  
Bangkok 10400

3 May 2006

Re: Report of progress relating to appeal  
To: Mrs Angkhana Neelapaichit  
With reference to: Your letter of appeal of 22 March 2006

In your abovementioned letter, you have submitted a detailed appeal to the Ombudsman.

The Office of the Ombudsman wishes to inform you that your

appeal has been received and at present is being examined and considered. You will be informed of all progress in due course.

For your information

Yours respectfully  
[Signature]  
(Mr Chalernsak Chantaritim)  
Deputy Secretary acting for  
Secretary to the Office of the Ombudsman

Appeals Examination Section  
Tel: 0 2299 0439, 1676 Ext 439  
Fax: 0 2299 0486, 1676 Ext 486  
[www.ombudsman.go.th](http://www.ombudsman.go.th)

***"Justice Delayed is Justice Denied"***

- .....
- 1 Phetchaburi Province is immediately to the south of Ratchaburi Province, approximately 130 km southwest of Bangkok.

## Out of the frying pan, into the fire?

73/5 Issaraphab Rd 11  
Thonburi, Bangkok

9 May 2006

Re: Appeal to change the head of the investigation (Pol Gen Sombat Amornwiwat) into the case of the disappearance of Mr Somchai Neelapaichit.

To: Permanent Secretary of the Ministry of Justice

Attachments:

1. Verdict in the case of deprivation of freedom and gang robbery of Mr Somchai Neelapaichit, Case Number Black 1952/2547, Number Red Oo 48/259, pp 72-73
2. Case Document Number Lo 107, Sheet 2
3. Letter from the Asian Human Rights Commission

I, Mrs Angkhana Neelapaichit, am the wife of Mr Somchai Neelapaichit, human rights lawyer who was disappeared on 12 March 2004, over 2 years ago, without any resolution as to whether Mr Somchai is still alive or not, or in what condition.

The Department of Special Investigation under the Ministry of Justice accepted the case of the disappearance of Mr Somchai Neelapaichit as a special case on 19 July 2005, with the hopes of myself and my family, the Lawyers Council, the National Human Rights Commission and the general public, that the Department of Special Investigation would investigate and quickly resolve this case. Since this case is a continuation of the court case dealing with the offences of deprivation of liberty and gang robbery of Mr Somchai, where the defendants were all police officers, the transfer of this case of disappearance from the Royal Thai Police to the Department should have created more transparency, and I and my family should have received more justice than was given to the police officers as

the persons bringing the case. But since this case was accepted as a special case more than 9 months ago, there has been no progress of any kind in the investigation.

I and human rights organizations both inside and outside the country have had to send many letters of inquiry until the first meeting of the Department's Working Group was called on 21 September 2005, when the Director-General, Pol Gen Sombat Amornwiwat, in his capacity as head of the investigation gave an interview to various mass media, saying that the Department of Special Investigation would appoint a special Working Group with the duty of investigating this case, which would be expedited, and that there would be meetings to follow up the progress every 15 days, with longer monthly meetings with officials of other state agencies, in accordance with an order from the Prime Minister, who would attend. But since this interview, this case has again gone quiet.

The slowness in the investigation into this case makes me suspect and mistrust many aspects of the work of the Director-General as head of the investigation.

1. The Director-General has served as a police officer with the position of Deputy Commissioner-General of the Royal Thai Police and has been the supervising officer of all 5 defendants, as demonstrated to the court in Document Lo 107, Sheet 2, which, in summary, states that Pol Gen Sombat Amornwiwat gave the testimony of prosecution witness in the investigation files to the defendants, which is corroborated by the verdict in the gang robbery case, pp 72-73, which states: "The defense requested that the court issue a warrant for these documents from the prosecution, which the prosecution had already provided and to which the defendants had already referred in testimony to the court. This shows that these documents had been in the investigation file which the investigators passed to the prosecution. Otherwise there would not be these documents in the investigation file for the prosecution to send to the

court in answer to the warrant." It seems as if the defense knew the evidence which the investigators had sent to the prosecution before the prosecution witnesses testified in court. Therefore the prosecution did not receive justice.

2. On 16 March 2006 the Department of Special Investigation issued a statement that it would join the Central Institute of Forensic Science and divers to search for important evidence in the disappearance of Mr Somchai in the Mae Klong River<sup>1</sup> at Ban Pong District, Ratchaburi Province. The search took place over 10 days and all that was found was the lid of an oil drum and some bones that were not human. Later, there was talk among police officers of Region 7 that the operation was like a show. On 24 March 2006, I met the Director-General and asked for his reasons for believing that there was important evidence in the Mae Klong River and what evidence pointed him to this belief. For example, did anyone see parts of an oil drum being discarded? The Director-General replied that there was only circumstantial evidence. I therefore asked what 'circumstantial evidence' meant. He replied that it was in the form of word of mouth rumour. I, the mass media, observers and the public who heard this answer must all have wondered why a large team was sent to conduct a search, even though there was no certain evidence and evidence of this kind could not be presented in court nor would it be credible to the court.

3. In more than 9 months since the Department of Special Investigation accepted this as a special case, it can be believed that there has been no investigation of the phone numbers or further evidence to expand the case to other police officers involved with the 5 defendants in the gang robbery and coercion case, even though investigators in the gang robbery case have established suspicions that there must have been participation in or knowledge of the kidnapping of Mr Somchai by individuals named in the investigation

report, namely Pol Gen Phisit Phisutthisak, Pol Maj Nophadon Pankaew, Pol Sgt Maj Mit Khiamswan and Pol Sgt Maj Khamnoeng Kochali.

The involuntary disappearance of any person can be considered to be the most serious violation of human rights, especially when carried out by agents of the state. The case of Mr Somchai Neelapaichit is of broad interest and has caused great concern to the Neelapaichit family, people's organizations and civil society both inside and outside the country as well as posing questions at the Council of Europe in April 2006, as shown in the statement of the Asian Human Rights Commission, which I have attached to this letter.

Delay in the system of justice is injustice, for all the reasons that I have raised here. This raises suspicions and concerns about whether the Director-General of the Department of Special Investigation, who heads the investigation into the disappearance of Mr Somchai Neelapaichit, may be the cause of this delay, and may be creating injustice in this case. Therefore, in order to ensure transparency and justice, and to ensure the impartiality and fairness of the Department of Special Investigation in providing justice for the people who have not received true justice, I submit this letter in order to request the kindness of changing the head of the investigation into the case of the enforced disappearance of Mr Somchai Neelapaichit, for the good of justice.

Yours respectfully,

(Mrs Angkhana Neelapaichit)

Wife of Mr Somchai Neelapaichit

.....

1 The Mae Klong is formed from the confluence of the Kwae Yai and Kwae Noi rivers, made famous in the book and film 'Bridge over the River Kwai'.

**15 May 2006.** I and Krongtham, my 4<sup>th</sup> daughter, travelled to Gwangju, Korea, to receive the Gwangju Prize from the 18 May Foundation. This prize is a human rights award given to individuals, working groups or institutes dedicated to the promotion of human rights, democracy and peace, both inside South Korea and internationally.

The people of Gwangju give this prize to appropriate recipients in order to show solidarity and thanks from those who received help when the people of Gwangju struggled for democracy and tried to seek the truth from the past, which relates to the violence in Gwangju on 18-29 May 1980.

I travelled to Seoul and took a connecting flight to Gwangju. When I arrived at Gwangju Airport, many reporters were waiting to interview me. I was the first Thai to receive the prize. In almost one week in Gwangju, what most impressed me was the performance in memory of the sacrifice of the students and people of Gwangju who rose up against dictatorship in a call for democracy, taking to the streets on 18 May. People with young children watched the re-enactment of the incident that occurred 20 years ago. Images of soldiers killing people are passed on for later generations to remember. The bodies of the heroes who sacrificed their lives have been buried together in the same cemetery on a hill in a peaceful and



Mrs Angkhana Neelapaichit receives the 2006 Gwangju Prize at Gwangju, Korea



On arrival at Gwangju Airport, a crowd of reporters wait for an interview.

dignified setting. On 18 May each year, the President of Korea must come to pay respect to the spirits of those who made the sacrifice.

This made me think of the 14 October<sup>1</sup>, 6 October<sup>2</sup> and Bloody May<sup>3</sup> incidents in our country, where almost no national leader bows to respect the spirits of those heroes.

**28 May 2006.** I received a summons from the Criminal Court to make a statement in order to lodge an appeal. The appeal was in three copies since the case of the detention of Mr Somchai was held to be a criminal case with the public prosecutor as plaintiff, with myself as joint plaintiff and with the lawyers as joint plaintiffs. Therefore at all stages of the case, three copies of documents had to be submitted, even closing statements or the appeal document.

**31 May 2006.** This was the day I had to go to the Criminal Court, Courtroom 714, to present the 3 copies of the appeal.

The judge asked me, “Khun Angkhana, which copy of the appeal is basic?” other than the prosecutor’s copy. I responded, “Can you kindly accept all 3 copies (for the joint plaintiff and the joint plaintiff’s lawyers)?”

He replied that he would accept all 3 copies, but requested that one copy be submitted as basic. The other copies would be regarded as joint statements. I therefore said that the appeal of the joint plaintiff was basic. Many people may have suspected that I am not a lawyer, but I dared to write the appeal myself in the most important case of my life. It is true that I am not a lawyer and I do not have knowledge of the law. But I used sincerity in writing the appeal. Whatever I believe, I would try to make the court believe also.

*However the appeal verdict turned out, I would happily accept it.*

**20 June 2006.** Pol Maj Krit Suriyon, a police officer from Bang Yi Ruea Police Station came to my house in order to investigate the threats made against me. Inspector Krit explained to me that he had received a letter from the United Nations through the Ministry of Foreign Affairs and other ministries to investigate the threats against me.

In fact, I had become accustomed to this kind of thing, ever since Khun Somchai was disappeared. I had reported to the local police near my home the threatening behaviour in various forms, whether warnings to

be careful about having an accident or people bringing various weapons to show me. But the officers had responded to me by saying “It’s nothing. It’s probably just nutters or people who want to make a name for themselves.”

This made me suspicious that if any of these people did anything, it wouldn’t be an offence, because they would be crazy, as the police had said.

The reason why the United Nations had to ask questions to the Thai government about the threats against me was probably because of the nature of the people who like to keep records. Many things that had a direct effect, either on myself or our children, I had told friends about all the time. Thais may think this is something ordinary. But foreigners find this unacceptable. So the government had to come and investigate the truth.

I tried to ask about the results of the investigation. Who was the person who was skilled at making threats by claiming that his father was a Police Major General? But no officer was prepared to give me any information.

*In the end, I concluded that they really were “nutters” or people who wanted to make a name for themselves, as they said, just to keep everyone happy.*

**30 June 2006.** I went to the Criminal Court to extend the appeal by 30 days and I received a letter (Most Urgent) from the Office of the Ombudsman saying “the Ombudsman has sent your letter to the Royal Thai Police outlining the facts and attaching documentary evidence for consideration, but has still not received an explanation of the facts from Royal Thai Police.”

*“Justice Delayed is Justice Denied”*

Most Urgent

[Symbol of Office of Ombudsman]

Ref: Pho Ro 22/7149

Office of the Ombudsman  
1193 Exim Bldg 20<sup>th</sup> floor  
Phahonyothin Road  
Sam Sen Nai, Phya Thai  
Bangkok 10400

30 June 2006

Re: Report of progress relating to appeal

To: Mrs Angkhana Neelapaichit

With reference to: Most Urgent Letter from the Office of the Ombudsman,  
Reference Pho Ro 22/4839 of 3 May 2006

In the abovementioned letter reported progress relating to your appeal, the Office of the Ombudsman acknowledged receipt of your appeal, saying that at that time your appeal was being examined and considered, and when there was progress you would be informed.

The Office of the Ombudsman has sent a letter to the Royal Thai Police outlining the facts and attaching documentary evidence for consideration, but has still not received an explanation of the facts from Royal Thai Police. However, the Office of the Ombudsman has sent a letter urging the Royal Thai Police to explain the facts. When there is progress, you will be informed

For your information

Yours respectfully,

[Signature]

(Mr Chalernsak Chantaratim)

Deputy Secretary acting for

Secretary to the Office of the Ombudsman

20 July 2006

***“Justice Delayed is Justice Denied”***

**3 July 2006.** I went to present the appeal to the Criminal Court.

**20 July 2006.** I went to the Department of Special Investigation to ask about progress in the case of the disappearance of Khun Somchai. On that day the Director-General was not willing to come out to accept my letter, but asked Col Piyawat Kingket, Director of Special Crimes Office, to accept my letter instead. I expressed the following concerns.

1. The Department of Special Investigation was too late in accepting this case, so evidence disappeared. (I had in fact constantly tried to appeal for the DSI to accept the case of Khun Somchai as a special case ever since Khun Somchai was disappeared, but was twice refused by the DSI.)

2. The telephone records of the service companies have all been erased. (This made me ask why, when the case has a statute of limitations of 20 years, prosecutors so easily allowed erasure of important evidence.)

3. The search for forensic evidence is difficult because results of the examination of Khun Somchai’s car found no evidence at all.

Re: Request for information on progress in the investigation into the disappearance of Mr Somchai Neelapaichit.

To: Director-General, Department of Special Investigation

I am Angkhana Neelaphajit, wife of Mr Somchai Neelaphajit, human rights lawyer, who was disappeared on 12 March 2004, or more than 2 years ago. But there is still no answer as to whether Mr Somchai is still alive or not, or what condition he is in. The Department of Special Investigation under the Ministry of Justice accepted the case of the disappearance of Mr Somchai Neelaphajit as a special case on 12 July 2005, taking over the investigation from the Royal Thai Police, who had arrested and charged 5 police officers from the Crime Suppression Division with coercion and gang robbery of Mr Somchai. This transfer of the case carried the hopes of myself, my family and the general public that the Department of Special Investigation would conduct an investigation to resolve this case quickly. But in the year since, the Department of Special Investigation has not been able to expand the investigation in any significant way and has not made known any progress in the investigation of this case, which is of great interest to the public both inside the country and to the international community.

In my status as the directly injured party, I request to know the progress in the investigation into the disappearance of Mr Somchai Neelaphajit, since it is feared that any further delay will lead to the failure of the investigation and loss of evidence in the search to learn the fate of Mr Somchai. According to the principles behind the establishment of the Department of Special Investigation, the Department is a protective,



**Letter to the CDR<sup>1</sup>**

multidisciplinary organization with a duty to prevent and suppress crimes that are a danger to the people. The disappearance of Mr Somchai is a case with severe repercussions for Thai society and is one reason why the international community is looking at Thailand as a country with major human rights violations. Therefore Pol Gen Sombat Amornwiwat, head of the investigation into this case and Director-General of the Department of Special Investigation, has the direct and undeniable responsibility to facilitate justice, professionalism, honesty and transparency to create public confidence.

For your consideration.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

Wife of Mr Somchai Neelapaichit

**4 August 2006.** I went to the Criminal Court to file the appeal on Khun Somchai's case, which is the end of the appeal process.

**7 August 2006.** Khun Chaturon Chaisaeng<sup>2</sup>, the Minister of Education, in his capacity as Chair of the Policy and Compensation Committee for the Victims of Unrest in the 3 Southernmost Provinces, asked to meet me at the Ministry of Education to present 100,000 baht in compensation to the family of Khun Somchai. I declined to accept the money and donated it to the Working Group on Justice for Peace. I appealed to Khun Chaturon to reveal the truth about the disappearance of Khun Somchai because I was sure the big shots in the Thaksin government would be likely to know well the truth about Khun Somchai's disappearance.

**8 September 2006.** I went to meet the head of the investigation into Khun Somchai's disappearance, Col Piyawat Kingket, at the Department of Special Investigation, in order to express my concern that the investigation would give importance to using a lie-detector to establish the truth of witness' evidence.

- .....
- 1 On 14 October 1973, a mass protest led by students and calling for a constitution and democracy overthrew the Thanom-Prapass military dictatorship after the military opened fire on protestors.
  - 2 On 6 October 1976, rightwing mobs and the Border Patrol Police attacked students at Thammasat University. Hundreds were killed and thousands were arrested or fled into the communist-controlled areas of the jungle to escape arrest. The same day the democratically elected government was overthrown by a military coup.
  - 3 On 17-20 May 1992, pro-democracy street protests against the decision of Gen Suchinda Kraprayoon to become Prime Minister resulted in deaths and disappearances and the resignation of the Prime Minister.



73/5 Issaraphab Rd 11  
Thonburi, Bangkok 10600

8 September 2006

To: Head of the investigation into the disappearance of Mr Somchai  
Neelapaichit, Department of Special Investigation

In the case of the disappearance of Mr Somchai Neelapaichit, which the Department of Special Investigation accepted as a special case on 19 July 2005, the Department of Special Investigation is at present trying to expedite the final resolution of this case by adding investigators, and issuing summons for all who are believed to be involved in the disappearance of Mr Somchai Neelapaichit to be re-investigated. Also, a lie-detector will be used in the examination of witnesses in order to verify the truthfulness of witness statements.

I and my family feel gratitude for the intention of investigators to expedite the investigation to find Mr Somchai Neelapaichit and to bring those involved in committing an offence to justice, one year after the Department of Special Investigation accepted the case as a special case. However, I am concerned about the use in the investigation of lie-detectors, since lie-detector evidence may not be used in court, even if it found that a witness has not given truthful testimony. If some suspects have expertise in criminal procedures and knowledge of how lie-detectors work, then even if they give false testimony, the lie-detector may not give accurate results. Also, it may give legitimacy to those who are in fact involved in committing a crime.

The case of the disappearance of Mr Somchai Neelapaichit is of interest to and being monitored by human rights activists and justice-loving people both inside and outside the country, because enforced disappearance is held to be the most serious of human rights violations. Because

of this concern, I am submitting this letter for your consideration and review, and to call for caution in the use of lie-detectors in the investigation process so as to avoid any mistakes that may jeopardize the case and make it impossible to punish those who in fact committed the crime, according to the process of justice.

For your consideration and for the benefit of justice.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

**18 September 2006.** I received a third letter (Most Urgent) from the Office of the Ombudsman, saying that the Office of the Ombudsman has still not received an explanation of the facts relating to my appeal from the Royal Thai Police.

Most Urgent

[Symbol of Office of Ombudsman]

Ref: Pho Ro 22/10761

Office of the Ombudsman  
1193 Exim Bldg 20<sup>th</sup> floor  
Phahonyothin Road  
Sam Sen Nai, Phya Thai  
Bangkok 10400

18 September 2006

Re: Report of progress relating to appeal

To: Mrs Angkhana Neelapaichit

With reference to: Most Urgent Letter from the Office of the Ombudsman,  
Reference Pho Ro 22/7149 of 30 June 2006

This is in reference to the abovementioned letter reporting progress relating to your appeal, which noted that the Office of the Ombudsman had sent an urgent letter to the Royal Thai Police asking for an explanation of the facts and the results of progress, and would inform you in due course.

The Office of the Ombudsman has still received no explanation of the facts relating to your appeal from the Royal Thai Police. The Office of the Ombudsman has therefore sent an urgent letter to the Royal Thai Police asking for to an explanation of the facts and the results of progress, and will inform you in due course.

For your information

Yours respectfully,

[Signature]

(Mr Chalernsak Chantaratim

Deputy Secretary acting for

Secretary to the Office of the Ombudsman

Appeals Examination Section

Tel: 0 2299 0439, 1676 Ext 439

Fax: 0 2299 0486, 1676 Ext 486

[www.ombudsman.go.th](http://www.ombudsman.go.th)

***“Justice Delayed is Justice Denied”***

**19 September 2006.** Coup d'état.<sup>3</sup>

**26 September 2006.** I submitted a letter to the head of the Council for Democratic Reform under the Constitutional Monarchy to call for an

investigation of the responsibility of the Department of Special Investigation in its investigation of the disappearance of Khun Somchai.

After submitting my letter, I received a lot of criticism from some fellow human rights activists for getting involved with people who destroyed the democratic system. I explained to everyone that as an injured party, we have no choice about who we contact because whoever comes to power, we have to monitor them, question, them and push those responsible to do their duty in order to bring about justice.

73/5 Issaraphab Rd 11,

Thonburi, Bangkok

26 September 2006

To: Head, Council for Democratic Reform under the Constitutional Monarchy

Two years and 6 months ago, Mr Somchai Neelapaichit, human rights lawyer, was disappeared after a violent conflict with police officers as a result of a complaint by Mr Somchai about the torture of suspects and Mr Somchai's leading role in collecting signatures to end martial law in the 3 southernmost provinces. The lower court has delivered a verdict that one police officer from the Crime Suppression Division with 3-5 others forced Mr Somchai into a car which the accused and others had prepared, and detained him illegally. The Department of Special Investigation accepted the case of the disappearance of Mr Somchai Neelapaichit as a special case on 19 July 2005. In my capacity as the injured party, I have followed this case closely and have found that the investigation by officials who conducted the criminal investigation was delayed and faulty in many respects. For example, forensic science was not used in seeking evidence; there was a cover up of the facts; the results of investigations were

deliberately limited; and there was no cooperation from agents of the state who connived at or were connected with the crime, even though this was against the law, against discipline and against the morals of those who are supposed to uphold the law and upon whom the people should depend.

The performance of the Department of Special Investigation in carrying out its duty has been widely criticized in Thai society, especially with respect to special criminal cases where the perpetrators of the crimes are state officials or people with influence, since high-level officials in the Department of Special Investigation are for the most part police officers who generally have connections with the perpetrators. This is especially true of the 5 accused in the case of the disappearance of Mr Somchai Neelapaichit, who were once the subordinates of the Director-General of the Department of Special Investigation. These issues create distrust and suspicion among the injured parties and justice-loving people in general. These facts create the belief that the Department of Special Investigation has no real intention of finding the truth or finding Mr Somchai Neelapaichit. This is despite the fact that the Department of Special Investigation has many personnel with efficiency and authority according to the 2004 Department of Special Investigation Act. Enforced disappearance is held to be the severest violation of human rights and the case of the disappearance of Mr Somchai Neelapaichit has attracted great interest among human rights activists both inside and outside the country. It has even had an effect on the confidence in the system of justice in the three southernmost provinces, especially since Mr Somchai Neelapaichit was someone who did build confidence in the system of justice and carried out his duty to protect the human rights of people who had not received justice, especially from state officials in the three southernmost provinces over the past 20 years.

I therefore appeal to the Council for Democratic Reform to pay serious attention to the problem of injustice and human rights violations in the enforced disappearance of Mr Somchai Neelapaichit and many other cases in the three southernmost provinces over the past 4-5 years, espe-

cially when this concerns criminal activities of state officials who are involved in committing offences. This requires transparency so that all Thai people, whether state officials or influential people or ordinary people, are under the same law, without discrimination, in order to turn Thailand into a truly law-abiding country. This is for the purpose of what is right and just.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

**10 September 2006.** I received a registered letter from the Crime Suppression Division dated 18 September 2006, summarizing the results of the police disciplinary investigation of the 5 police officers who were charged with the illegal detention of Khun Somchai. *“It still cannot be admitted that the 5 accused committed gross misconduct. But this is an accusation of gross misconduct since it concerns criminal charges being heard in the courts. The committee investigating gross misconduct charges therefore proposes that the final judgment of the criminal case be heard before any further consideration of this matter.”*

What surprises me is why the Crime Suppression Division should send no letter of response to the Ombudsman, but did reply to me.

**I hadn't asked any questions of the Crime Suppression Division at all.**

[Garuda]

**Memorandum**

**On government service** CSD

**Ref:** 0026.9/4010 18 September 2006

**Re:** Appeal of Mrs Angkhana Neelapaichit for justice

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To: Mrs Angkhana Neelapaichit

In response to your letter of appeal for justice to the Office of the Ombudsman, dated 22 March 2006, asking for disciplinary procedures against Pol Maj Ngoen Thongsuk and 4 others, the CSD wishes to inform you that the Royal Thai Police has instituted gross misconduct proceedings against all 5 accused. The CSD issued Order 47/2547 on 8 April 2004 suspending Pol Maj Sinchai Nimpunyakamphong and Pol Sgt Randon Sitthikhet from government service and the Tourist Police Division also issued an order suspending Pol Sgt Maj Chaiweng Phaduang from government service. Later the Royal Thai Police issued Order 243/2547 on 9 April 2004 to establish a committee to investigate gross misconduct by Pol Maj Ngoen Thongsuk and the 3 others, and the Royal Thai Police issued Order 244/2547 on 9 April 2004 suspending Pol Maj Ngoen Thongsuk from government service pending the results of the investigation of the case. Later, on 29 April 2004, the Criminal Court also issued an arrest warrant for Pol Lt Col Chatchai Liamsa-gnuan, Deputy Superintendent 3, CSD, in the abovementioned criminal case. The Royal Thai Police issued Order 355/2547 on 14 June 2004 for the committee also to investigate gross misconduct by Pol Lt Col Chatchai Liamsa-gnuan and ordered Pol Lt Col Chatchai Liamsa-gnuan transferred to Provincial Police Region 4. The committee then conducted an investigation and finally concluded that it still cannot be admitted that the 5 accused committed gross misconduct. But this is an accusation of gross misconduct since it concerns criminal charges being heard in the courts. The committee investigating gross misconduct charges

therefore proposes that the final judgment of the criminal case be heard before any further consideration of this matter. Therefore the Royal Thai Police after due consideration approved the decision to await the final judgement in the criminal case.

For your information.

Yours respectfully,

Pol Col [Signature]

(Chalongchai Burirat)

Deputy Commander, Acting for the Commander, CSD

.....

- 1 The military faction that successfully staged the 19 September 2006 coup initially called itself in English the Council for Democratic Reform under the Constitutional Monarchy, then the Council for Democratic Reform (CDR), and finally the Council for National Security (CNS).
- 2 Chaturon Chaisaeng comes from a political dynasty in Chachoengsao Province just east of Bangkok. A student activist in the 1970's, he eventually joined Thaksin's Thai Rak Thai Party and held a number of ministerial positions. He is one of the 111 TRT executives banned from politics for 5 years when the party was dissolved in 2007.
- 3 After months-long large-scale protests against corruption in the Thaksin government, a military group led by Gen Sonthi Boonyaratglin took power in a coup on 19 September 2006, abrogating the Constitution, dismissing parliament and eventually appointing a government under Gen Surayud Chulanond, retired Army Commander and Privy Councilor, and a parliament tasked with drafting a new constitution.

## Meeting PM Surayud

**31 October 2006.** In today's news Gen Sonthi Boonyaratglin<sup>1</sup> gave an interview saying that the case of Khun Somchai will be revived. Khun Sondhi also said that he knows there is someone close to Khun Thaksin who 'ordered the snatch' but cannot give details.

**3 November 2006.** The Department of Special Investigation and the Central Institute of Forensic Science visit Yaek Huai Chin Si in Ratchaburi Province, a rubbish dump, to investigate evidence of the corpse of Khun Somchai, based on information received.

I went in the morning and returned from the search area at about 6 in the evening. I heard the news on the car radio that the special prosecutors were going to issue arrest warrants for the murder of Khun Somchai.

I heard the news with a great deal of suspicion about who the arrest warrant was for. There was unlikely to be sufficient evidence to bring a case of murder. In the coercion case where the court had given its verdict, the evidence was insufficient to establish any more facts. Importantly, the Department of Special Investigation itself had not been able to answer society's questions about who it would charge with Khun Somchai's

murder. If there was any haste in issuing an arrest warrant when there was insufficient evidence to charge the perpetrators, it could be the equivalent of closing the case and clearing those who had committed the offence. And I myself and our family would be at a dead end in our search for justice.

Since a murder case has a statute of limitations of 20 years, I did not see any necessity of rushing to bring charges. That evening, I wrote an open letter to the Acting Director-General of the Department of Special Investigation, copied to the Minister of Justice, the Acting Permanent Secretary of the Ministry of Justice, the head of the investigation, and the Office of the Attorney-General, asking for a delay in bringing charges, which I believed would be improper.

73/5 Issaraphab Rd 11  
Thonburi, Bangkok

4 November 2006

Re: Appeal for delay in issuing arrest warrants for suspects in the case of the disappearance of Mr Somchai Neelapaichit

To: Acting Director-General, Department of Special Investigation

cc: Minister of Justice / Acting Permanent Secretary, Ministry of Justice /  
Head of the Investigation / Office of the Attorney-General

After the revelation of information on the enforced disappearance of human rights lawyer Mr Somchai Neelapaichit by the Chair of the Council for Democratic Reform, the Department of Special Investigation made efforts to expedite and expand the investigation in order to resolve the case. This can be considered a positive new dimension which will make the Department of Special Investigation reform itself so that it can be relied

on by the people. However, in the case of the disappearance of Mr Somchai, even though there is much evidence, most of this has been destroyed by a failure to use forensic procedures in collecting evidence, and by failures in witness protection. Eye witnesses have been detained and have no confidence in their safety if they testify.

At present it can be thought that the Department of Special Investigation is making efforts to find those responsible for this crime and to bring them to justice through the announcement from the Office of the Attorney-General and the Department of Special Investigation on 3 November 2006 that warrants will be issued for the arrest of individuals involved in the disappearance of Mr Somchai Neelapaichit. But, as the injured party, I have concerns about the rush to issue arrest warrants with evidence that can be used to bring a charge of murder against the suspects. I have the following observations.

1. The most important evidence is the information about the use of telephones, Exhibit Jo 111. This was important evidence in considering the charge of coercion, where the Court of First Instance has already given a verdict. The court pointed to deficiencies in the documentation, saying the documents lacked credibility, since they were only copies. There was no letter certifying their authenticity from the companies providing the service, and no high-ranking official testified as to the authenticity of the documents. Even though the Department of Special Investigation accepted the case of the disappearance of Mr Somchai as a special case one year ago, there were no efforts to authenticate these documents or make them credible in order to ensure they could be used in hearing the case of Mr Somchai's disappearance
2. The examination of evidence has not until now been completed. Many important witnesses have not yet made statements. In some cases this is because they are also state officials and the Department of Special Investigation has not taken measures to protect

witnesses to ensure their safety.

3. Although at present the Central Institute of Forensic Science is visiting a site in Ratchaburi Province to look for evidence, there has been no information from witnesses who saw anything. There has only been an investigator from the Department of Special Investigation who identified suspicious places, with no details or credible information.
4. The spokesperson of the Department of Special Investigation and investigators working on this case on 1 November confirmed that at present, the evidence was not sufficiently complete to bring charges of murder against the perpetrators.
5. Since well-intentioned people who have tried to give information on the disappearance of Mr Somchai are continually coming forward after the present government confirmed its intention to resolve this case, the Department of Special Investigation should listen to all of these witnesses and provide time for a full investigation by not rushing to close the case, as it appears they are doing.
6. Since Director-General Sombat Amornwiwat is being moved to another government agency, it would not be appropriate to permit hasty arrest warrants, because the issuance of arrest warrants and detention without sufficient evidence will limit the time for the investigation. The new Director-General of the Department of Special Investigation should be given time to consider the investigation file comprehensively for the sake of justice.

The reasons that I have submitted indicate the lack of preparation in issuing arrest warrants for the perpetrators on a charge of murder and concealment of the corpse of Mr Somchai. If the Office of the Attorney-General and the Department of Special Investigation insist on issuing arrest warrants even though there is insufficient important evidence, it is likely to have a negative impact on the case and create a huge loss to the system

of justice as appeared in the Court of First Instance hearing of the charges of coercion and gang robbery, which could not convict all of the accused.

The case of the disappearance of Mr Somchai Neelapaichit is a case which has received great interest and attention from civil society both inside and outside the country, because the enforced disappearance of an individual is held to be the most serious violation of human rights and has an effect on confidence in the system of justice. As a member of the family of Mr Somchai Neelapaichit, I am the injured party in law and therefore I make these appeals:

a. I request a delay in the issuance of arrest warrants for the group of individuals who are believed likely to have participated in the murder of Mr Somchai, unless there is sufficient evidence to convict the offenders and I appeal to the Office of the Attorney-General and the Department of Special Investigation to consider reviewing the issuance of arrest warrants in this case.

b. I request that I, as the injured party, have access to the investigation file of the Department of Special Investigation by meeting, during the next week, the Minister of Justice and the Permanent Secretary of the Ministry of Justice in order to explain the facts, for the sake of correctness, transparency and justice.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

**22 November 2006.** I went to wait to meet the Prime Minister, Gen Surayud Chulanond at the Chulabhorn Institute<sup>2</sup> because I knew that he was coming to declare closed a seminar on “The Role of the Justice System in Building Unity”. I intended to submit a letter expressing my concerns about developments in the case of the disappearance of Khun Somchai.

73/5 Issaraphab Rd 11, Thonburi, Bangkok 10600

22 November 2006

To: HE Prime Minister Gen Surayud Chulanond

The government under your leadership made a promise that it would try to solve the problems of unrest and violence that has arisen in the three southernmost provinces through peaceful means. It also promised to move quickly to clear up the case of the human rights lawyer Mr Somchai Neelapaichit, who was disappeared after Mr Somchai gave assistance to 5 accused men after they were arrested after the theft of weapons and arson of schools on 4 January 2004. These 5 were tortured to make confessions. Mr Somchai issued a letter of complaint to various government agencies, revealing the behaviour of police from the Crime Suppression Division in their investigation of the suspects. Eventually the prosecutors ordered that the accused not be tried. The Court of First Instance reached a verdict that one police officer from the Crime Suppression Division together with 3-5 others forced Mr Somchai Neelapaichit into a car which the defendants had prepared and since then no one has ever seen Mr Somchai.

Later, Pol Lt Col Dr Thaksin Shinawatra, the former Prime Minister, appointed Pol Gen Sombat Amornwiwat, Director-General of the Department of Special Investigation, as chair of a committee to investigate the disappearance of Mr Somchai Neelapaichit and the performance of the Metropolitan Police, with Pol Lt Gen Thanee Somboonsup<sup>3</sup> responsible for investigation of the facts. Although in this case there is much evidence, much has been destroyed by the failure to apply any forensic scientific methods in examining the evidence. Although at present the Department of Special Investigation has accepted the disappearance of Mr Somchai Neelapaichit as a special case, I still have concerns about the work of the Department of Special Investigation. I present the following observations and recommendations.

1. Both Pol Gen Sombat Amornwiwat and Pol Col Tawee Sodsong,

Deputy Director-General of the Department of Special Investigation have in the past been the supervisors of all 5 defendants in this case. This may be the reason why the efforts to investigate this case have been delayed and non-transparent. Also the testimony of witnesses in court clearly established that on 12 March 2004, one police officer from the Crime Suppression Division met a group of persons in front of the Crime Suppression Division and asked where they were going. The answer given was that they were going to snatch a rogue lawyer. This officer reported this to Pol Col Tawee Sodsong, but Pol Col Tawee Sodsong did nothing to stop this.

2. One important piece of evidence in this case was Exhibit Jo 111, which shows the telephone use by all 5 defendants on 12 March 2004, which the investigators submitted for the consideration of the Court of First Instance. In its verdict, the court believed that this document had no credibility since it was a copy and no high-ranking official testified to confirm the authenticity of the document. Even though the Department of Special Investigation had accepted the disappearance of Mr Somchai Neelapaichit as a special case more than a year earlier, there were no efforts to authenticate this document.

3. The fact that the defendants in this case are police officers may be the reason why many witnesses are afraid and do not dare to testify. The Department of Special Investigation itself does not have measures to give witnesses confidence in their safety when they testify in court. Some of the accused have not been suspended from government service and still hold positions which may have a beneficial or detrimental effect on any person. The results of the disciplinary investigation by the Royal Thai Police seem to indicate that none of the 5 police officers had committed an offence although the court had not yet delivered its verdict. Some of the accused, after having been bailed from prison, were able to return to their former duties as if they were not in the middle of a case.

4. It is noteworthy that some of the Department of Special Investigation officers investigating the disappearance of Mr Somchai Neelapaichit once

had connections to some of the accused. It is therefore credible that this may have played an important part in delaying efforts to resolve this case and in obstructing justice. The Department of Special Investigation itself prefers to claim that it accepted the case one year after Mr Somchai was disappeared, so evidence had been destroyed. But from the facts it appears that Pol Gen Sombat Amornwivat, Director-General of the Department of Special Investigation, was the person named to take over responsibility for this case at the same time as Pol Lt Gen Thanee Somboonsup, former Metropolitan Police Commissioner. Therefore, as the injured party, I request the kindness of the Prime Minister to appoint Pol Lt Gen Thanee Somboonsup to assume authority over the investigation into the disappearance of Mr Somchai Neelapaichit, because I firmly believe that Pol Lt Gen Thanee Somboonsup will be very familiar with the facts and is a person who can be believed and who has the public's confidence.

Since the disappearance of Mr Somchai Neelapaichit is a matter that has attracted the interest and concern of civil society both inside and outside the country, because enforced disappearance is held to be the most severe violation of human rights and affects confidence in the system of justice, especially when it is practised by agents of the state, the government must reveal the truth, must display transparency and fairness, and must bring the perpetrators to face legal punishment, without discrimination, in the interest of what is right and just.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

.....

- 1 The leader of the 19 September 2006 coup.
- 2 A scientific and research institute in the north of Bangkok founded and presided over by HRH Princess Chulabhorn.
- 3 Deputy Commissioner General of the Royal Thai Police.



## Events in Ratchaburi

**20 December 2006.** Today, someone came forward with information that Khun Somchai was taken to Pong-i-keng Subdistrict, Ratchaburi, where his body was burned. This is a practice firing range of the military. An oil drum was then thrown into the Mae Klong River. The Central Institute of Forensic Science with Dr Pornthip and Col Piyawat Kingket from the Department of Special Investigation, together with a team of archaeological divers, were preparing to inspect the site again.

**22 December 2006.** There was a search for evidence in the Mae Klong River. Today the diving team found an orange-coloured oil drum with holes punched in it, as the witness had described. Inside, they found a plastic bag. Nearby they found a fertilizer bag, with a bone in it, believed to be human. Dr Pornthip said that it was likely it was a forearm, or if not, a shin. This would have to be sent for verification to see if it matched Khun Somchai's DNA or not. If not, Khun Somchai's siblings would have to give blood samples for mitochondrial DNA comparison, which is in the cell nucleus.

**12 January 2007.** Dr Pornthip called to tell me that the DNA wasn't Khun Somchai's, but it was human DNA.



Search for evidence at Ban Pong, Ratchaburi. The Department of Special Investigation and Central Institute of Forensic Science of the Ministry of Justice sent official who found the lid of an oil drum with a residue of fat and 1 long bone.

**18 January 2007.** I received a 'Most Urgent' letter (as before) from the Office of the Ombudsman. It is 3 pages long and was sent with a copy of the 1999 Organic Law on Ombudsmen. The gist is summarized in 2 lines: *"The Ombudsman (Mr Poonsap Piya-anan), after due consideration, believes that since the 1997 Constitution of the Kingdom of Thailand is now revoked, there is therefore no reason for the Ombudsman to consider or act on this case any further."*

Most Urgent

[Symbol of Office of Ombudsman]

Ref: Pho Ro 22/581

Office of the Ombudsman  
1193 Exim Bldg 20<sup>th</sup> floor  
Phahonyothin Road  
Sam Sen Nai, Phya Thai  
Bangkok 10400

18 June 2007

Re: Report of the results of the decision of the Ombudsman  
To: Mrs Angkhana Neelapaichit  
With reference to: Most Urgent Letter of the Office of the Ombudsman,  
Ref Pho Ro 22/10761 of 18 September 2006  
Attachment: 1999 Organic Law on Ombudsmen

The above-mentioned letter stated that your appeal was expedited to the Royal Thai Police for it to submit the facts and that you would be informed of any progress.

At present, the Office of the Ombudsman has received the facts as requested from the Crime Suppression Division. In summary, Pol Maj Ngoen Thongsuk, Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang, Pol Sgt Randon Sitthikhet and Pol Lt Col Chatchai Liamsa-nguan all faced criminal charges of gang robbery using a vehicle and coercing another to do something or not to do something by the use of force so that that person must do or suffer that thing, by jointly committing the offence in a group of 5 or more persons. According to the arrest warrant of the Criminal Court relating to this matter, the Crime Suppression Division issued Order Number 47/2547 on 8 April 2004 for Pol Lt Col Sinchai and Pol Sgt Randon to be suspended from government service and the Tourist Police Division issued an order for Pol Sgt Maj Chaiweng also to be suspended from government service. Later the Royal Thai Police issued Order Number 243/2547 on 9 April 2004 to establish a committee to investigate gross misconduct charges against Pol Maj Ngoen, Pol Lt Col Sinchai, Pol Sgt Maj Chaiweng and Pol Sgt Randon and the Royal Thai Police issued Order Number 244/2547 on 9 April 2004 for Pol Maj Ngoen to be suspended from government service pending the result of the investigation. Later, on 29 April 2004, the Criminal Court issued a further arrest warrant for Pol Lt Col Chatchai, Deputy Commander 3, Crime Suppression Division, in the same criminal case. The Royal Thai Police therefore issued Order Number 355/2547 on 14 June 2004, appointing a

committee to investigate gross misconduct charges against Pol Lt Col Chatchai and ordered Pol Lt Col Chatchai to be transferred to Provincial Police Region 4, Khon Kaen Province<sup>1</sup>. The committee then conducted an investigation and finally concluded that it still cannot be admitted that the 5 accused committed gross misconduct. But this is an accusation of gross misconduct since it concerns criminal charges being heard in the courts. The committee investigating gross misconduct charges therefore proposed that the final judgment of the criminal case be heard before any further consideration of this matter. This was approved by the Royal Thai Police. But since the disciplinary case was still waiting for the end of the criminal case, supervisors made no final decision for 140 days, counting from the date the case was accepted. It was therefore necessary to allow the accused police officers to return to their former position in accordance with Section 87 of the 2004 Royal Police Act. The Commander of the Crime Suppression Division therefore issued Order Number 152/2548 on 13 December 2005 for Pol Lt Col Sinchai and Pol Sgt Randon to return to government service and the Tourist Police Division issued Order Number 179/2548 on 20 December 2005 for Pol Sgt Maj Chaiweng to return to government service, in the positions previously held, pending a final decision in this matter.

The Office of the Ombudsman wishes to make it known that the Ombudsman (Mr Poonsap Piya-anan), after due consideration, believes that in this matter, the Royal Thai Police has conducted disciplinary proceedings against Pol Maj Ngoen and 4 others and has ordered Pol Maj Ngoen, Pol Lt Col Sinchai, Pol Sgt Randon and Pol Sgt Maj Chaiweng to be suspended from government service and has ordered Pol Lt Col Chatchai to be transferred to Provincial Police Region 4, Khon Kaen Province. With regard to the fact that the disciplinary investigation committee concluded that it could not be admitted that the 5 police officers accused committed gross misconduct, but that this was an accusation of gross misconduct because they had been charged in a criminal case which was being heard in the court, the above-mentioned committee had decided to wait for the final verdict of the court for this to be taken into consideration, and the Royal Thai Police approved this.

The Royal Thai Police later ordered Pol Lt Col Sinchai, Pol Sgt Randon and Pol Sgt Maj Chaiweng to return to government service as before, because it was believed that this was a case where consideration by the supervising officer had not been completed within 240 days of receiving the case, in accordance with Section 87 of the 2004 Royal Police Act. It is believed that this case is a matter involving disciplinary punishment of government officials and personnel management of the Royal Thai Police, which the 1999 Organic Law on Ombudsmen, Section 24 (4) specifies shall not be accepted for consideration. Therefore the Ombudsman cannot consider adjudication in this case.

However, with respect to this matter, the Ombudsman (Mr Phunsap Piya-anan), has made the observation to the Royal Thai Police that the fact that the Royal Thai Police has taken different disciplinary action against the police officers who were accused at the outset, although all 5 police officers were accused of jointly committing the same crime and were under the process of the same disciplinary investigation. The Royal Thai Police ordered Pol Maj Ngoen, Pol Lt Col Sinchai, Pol Sgt Randon and Pol Sgt Maj Chaiweng suspended from government service, but Pol Lt Col Chatchai remained in government service by being transferred to Provincial Police Region 4, Khon Kaen Province. This creates suspicions about the actions of the Royal Thai Police in this case and will cause the injured party to fear that the police officer charged at the outset, who continued to carry out duties while the case was under investigation and being heard by the court, may use his authority to interfere with evidence, either directly or indirectly. With respect to the fact that the Royal Thai Police issued orders for Pol Maj Ngoen, Pol Lt Col Sinchai, Pol Sgt Randon and Pol Sgt Maj Chaiweng to return to government service in their former positions by citing Section 87 of the 2004 Royal Police Act, the Ombudsman observes that even though the Royal Thai Police claims it must follow the law and so must allow the accused police officers to return to their positions with the same authority as before, this is not appropriate, since these police officers were still being tried in a criminal case and the Department of Special Investigation had still not investigated all the facts and

evidence relating to the case, which can also be a reason for the injured party to fear that these police officers may use their authority to interfere with evidence, either directly or indirectly.

With respect to your request for the Ombudsman to consider using his authority in accordance with Section 17 of the 1999 Organic Law on Ombudsmen and Section 43 of the 1999 Act on Establishment of Administrative Courts and Administrative Court Procedure, to submit a plea to the Administrative Court to consider the case in which you believe that the Royal Thai Police has performed actions, or neglected to perform actions in a way that contradicts the 1997 Constitution of the Kingdom of Thailand, Section 61, Section 70 and Section 75, the Ombudsman (Mr Poonsap Piya-anan), after due consideration, believes that since the 1997 Constitution of the Kingdom of Thailand is now revoked, there is therefore no reason for the Ombudsman to consider or act on this case any further.

For your information.

Yours respectfully,

[Signature]

(Mr Siracha Charoenpanij)

Secretary-General, Office of the Ombudsman

Appeals Examination Section

Tel: 0 2299 0439, 1676 Ext 439

Fax: 0 2299 0486, 1676 Ext 486

[www.ombudsman.go.th](http://www.ombudsman.go.th)

***“Justice Delayed is Justice Denied”***

1 Khon Kaen Province is in the northeast, approximately 450 km from Bangkok.

## Suing the Royal Thai Police

**11 March 2007.** Today is the third anniversary of Khun Somchai's disappearance. An event was organized to commemorate the occasion and all the disappeared in the country, at the Faculty of Political Science, Chulalongkorn University. It was also part of the campaign for Thailand to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

**12 March 2007.** Today I travelled to the Administrative Court with Khun Nitithon Lamluea to file a complaint against the Royal Thai Police and the Commissioner-General for failure to take disciplinary action against the police officers who were named as defendants in the case of the disappearance of Khun Somchai. And that evening I was told off via the media by Commissioner-General Seriphisut Temiyawej: *"Shut up... What else do you want?"*

## Plaint

12 March 2007,

I, Mrs Angkhana Neelapaichit, residing at 73/5 Soi Issaraphab 11, Issaraphab Road, Thonburi District, Bangkok 10600 (as appears in Attachment 1) as Plaintiff, wish to file a complaint against the Royal Thai Police as First Defendant, and the Commissioner-General of the Royal Thai Police as Second Defendant, at the Central Administrative Court on the charge that both Defendants, which are an administrative state agency and a state official, have the duty to carry out actions according to the law and regulations, but have neglected their duties as stipulated by the law. The Plaintiff wishes to describe the circumstances and details which form the basis of this complaint to the Central Administrative Court as follows.

The Plaintiff is Joint Plaintiff in Criminal Court Case Number Black 1952/2547 and Red Oo 48/2549, in which Defendant 1 is Pol Maj Ngoen Thongsuk, Defendant 2 is Pol Lt Col Sinchai Nimpunyakamphong, Defendant 3 is Pol Sgt Maj Chaiweng Phaduang, Defendant 4 is Pol Sgt Randon Sitthikhet, and Defendant 5 is Pol Lt Col Chatchai Liamsa-nguan. The case is under consideration of the Appeals Court.

1. The Plaintiff, as the legal wife of Mr Somchai Neelapaichit (as appears in Attachment 2), has suffered damage from the fact that Mr Somchai Neelapaichit was abducted and disappeared on 12 March 2004. Mr Somchai Neelapaichit was the husband of the Plaintiff and head of a family of 5 children who need his support and maintenance. These are Miss Sudprathana Neelapaichit, Miss Pratubjit Neelapaichit, Miss Korbkusol Neelapaichit, Miss Krongtham Neelapaichit and Mr Korbtham Neelapaichit. The Plaintiff was joint plaintiff in a criminal case in the Criminal Court on 16 June 2004, together with the public prosecutor, in Case Number Black 1952/2547, charging the police officers who abducted Mr Somchai Neelapaichit, i.e. Pol Maj Ngoen Thongsuk as Defendant 1, Pol Lt Col Sinchai Nimpunyakamphong as Defendant 2, Pol Sgt Maj Chaiweng

Phaduang as Defendant 3, Pol Sgt Randon Sitthikhet as Defendant 4, and Pol Lt Col Chatchai Liamsa-nguan as Defendant 5, with gang robbery involving the use of a vehicle and coercing another to do something or not to do something by the use of force so that that person must do or suffer that thing, by jointly committing the offence in a group of 5 or more persons. The Court of First Instance has at present delivered a verdict on 12 January 2006 which, in summary, confirmed that Pol Maj Ngoen Thongsuk, who was on duty at the time, together with 3-5 others, pushed Mr Somchai Neelapaichit into a car that the defendants had prepared. The details can be found in the copy of the verdict (as appears in Attachment 3). The case is with the Appeals Court, which has not yet reached a final verdict.

2. At the same time, the Plaintiff has received information that one of the police officers, Pol Lt Col Chatchai Liamsa-nguan, Defendant 5 in this case, whose case was dismissed by the Court of First Instance for lack of sufficient evidence, remained on duty at the same unit while the case was still in court. The regulations governing state police officers stipulate that any officer accused of a criminal offence must be suspended from government service as a precaution. In addition, 3 other defendants against whom charges were dismissed, namely Defendant 2 Pol Lt Col Sinchai Nimpunyakamphong, Defendant 3 Pol Sgt Maj Chaiweng Phaduang, and Defendant 4 Pol Sgt Randon Sitthikhet have petitioned to return to government service. Earlier, all 4 defendants, including Pol Maj Ngoen Thongsuk, who was found guilty, were ordered suspended from government service. In considering the above facts, and the details of the verdict of the Criminal Court in Case Number Black 1952/2547 and Red Oo 48/2549, Pol Maj Ngoen Thongsuk and the above-named police officers, who were government officials, have jointly committed an offence and were involved in the circumstances of the abduction and disappearance of Mr Somchai Neelapaichit. Even though some of these police officers were found not guilty of a criminal offence according to the court verdict, their involvement is considered a violation of the law by intent, causing damage to the government, and constitutes an act of gross misconduct according to Section 85,

Paragraph 2 and Section 98, Paragraph 2, of the 1992 Civil Service Act.

Since the facts seem conclusive according to the verdict that the above-named police officers were accused of gross misconduct according to Section 85, Paragraph 2 and Section 98, Paragraph 2 with preliminary evidence from the results of the investigation by investigating officers, the prosecution charges and the Criminal Court verdict, the Royal Thai Police as the supervising body has the duty to implement disciplinary measures against the officers immediately, according to Section 99, Paragraph 4 of the 1992 Civil Service Act. (This is a non-discretionary authority which must be exercised, and not a discretionary authority which may or may not be exercised.) Failure by the supervising officer immediately to take disciplinary measures according to Section 99, Paragraph 7, may also be a criminal offence. Since the date on which the officers in question became defendants in the criminal case until the present time, the facts appear clear from the Criminal Court verdict that the supervising officer has not taken any disciplinary action according to the law. This is not only an act of negligence under the law (Section 99, Paragraph 4 and 7) but also an illegal act according to Section 70, Paragraph 1 of the Constitution of the Kingdom of Thailand.

3. Pol Lt Col Chatchai Liamsa-nguan, defendant in the same case, was not suspended from government service after an arrest warrant was issued and he was detained for 35 days (1 May 2004 - 4 June 2004). He was merely ordered to be transferred and when 180 days had passed and the results of the disciplinary investigation found that the evidence was not clear enough to impose disciplinary punishment, he returned to his original position. Although Pol Lt Col Chatchai was not suspended and merely transferred, the other 4 defendants in the same case were suspended from government service. It is noteworthy that the Civil Service Regulations, 11<sup>th</sup> version (1995) with respect to orders to be dismissed from government service and be suspended from government service, specifies in Item 3 (1), 2) and (3) whether the detention of 35 days (1 May 2004 - 4 June 2004) is counted a government service or not. If it is not, it is held that Pol Lt Col Chatchai Liamsa-nguan was absent from

government service for more than 15 days without a suitable reason, which carries serious penalty, including dismissal from government service (as appears in Attachment 4).

4. The two Defendants, in their status as the responsible government agency and supervisor, allowed the defendants to return to government service as normal, which is held to be negligence in carrying out legal responsibilities, in not operating correctly according to the law, and in using discretion to disobey the law even when the case was not yet clear whether there was an offence or not. Even without a charge of murder, it is held that this is a serious case affecting popular feeling and is the most serious violation of human rights with police officers accused, even though their direct duty is to maintain justice, preserve peace and order, and protect the welfare of the people. The return to government service of these police officers is therefore neglect by the accused and an improper use of discretion.

5. Since at this time the case of the disappearance of Mr Somchai Neelapaichit is under the investigative responsibility of the Department of Special Investigation, the fact that among the police officers charged, Pol Lt Col Chatchai Liamsa-nguan was still on active government duty in his former position after his transfer to Provincial Police Region 4, and Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Randon Sitthikhet and Pol Sgt Maj Chaiweng Phaduang had returned to government service in their former positions, creates suspicions for the Plaintiff, as the directly injured party, about the operations of the Royal Thai Police and is a reason for the Plaintiff to fear that the above-named defendants, who were still carrying out their duties while the investigation and court hearings were in progress, may use their authority to interfere with evidence, either directly or indirectly, which will have a negative effect on justice.

6. After Mr Somchai Neelapaichit was disappeared on 12 March 2004, the Plaintiff has submitted many appeals for justice to the supervising officers of all five police officers and other relevant agencies. These include an appeal to the Commissioner-General of the Royal Thai Police through the good offices of the Lawyers Council, but the Commissioner-General has still not initiated any

disciplinary proceedings against these police officers. The Plaintiff also submitted a letter by mail to the Inspector-General of the Royal Thai Police on 1 December 2005 and until now has not received any explanation or report. Only a reply by mail was received, dated 13 December 2006. Finally, the Plaintiff cannot rely on any organization for justice. The Plaintiff therefore submitted an letter of appeal to the Ombudsman on 22 March 2006 for him to use his authority under the Ombudsman Law, Section 197 (1) (a) (b) to consider and investigate the facts in this case and all persons involved in failing to act according to the law or fulfilling or failing to fulfilling one's duty according to the 1992 Civil Service Act and the Constitution of the Kingdom of Thailand. Under the provisions of the Act on Establishment of Administrative Courts, the matter was submitted to the Administrative Court to judge the failure of the state to carry out its responsibilities, which is a problem related to illegal actions under Section 61, Section 70 Paragraph 3, and Section 75 of the Constitution of the Kingdom of Thailand, referring to Section 99, Paragraphs 4 and 7, of the 1992 Civil Service Act. The Ombudsman sent a letter to the Plaintiff dated 18 January 2007, stating that since the 1997 Constitution of the Kingdom of Thailand had been revoked, there was no cause for further consideration or action by the Ombudsman (as appears in Attachment 5). The Plaintiff believes that this is a great injustice since the Plaintiff submitted the appeal on 22 March 2006, or 6 months before the coup d'état. Because the Plaintiff cannot rely on any organization in her search for justice and has no avenue by which to force the Defendants to take correct action according to the law, the Plaintiff therefore relies on the authority of the Administrative Court and request the Administrative Court to adjudicate or order the two Defendants to fulfill their duties as specified by law, by ordering the suspension from duty of all 5 police officers until there is a final verdict, in the interests of what is right and for the benefit of justice.

Signed  Plaintiff  
(Mrs Angkhana Neelapaichit)

Attachments

1. Copy of the House Registration of the Plaintiff
2. Wedding Certificate
3. Verdict of Case Number Black 1952/2547
4. Civil Service Regulations, 11<sup>th</sup> version (1995) governing suspension and temporary dismissal from government service
5. Responses from the Ombudsman dated 3 May 2006, 30 June 2006, 18 September 2006 and 18 January 2007
6. Letter of Appeal to the Ombudsman dated 22 March 2006 and Letter from the Crime Suppression Division dated 17 September

**4 April 2007.** The Central Administrative Court issued an order not to accept my plaint for consideration. The Court believed that *“The fact the 2<sup>nd</sup> Defendant (Commissioner-General of Police) ordered all 5 police officers to return to government service in their former positions is a discretionary decision of the supervisory officer in personnel administration in accordance with normal procedure for which there is no legal authority. This order of the 2<sup>nd</sup> Defendant therefore has no effect on the circumstance of the rights or duties of the Plaintiff, who is a person outside the system of administration. The Plaintiff has therefore not been caused trouble or loss by the order of the 2<sup>nd</sup> Defendant for the 5 police officers to return to government service. There is therefore no right to appeal this case for the court to withdraw the order of the 2<sup>nd</sup> Defendant. With respect to the request of the Plaintiff for both Defendants to take disciplinary action to order the police officers who are involved to be suspended or temporarily dismissed from government service until the criminal case before the court of justice and the investigation of the Department of Special Investigation are finished, it is believed that disciplinary action is a matter between the state and agents of the state, where the supervising officers may use discretion to take reasonable action.”*

**3 May 2007.** I again went to the Administrative Court to appeal to the Supreme Administrative Court the order of the Central Administrative Court not to accept the appeal.

**21 August 2007.** The Supreme Administrative Court arranged to read the verdict on the case which I submitted in appeal against the order of the Central Administrative Court not to accept the case for consideration in accordance with Case Number Black 475/2550 Number Red 533/2550.

○ Order

[Garuda]

(Tor 21)

Plaint Number 288/2550

Order Number 501/2550

**On His Majesty's Service  
Supreme Administrative Court**

26 July Buddhist Era 2550 [2007]

between { Mrs Angkhana Neelapaichit Plaintiff  
Royal Thai Police, 1<sup>st</sup>  
Commissioner-General of Royal Thai Police, 2<sup>nd</sup> Defendants

Re: Verdict relating to the fact that an administrative agency and agents of the state committed illegal actions according to the law and neglected to perform duties specified by law as compulsory. (Appeal against the order not to accept a plaint for consideration.)

The Plaintiff submitted an appeal against the order in Case Number Black 475/2550 Number Red 533/2550 of the lower Administrative Court



(Central Administrative Court).

In this case the Plaintiff appeals that the Plaintiff is the wife of Mr Somchai Neelapaichit, formerly Deputy Chair of the Human Rights Committee of the Law Society and President of the Muslim Lawyers Association. The Plaintiff suffered trouble or loss from the disappearance of Mr Somchai because in the disciplinary action against the police officers involved in committing this offence at the first stage, the 2 Defendants ordered Pol Maj Ngoen Thongsuk, Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang and Pol Sgt Randon Sitthikhet to be suspended. But in the case of Pol Lt Col Chatchai Liamsa-nguan, who was charged with committing the same criminal offence, the 2<sup>nd</sup> Defendant merely ordered him to be transferred to Provincial Police Region 4. This is a different process in an important respect and is legally improper. Also, the fact that the Commander of the Criminal Suppression Division, who was authorized by the 1<sup>st</sup> Defendant, issued a letter dated 18 September 2006, informing the Plaintiff that the gross misconduct procedures against the police officers involved had been carried out and a disciplinary investigation committee agreed to await the final result of the court case. The 2<sup>nd</sup> Defendant approved, but while the court case was still being considered by the Court of Justice, the 2<sup>nd</sup> Defendant issued an order for Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang, Pol Sgt Randon Sitthikhet and Pol Lt Col Chatchai Liamsa-nguan to return to government service in their former positions. This is in conflict with the original order to wait for the final result of the criminal case. The effect of this order may have been to allow these police officers to interfere with the evidence in the case which would have an impact on justice. Also, the fact the Pol Lt Col Chatchai Liamsa-nguan was detained for 35 days can be held to be absence from government service for more than 15 days, which requires dismissal from government service and it is the duty of the supervising officer to take immediate disciplinary action in accordance with Section 98 of the 1992 Civil Service Act. The fact that the 2<sup>nd</sup> Defendant did not take

disciplinary action against these police officers according to the law is therefore neglect of duty as required by law. .

The request is for the following adjudications or orders.

1. To revoke the order of the 2<sup>nd</sup> Defendant to transfer Pol Lt Col Chatchai Liamsa-nguan to Provincial Police Region 4.
2. To revoke the order of the 2<sup>nd</sup> Defendant for Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang, Pol Sgt Randon Sitthikhet and Pol Lt Col Chatchai Liamsa-nguan to return to government service in their former positions.
3. For both Defendants to conduct an investigation into gross misconduct of the police officers in accordance with Item 2 and to order suspension or temporary dismissal until consideration of the criminal case by the court and the Department of Special Investigation is completed.

The lower Administrative Court after due consideration believed that the order of the 2<sup>nd</sup> Defendant for all 5 police officers to return to government service in their original positions is a discretionary decision of the supervising officer in personnel administration in accordance with normal procedures authorized by law. This order of the 2<sup>nd</sup> Defendant therefore has no effect on the circumstance of the rights or duties of the Plaintiff, who is a person outside the system of administration. The Plaintiff has therefore not been caused trouble or loss by this order and therefore has no right to appeal to the court to revoke this order. With respect to the request of the Plaintiff for both Defendants to take disciplinary action to order the police officers who are involved to be suspended or temporarily dismissed from government service until the criminal case before the court of justice and the investigation of the Department of Special Investigation are finished, it is believed that disciplinary action is a matter between the state and agents of the state, where the supervising officers may use discretion to take reasonable action and has no direct remedial effect for the Plaintiff. The Plaintiff therefore has no right to sue the 2 Defendants in accordance with Section 42, Paragraph 1 of the 1999 Act on Establishment



of Administrative Courts and Administrative Court Procedure. The lower Administrative Court gave an order not to accept the plaint for consideration and removed the case from the case register.

The Plaintiff submitted an appeal against the order of the lower Administrative Court not to accept the appeal for consideration on the grounds that the 2<sup>nd</sup> Defendant allowed Pol Lt Col Chatchai Liamsa-nguan to continue to carry out government duties in his former position and allowed Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang and Pol Sgt Randon Sitthikhet to return to government service in their former positions, creating in the Plaintiff, as the directly injured party, suspicions about the actions of the 1<sup>st</sup> Defendant and possibly allowing these police officers to use their authority to interfere with evidence, since most evidence is in the form of documents in the possession of administrative agencies, which may affect justice. Considering Section 102, Section 103 and Section 104 of the 1992 Civil Service Act, it can be seen that if there is disciplinary action against these police officers according to legal procedures, it may be advantageous to the Plaintiff's case and even if disciplinary proceedings are an internal matter, if the supervising officer takes discretionary action illegally and causes loss to outside persons, outside persons may have the right to appeal to the court for the court to examine such use of discretion. Even if the court hears that the Plaintiff did not suffer direct loss, if it is considered in detail, it may be seen that the Plaintiff suffered loss from the beginning by the actions of state officials who caused loss to the husband of the Plaintiff. The result of disciplinary action may therefore affect the Plaintiff in ways that cannot be separated. In this case, it can be held that that the Plaintiff has been caused trouble and loss unavoidably and therefore has the right to file an appeal with the Administrative Court in accordance with Section 42 Paragraph 1 of the 1999 Act on Establishment of Administrative Courts and Administrative Court Procedure.

The Supreme Administrative Court, after due consideration, believes that the case has points which must be adjudicated as to whether the lower Administrative Court, in issuing an order not to accept the appeal for consideration on the grounds that the Plaintiff is not a person who has the right to appeal, was acting in compliance with the law or not.

After analysis, it is seen that Section 42 Paragraph 1 of the 1999 Act on Establishment of Administrative Courts and Administrative Court Procedure prescribes that a person who has the right to submit an appeal to the Administrative Court must be a person who has been caused trouble or loss, or may be caused trouble or loss unavoidably, as the result of the action or failure to act of administrative agencies or agents of the state, or where there is a contradiction relating to an administrative undertaking or other cases which fall under the authority of the Administrative Court in accordance with Section 9 and the elimination or mitigation of the trouble or loss or the resolution of the contradiction requires an order as specified under Section 72 of the afore-mentioned Act. In this case, the Plaintiff claims that she has suffered trouble or loss from the order of the 2<sup>nd</sup> Defendant for Pol Maj Ngoen Thongsuk, Pol Lt Col Sinchai Nimpunyakamphong, Pol Sgt Maj Chaiweng Phaduang, and Pol Sgt Randon Sitthikhet, who were charged with a crime against the husband of the Plaintiff, to be suspended from government service, while Pol Lt Col Chatchai Liamsa-nguan, who was charged with the same offence, was merely ordered by the 1<sup>st</sup> Defendant to be transferred to Provincial Police Region 4. The difference in action on the same matter is illegal. Also, the 2<sup>nd</sup> Defendant ordered Pol Lt Col Sinchai, Pol Sgt Maj Chaiweng, Pol Sgt Randon, and Pol Lt Col Chatchai, to return to government service in their former positions, without waiting for the final result of the criminal court, which contradicts the former order communicated to the Plaintiff. The court is therefore requested to reach a verdict or issue an order to revoke the order of the 2<sup>nd</sup> Defendant. In the case of the transfer of Pol Lt Col Chatchai to Provincial Police Region 4 and the case of allowing Pol Lt Col

Sinchai, Pol Sgt Maj Chaiweng, Pol Sgt Randon, and Pol Lt Col Chatchai to return to government service in their former positions, after due consideration, it is seen that the order by the supervising officer for officers under his command to carry out government duties in any position, or to carry out any duties, is an internal personnel administration matter. The supervising officer therefore has the discretion to act as appropriate within the authority granted by the law. When the order of the 2<sup>nd</sup> Defendant in both cases are considered, it is seen that these orders can have an effect only on the rights and duties of the police officers under these orders. An effect on the rights and duties of the Plaintiff cannot be found, the Plaintiff not being a party to the aforementioned orders. The Plaintiff therefore has no right to file an appeal with the Administrative Court to request the court to revoke these orders in accordance with Section 42 Paragraph 1 of the abovementioned Act.

With reference to the case where the Plaintiff requests the court to give a judgement or order for the 2 Defendants to conduct a disciplinary investigation into gross misconduct by the police officers charged with the offence, and to give an order to suspend or temporarily dismiss them from government service, after due consideration, it is seen that disciplinary punishment of government officials committing disciplinary offences is an administrative measure to control and prevent misconduct among government officials through government service regulations. It is therefore an internal matter between the supervising officer and the officials under her/his supervision, and the supervising officer has the authority to use discretion in considering what action to take in each case. Therefore, whether disciplinary action was taken by the 2 Defendants against these police officers or not, there can be no remedial action for the trouble and loss to the Plaintiff. If the Plaintiff believes that the actions of these police officers caused her trouble and loss in any way, the Plaintiff may use the right to bring a case to the Courts of Justice to seek civil charges against these police officers according to their offence. The request of the Plaintiff in this

matter is therefore a matter with the Administrative Court is not able to grant, [p110] in accordance with Section 72 of the 1999 Administrative Court Establishment and Administrative Case Procedures Act. The Plaintiff therefore has no right to file a plaint with the Administrative Court in accordance with Section 42 Paragraph 1 of the above-mentioned Act. The order of the lower Administrative Court not to accept this plaint for consideration and to remove the case from the register of cases is correct. The Supreme Administrative Court agrees.

Therefore the order of the lower Administrative Court is upheld.

Mr Paiboon Siengkong [Signature] Presiding Judge  
Supreme Administrative Court Judge

Mr Peerapol Chaovanasiri [Signature]  
Senior Judge of the Supreme Administrative Court

Mr Hassavut Vititviriyakul [Signature]  
Supreme Administrative Court Judge

Mr Charnchai Sawangsagdi [Signature]  
Supreme Administrative Court Judge

Mr Charoon Inthachan [Signature]  
Supreme Administrative Court Judge

**Letter to NACC**

73/5 Issaraphab Rd 11, Thonburi, Bangkok 10600

4 September 2007

To: President, National Anti-Corruption Commission<sup>1</sup>

Re: Request to expedite investigation into the torture of detainees by high-ranking officers of the Royal Thai Police

**13 July 2007.** I went to submit a letter to the Office of the National Anti-Corruption Commission since I had received a telephone call from a well-wisher informing me that at present there were attempts to slow down the investigation by the NACC, waiting for a change of government, because those involved believed that if a Thai Rak Thai party government came back into power, it might be possible to help those involved in the offence to escape charges.

The person who called me also said that high-level officials at the Royal Thai Police under NACC investigation were making efforts to delay the investigations by trying to request the Secretary-General of the NACC, who was studying at the Institute of Police Administration Development, to try to delay the investigation into this case so that they could wait for a new government.

I, Mrs Angkhana Neelapaichit, am the wife of Mr Somchai Neelapaichit, a lawyer who was disappeared on 12 March 2004. The Court of First Instance gave a verdict that Pol Maj Ngoen Thongsuk, a police officer assigned to the Crime Suppression Division, is the person who, together with 3-5 other males, pushed Mr Somchai into a car which the accused and his accomplices had prepared to effect his disappearance until today, a period of 3 years and 6 months. The reason for this was that Mr Somchai had made an appeal concerning the torture of suspects while in police custody. At present the case is under appeal and the Department of Special Investigation accepted the case of Mr Somchai Neelapaichit as a special case on 19 July 2005. At present the Department of Special Investigation has submitted the case of torture of suspects by high-ranking police officers in the Royal Thai Police to the National Anti-Corruption Commission for disciplinary investigation of the charge of torture and to relate this to the case of the disappearance of Mr Somchai Neelapaichit.

However, all affected parties who will provide testimony are domiciled in the 3 southernmost provinces, where there is unrest and where some injured parties have lost their lives after being executed by unidentified assailants, and many other people, including myself, are threatened and intimidated. I know that recently, some police officers from headquarters, who are implicated in torture, have transferred to duties in the 3 southernmost provinces and have created growing concern among all witnesses about their safety. I have also received information by telephone

# Samak<sup>1</sup> government moves the DSI Director-General

from someone who does not wish to be identified that high-ranking officers in the Royal Thai Police who are currently under disciplinary investigation by the NACC have attempted to delay investigations through efforts to request the NACC Secretary-General, currently studying at the Institute of Police Administration Development to try to delay investigations into this case in anticipation of a new government which the accused believe may be able to help them escape the charges.

The case of the enforced disappearance of Mr Somchai Neelapaichit is thought to be important and has consequences for confidence in the judicial process and the rule of law in Thailand. It has also attracted the attention of civil society and of human rights activist both inside and outside the country because the enforced disappearance of an individual is held to be the most serious violation of human rights. I therefore submit this letter to you, requesting your kindness to expedite the investigations with transparency and justice, for the safety of witnesses, for the disclosure of the truth and for the building of confidence among all Thais in the judicial process.

I earnestly hope to benefit from your kindness in helping to resolve this case in order to prove that all Thais, whether officials of the state or the general public, must be under the same law without discrimination, in order to lay the foundation of a system of justice on which the people can rely and for the benefit of justice.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

1 This is often translated as 'National Counter-Corruption Commission'. In the fact the website address of the NACC is 'www.nccc.thaigov.net'.

**Mid-February 2008.** I learn that I myself and other witnesses who are under protection must switch our protection to the Witness Protection Centre where it is mostly police officers who will provide protection.

All witnesses who have had problems with illegal activities of the police, whether they are witnesses who have been tortured in the case of those detained by the police after the Pileng Camp arms theft on 4 January 2004, the secret killings in Kalasin<sup>2</sup>, or my own case, have to leave the former protection system and go under the new protection system overseen by the police.

I and many other witnesses decided to leave the protection programme because we had no confidence on being watched over by Department of Special Investigation officials who were once policemen or who have connections with the police.

**22 February 2008.** I had requested a meeting with the Director-General of the Department of Special Investigation, Sunai Manomai-udom, to ask him to consider providing witness protection in certain cases.

I spoke with the Director-General for about half an hour. The Director-General is a person with a friendly personality and goodwill. What

is important is that he is very fair-minded. While he held the position of Director-General of the Department of Special Investigation, I had confidence in the work of the officials under his close leadership. I was confident in their independence which would not allow illegal authority to intervene.

After I met the Director-General, I stopped at the Department for the Protection of Rights and Freedoms at the Ministry of Justice, and went up to the 38<sup>th</sup> floor where the Permanent Secretary (Charan Pakdithanakul) works. Normally I had the opportunity to go to the Ministry of Justice when Acharn<sup>3</sup> Charan held the post of Permanent Secretary. I always stopped to visit him. I spoke with him for quite a while until I left to go home. On the way home I heard the news that the Director-General of the Department of Special Investigation had been transferred.

In fact I was already prepared for this. It was certain to happen after the change of government but I did not think it would happen in such a rush, because it came just one day after the policy statement of the new Samak government.

73/5 Issaraphab Rd 11, Thonburi, Bangkok 10600

22 February 2008

Re: Request to reconsider witness protection policy  
To: Director-General, Department of Special Investigation  
cc: Permanent Secretary, Ministry of Justice

I, Mrs Angkhana Neelapaichit, am the wife of Mr Somchai Neelapaichit, a human rights lawyer who was disappeared by police officers on 12 March 2004. The Court of First Instance gave a verdict that Pol Maj Ngoen Thongsuk, a police officer assigned to the Crime Suppression Division,

together with 3-5 others, was the person who pushed Mr Somchai into a car which the accused and his accomplices had prepared. Mr Somchai has not been found for about 4 years. The reason for this was that Mr Somchai complained about the torture of defendants in the case of arms theft in the south, which occurred while they were in police detention. At present, the case of Mr Somchai Neelapaichit is under the consideration of Court of Appeal. Also, the Royal Thai Police has not been able to resolve the case of the disappearance of Mr Somchai Neelapaichit and the torture case of the defendants in the south. The Department of Special Investigation therefore accepted the case of Mr Somchai Neelapaichit as a special case on 19 July 2005 and sent the case of torture of the defendants from the south by high-ranking officers in the Royal Thai Police, which Mr Somchai appealed to various relevant agencies and which is believed to be the cause of Mr Somchai Neelapaichit's disappearance, to the National Anti-Corruption Commission for further action.

In my status as witness and person who has suffered significant injury in the case of Mr Somchai Neelapaichit, and who is trying to appeal for justice, I have consequently been threatened in various ways throughout the period of the past 4 years. I received from you the kindness of being placed under witness protection, where the protection was provided by civilians unconnected with the police. This gave me confidence in fighting this case to the end to secure justice. But I have since been informed by you that the 2008 Department of Special Investigation regulations on witness protection in special cases establish a Witness Protection Centre as an agency with the responsibility of protecting witnesses, with most staff being former police officers and persons who formerly had connections with police officers. I and other witnesses who have suffered loss and trouble from acts committed by police officers now have no confidence in the safety of future protection by officials of the Witness Protection Centre of the Department of Special Investigation. I also have no confidence in pursuing the case by the judicial process as an ordinary person, out of fear

of threats from the accused who are still carrying out their duties and who still have the authority and influence of their position, even though the 2007 Constitution of the kingdom of Thailand provides guarantees to injured parties and witnesses under Section 40 (5):

“an injured person, alleged offender, the accused and witness to a criminal case shall have the right to necessary and appropriate protection and assistance from State. The gratuity, compensation and expenses to be paid shall be provided by the law...”

The case of the enforced disappearance of Mr Somchai Neelapaichit is thought to be an important case with a powerful effect on confidence in the system of justice and legal principles of Thailand. It is also a prominent case in the eyes of civil society and human rights both inside and outside the country, because enforced disappearance is held to be the most serious violation of human rights and a serious crime in international law.

Therefore I submit this letter respectfully to request your kindness in reviewing the criteria and methods in witness protection, most especially with respect to witnesses in cases involving the illegal use of authority by police officers. This is to ensure the safety of witnesses and for injured parties to have the confidence to pursue the judicial process to the end. This is guaranteed by law, the Thai Constitution and the International Convention on Civil and Political Rights which Thailand is a party. It is to create confidence among all Thais in the judicial process in accordance with legal principles and in the interests of justice.

Yours respectfully,



(Mrs Angkhana Neelapaichit)

.....

1 Veteran right-wing politician Samak Sundaravej was chosen as the leader of the People Power Party, the successor party to the Thai Rak Thai Party after the

latter was ordered dissolved by the courts in 2007 and its 11 executive members banned from politics for 5 years, a ban which included TRT founder and former leader and former PM Thaksin Shinawatra. Samak led the PPP to victory in the election of 23 December 2007 and became Prime Minister. In September 2008, Samak was found guilty by the courts of accepting payment for appearing in a TV cooking show and required to resign the premiership.

- 2 In 2007, a number of suspected extrajudicial killings and enforced disappearances carried out by police officers over a number of years were revealed in Kalasin Province in the northeast of Thailand.
- 3 ‘Acharn’, meaning ‘teacher’, is an honorific commonly used with people who are or have been teachers or who are thought to be well-informed.

## 4 years of being disappeared

**12 March 2008.** On the fourth anniversary of the disappearance of Khun Somchai Neelapaichit, I was in Geneva, Switzerland, to observe the human rights meeting of the United Nations, especially the meeting with the working groups on disappearances in various countries, and I had the opportunity to meet the Deputy Commissioner for Human Rights and the Special Rapporteur to the Secretary-General on the situation of Human Rights Defenders and the Special Rapporteur on Torture, who expressed concern on the situation of human rights violations in Thailand.

The Thai Ambassador in Geneva issued a statement on my appeal, saying the Thai government gave great importance to this case, expressed his great pleasure to be in this human rights forum and gave a promise to the world community that the administration of the law could uphold legal principles as a guarantee of that those who did wrong must receive punishment according to the judicial process.

Finally the Thai Ambassador to the UN declared that the Thai government did not want the problem of enforced disappearance to continue and would use every method to try to ensure that the Thai government observed international agreements on enforced disappearances.

### Statement on the 4<sup>th</sup> Anniversary of the Disappearance of Somchai Neelapaichit

Angkhana Neelapaichit  
Working Group for Justice and Peace  
12 March 2008

To those reading this statement, I am in Geneva, Switzerland, to report on the state of human rights in Thailand, on progress in the case of the disappearance of Khun Somchai Neelapaichit, and on the various problems and obstacles that have occurred in the past 4 years.

In the resolution of this case, the UN Working Group on Enforced or Involuntary Disappearances has accepted Khun Somchai's disappearance as a UN disappearance case. At present, the case of illegal detention, where the Court of First Instance has ruled that one police officer, together with 3-5 others, was the person who forced Khun Somchai into a car and disappeared him on 12 March 2004, is still being heard in the Court of Appeal. The case of the disappearance of Khun Somchai Neelapaichit is under investigation by the Department of Special Investigation and the issue has been referred to the National Anti-Corruption Commission for investigation. Appeal letters were sent to various agencies, saying that high-ranking police officers tortured suspects who were represented by Khun Somchai. It is believed that these appeals were the reason why Khun Somchai disappeared.

After the Samak Sundaravej government transferred the Director-General of the Department of Special Investigation, Mr Sunai Manomai-udom, to another agency and replaced him with Pol Lt Gen Tawee Sodsong as Acting Director-General with Pol Gen Sombat Amornwiwat appointed as advisor to the Minister of Justice, Pol Lt Gen Tawee Sodsong gave an

interview to the media saying that he would give importance to the disappearance of Khun Somchai Neelapaichit.

Therefore, on the occasion of the 4<sup>th</sup> anniversary of Khun Somchai's disappearance, I make the following appeal to the government and the Department of Special Investigation.

1. I ask the government and the Department of Special Investigation to show its sincerity in investigating the disappearance of Khun Somchai Neelapaichit in a transparent and fair manner, so that the perpetrators can be punished according to the judicial process, even if these are high-ranking police officers, because enforced disappearance is the most serious crime.

2. I ask the DSI to have the courage to issue a summons for Pol Lt Col Thaksin Shinawatra, former Prime Minister, to be questioned and to serve as a witness on the circumstances of those close to Pol Lt Col Thaksin who searched the civil registration for a photograph of Khun Somchai without explaining the reason. Pol Lt Col Thaksin Shinawatra himself was interviewed by all the media on 13 January 2006 about Khun Somchai Neelapaichit, after the court had delivered its verdict, when he said "we know he is already dead, because we never found his trail." Since Pol Lt Col Thaksin was speaking as Prime Minister, his words should be credible and there should be sufficient evidence for Pol Lt Col Thaksin to speak that way.

3. The verdict of the Court of First Instance spoke of the evidence of a prosecution witness, "Pol Maj Gen Krisada Phankhongchuen, who learned from Pol Lt Col Wannaphong Kocharat that Pol Lt Col Chanchai Likhithkhanthason met a group of individuals that he knew in front of the Crime Suppression Division and when he asked them, was told that they were going to snatch a rogue lawyer. He therefore related this to Pol Lt Gen Tawee Sodsong." Therefore Pol Lt Gen Tawee Sodsong, as Acting Director-General of the Department of Special Investigation, should openly

and honestly state whether and how he learned that Khun Somchai Neelapaichit was snatched.

4. I ask the Department of Special Investigation to ensure that the case of the disappearance of Khun Somchai Neelapaichit is watertight, with sufficient evidence to bring charges against the true perpetrators. Bringing a case without clear and certain evidence will not bring the real perpetrators to be punished according to the law and may falsely implicate innocent people while whitewashing the truly guilty.

5. I appeal for the government to sign the International Convention for the Protection of All Persons from Enforced Disappearance of 2006 as a guarantee and protection for all Thais against falling victim to enforced disappearance at the hands of, or with the connivance of, state agents.

I believe that successful resolution of the case of the disappearance of Khun Somchai Neelapaichit depends on the sincerity of the government and the Department of Special Investigation and how far they act fairly, transparently and without interference, especially while Pol Gen Sombat Amornwiwat acts as advisor to the Minister of Justice. While he was the supervising officer of all 5 defendants in the case, and while he was Director-General of the Department of Special Investigation, he had close relations with the defendants in this case.

However, I encourage all officials to continue to carry out their duties by strictly holding to the principles of justice in ensuring fairness to the people and dependability in a situation of continuing violations of human rights in Thai society.

At the same time I must thank all Thai friends who have helped me to learn that in the middle of the difficulties experienced in accessing justice, there is always friendship from fellow members of society, including goodwill, solidarity and concern for myself and my family. Because of this I have been able to ensure and have the will to continue the search for justice.



Today the situation with regard to Khun Somchai's disappearance has gone back to the starting point. The People Power Party government is the old Thai Rak Thai government. Policies of strict suppression may be brought back into use, whether to do with drugs or unrest in the 3 southernmost provinces.

Today, Khun Sompong Amornwiwat is the Minister of Justice. He is the elder brother of Khun Sombat Amornwiwat, former Director-General of the Department of Special Investigation, who was transferred after the coup and who was named in court documents in the case of the detention of Khun Somchai. Exhibit Lo 107, page 2, says:

*"Pol Gen Sombat Amornwiwat, Director-General of the Department of Special Investigation is the former superior of all 5 arrested police officers and at present every page of every document in the investigation file is with Pol Gen Sombat. So all 5 defendants may have seen all investigation documents, which would guide their approach to the trial."*

Or the current Director-General of the Department of Special Investigation, Pol Lt Gen Tawee Sodsong, was known to the defendants in this case and is mentioned in the records of Khun Somchai's case and in the verdict on the testimony of a prosecution witness.

*"Police Major General Krisada Phankhongchuen received information from Police Lieutenant Colonel Wannaphong Kocharat that Police Lieutenant Colonel Chanchai Likhithkhanthason met a group of individuals that he knew in front of the Crime Suppression Division and when he asked them, was told that they were going to snatch a rogue lawyer. He therefore related this to Police Lieutenant General Tawee Sodsong."*

In my observations of this case from the beginning, I have many questions about expanding the investigation to find Khun Somchai and I believe that the important failures which make it impossible to bring the perpetrators to face punishment in accordance with the legal system are as follows:

1. Why do the records of telephone use of all 5 individuals in the period after 20.30 hours on 12 March 2004 not appear in the investigation file of the police officers, except for Defendant 2, which show that he went to the end of Soi Yasub 2 where Mr Somchai's car was found parked, and for Defendant 5, which show that he contacted a police officer in Ratchaburi Province at 00.48 hours on 13 March 2004?

2. On 12 March 2004, there is a record of telephone calls between Pol Lt Col Chatchai Liamsa-nguan (Defendant 5) and Pol Lt Col Phisit, Deputy Commander of the CSD, between 20.54-23.28 hours, showing that Pol Lt Col Phisit called Pol Lt Col Chatchai 3 times and Pol Lt Col Chatchai called Pol Lt Col Phisit 4 times, but there is no record of the places where the calls of these 2 individuals were made. There is a record of calls between Pol Lt Col Chatchai (Defendant 5) and Pol Maj Nophadon Pankaew, Inspector (Investigations) Region 7, between 22.37-00.17, showing that Pol Maj Nophadon called Pol Lt Col Chatchai 3 times and Pol Lt Col Chatchai called Pol Maj Nophadon 3 times, but again there is no record of the places where the calls of these 2 individuals were made.

3. On 12 March 2004 there were calls between Pol Col Phisit Phisitthisak, number 01-567-3232 Pol Lt Col Chatchai Liamsa-nguan, number 01-567-3838 and to another number, 01-567-3737, which is very similar. But there was no broader investigation into whose number this is and it is not known how this is missing from the court documents.

4. There was no expansion of the investigation to search for the car which took Khun Somchai away, in accordance with eyewitness testimony.

5. There was no examination of forensic evidence, such as the DNA of the 5 defendants. Hair samples were not taken for comparison

with the strands of hair found in Khun Somchai's car, following eyewitness testimony that saw Defendant 2 drive Khun Somchai's car away.

I believe that if the government had the sincere intention to find Khun Somchai, it should certainly have been possible, using the means and authority that the state possesses. The case of seizing and disappearing Khun Somchai has never received attention from the government from the beginning.

The state sees the disappearance of Khun Somchai merely as an ordinary crime, even though it was committed by agents of the state. But the Thai government has ignored the stream of appeals about the search for Khun Somchai, and in bringing the perpetrators to face justice, the government has never shown sincerity in giving justice to the family of the disappeared. Even today, officials believed to be involved in the disappearance of Khun Somchai and the torture of suspects in the 3 southernmost provinces still receive support to continue with their duties and have progressed in their government careers.

*This may be the reason that has affected the testimony of witnesses and the efforts to find evidence.*

In this book I want to tell Thai society what I have done in the past 4 years and how much has happened to me. Throughout the past 4 years I have made serious efforts to seek justice with the support and encouragement from all those who love justice and many human rights activists inside and outside the country. Even if it is hard to do anything, especially in the present circumstances, and even if it looks like I have done a lot, it has not been enough to force a situation where we can get what is fair.

My life has had disappointments, pain and difficulties, but never have I had to show as much mindfulness, patience and kindness as now.

Many times when I have faced refusal by people with power over the distribution of justice, I have felt that it was extremely difficult for little people to access the judicial process and the principles of law.

I always ask the question: how will the people be able to hold the judicial system accountable? According to the Thai Criminal Procedure Code, the granting of authority for investigators to be absolutely independent may conflict with the principles of accountability, especially when the accused are police officers who alone have complete authority over investigations.

The examination of the use of authority in accordance with the system of justice gives a right to the people to be able to criticize the work of government officials and the courts. Appeals for Thai society to respect the principles of law, the principles of jurisprudence and the system of justice must also improve the system of justice. This is needed to give people confidence that the system of justice can really be fair to people and enable people to live with dignity, honour and equal rights and freedoms. No one is too small to live with dignity and honour and to be respected as a person should.

Whoever one is, whatever differences in authority one has, whatever differences in status and political opinions one has, everyone should have a guarantee of equality of rights and freedoms of one's life, physical security and possessions.

On the 4<sup>th</sup> anniversary of the disappearance of Khun Somchai Neelapaichit, I want to appeal to the Thai government to pay serious attention to the problem of disappearances, by disclosing the truth and bringing the perpetrators to justice, no matter whether they are agents of the state or ordinary people, and to create real equality before the law.

Enforced disappearance must not be merely a personal tragedy, but the state must recognize that this is a problem of a society that is unstable and is a challenge to confidence in the system of justice.

Thai society must remember everything that has happened to prevent it from happening again. Even if it is pain that must be remembered, that pain is important in the struggle for what is just.

I wish to take this opportunity to appeal to the Thai government to demonstrate its sincerity in solving this problem by signing the International Convention for the Protection of All Persons from Enforced Disappearance of the UN as a guarantee of the protection of the rights and freedoms of all Thai, even if the system of justice cannot bring back to life those who have been disappeared.

*But the system of justice must be responsible for returning justice to those people and not shirk this responsibility.*

Finally, however the case of the disappearance of Khun Somchai is resolved, I still believe that what happened will bring about a reform of the Thai system of justice to solve the problems of injustice that have continued to occur over a long period, and will be able to establish firm legal principles in Thai society.

What we have learned will be solid enough the face the truth and will keep up with forms of violations of human rights that appear in Thai society. The system of justice must not be allowed to remain silent while people are ill-treated by those who get away with it.

I have written this book in order to tell myself, my family, my fellow members of society that is not at all easy for little people to access justice, especially when their problems are with state officials. It may seem that I have done a lot, but it has not been enough to get what we need.

Many times I have had to ask myself if it is worth exchanging everything we have in life for **justice**, which in the end we may never have the chance to find.

I had the intention, when my youngest son entered university, to **relax**. I wanted to do many things which I have not had the opportunity to do, such as take the time to read and write books, or to travel. Many times I have felt it wasn't me doing all these things. But in the circumstances where I find myself today, I have to tell myself that sometimes we

cannot chose what we have to do, so I have tried to do everything as well as I could.

The encouragement for me to do what I am doing today is the love, goodwill and spirit of friendship and fellowship from people in society, the concern of good friends and the strength, sacrifice, tolerance and non-violence of all my children. These are the things that nurtured my heart to be strong and steadfast.

I believe that the path of struggle that appears in this book will be an example for all injured persons and all who have not received justice to learn from, and is an approach to seeking justice for myself, for our family and for society.

For myself, whatever the outcome of the case of the enforced disappearance of Khun Somchai, I firmly believe that one day, everything that has been noted will be made public and people will in the end be the ones who decide.

**But for myself, I can only say that I have really done my best.**

Angkhana Neelapaichit

Geneva

12 March 2008

# Biography

## Somchai Neelapaichit

### Lawyer and Human Rights Defender

**Occupation:** Practicing as lawyer for more than 20 years

**Birth:** 13 May 1951, Ban Kwaeng Krathumrai, Nongchok district, Bangkok, with altogether six siblings

**Muslim name:** Abubakr

**Family:** Married to Angkhana Wongrachen in 1979 with five children including Ms. Sudpradthana (law graduate with honored degree from Chulalongkorn University, now working as a judge at the Supreme Court), Ms. Pratubchit (currently studying for doctorate degree at Faculty of Political Science, Chulalongkorn University), Ms. Korbkusol (graduation from Southeast Asian Study, Faculty of Liberal Arts, Thammasat University, currently working as a journalist), Ms. Krongtham (the fourth year student at the Faculty of Archeology, Silpakorn University), and Mr. Korbtham (undergraduate student at the Southeast Asian Study, Faculty of Liberal Arts, Thammasat University).

#### Education and work:

- Elementary education at Surao Ban Mai School, Nongchok district
- Complete Grade Seven at Wat Nongchok School (Paktinoraseth)
- Complete Grade Ten at Wat Nongchok School
- Enrolled in Grade Eleven and Twelve in Arabic Language at Islam Wittayalai School, Ratchaburana, Bangkok
- Take entrance examination and only choose Faculty of Law, Chulalongkorn University and Thammasat University, but were not qualified. Went back to help

- family in the farm for one year and then returned to live near Payathai Mosque
- Intern at Wattana Ngerndee Law Firm
- Enrolled in Faculty of Law, Ramkhamheang University while continue to work until completing education
- Work at Nath Sethbutra Law Firm for about ten years
- Continue education at Panjab University, an ancient university in Pakistan for two years, but fail to complete education
- Open own law firm together with lawyers who want to work for social cause, found Muslim Lawyers Club for more than ten years to give legal aid to those in need

#### Social activism:

- Former President of Muslim Youth Association of Thailand
- Former President of Muslim Lawyers Club
- Committee to Provide Legal Aid to Public, Lawyers Society of Thailand (LCT)
- Vice Chairperson of Human Rights Committee, Lawyers Society of Thailand (LCT)

#### Somchai Neelapaichit and part of his efforts to restore justice:

##### 1983

Together with Mr. Thongbai Thongpao, Mr. Sutthipong Chanthararoj and Mr. Chaiwuth Manuthat, Somchai acted as legal counsels in Southern separatist cases (BRN Coordinate). In the case, some people were accused on planting bombs and distributing leaflets in front of Ramkhamheang University and a pedestrian flyover in Pratoonam area in Bangkok to protest against the 200<sup>th</sup> year anniversary celebration for the founding of Bangkok. Police officers found explosive material and the leaflets, but the bombs did not yet explode. Six Muslim students from Ramkhamheang University who came from border provinces in the South were arrested and charged for treason. The cases were filed against them at the Bangkok Criminal Court with more than 50 witnesses and defendants. Witness examinations took place in various provinces in the South. After six years of hearings, the Court sentenced each student to six years in jail. A couple of months after the verdict was delivered, the students were released from jail, since they had completed their term including the time they were detained during the trial.

**1986**

Together with Mr. Najjamudin Uma and Mr. Mahamad Dawud, Somchai founded the Muslim Lawyers Club using the official name "Muslim Lawyers Association of Thailand". With Mr. Den Tohmeena as President, the registration form was submitted to the National Culture Council. Due to many obstacles in the application, process, Mr. Aran Pancharoen, one of the founders, proposed the cancellation of efforts to get registered as an association. Being a club is good enough. Thus, it remains the Muslim Lawyers Club until present.

**1988**

Together with fellow lawyers, Somchai represented the teenagers who were selling goods at the Chatuchak Market and got into some brawl which resulted in two deaths. 5-6 Muslim students were arrested along with 4-5 Buddhists from the South and were charged for instigating commotion in public places and causing deaths. The cases were filed with the Bangkok North Kwaeng Court and after two years of hearings, the defendants were acquitted by the Court of Lower Instance.

**1988**

A civil suit was filed against Ministry of Interior demanding the Ministry to revoke the ban to prevent Imam Kotep Bilan from exercising his voting rights and demanding compensation. As the Ministry of Interior declared Imam Kotep Bilan an ordained person, he lost his rights to vote as per the Constitutional clauses. The Court of Lower Instance acquitted the defendant claiming the plaintiff had no rights to sue.

Both the Appeal Court and the Supreme Court upheld the decision claiming the plaintiff had no rights to sue since the revocation of his voting rights was not final and the defendant still had the right to appeal against the decision via complaining to the District Chief Officer, as provided by election laws. Also, the revocation of voting rights is an administrative case and beyond its jurisdiction. It took four years for the trial in this case. But at present, the Act on Islamic Administration Organization has been promulgated since 1997 and according to this law, Imam Kotep Bilan could not be treated as an ordained person.

**Early 1989**

Together with Mr. Thongbai Thongpao and Mr. Samphat Phuengpradit, Somchai represented defendants in the cases concerning the murders of two Saudi diplomats which took place almost at the same time around Soi Kengchuan and Mr. Suchart Halabi was held as defendant. It took one year in the Criminal Court, until the Court of Lower Instance acquitted the defendant.

**1990**

Together with fellow lawyers, Somchai represented two Burmese nationals who were arrested for having in possession weapons and ammunitions in Bangkok. The defendants were arrested with more than 100 types of weapons and 10,000 ammunitions in Thungkru district, Bangkok. Two Burmese nationals who were involved with the revolt in Burma were arrested while attempting to smuggle the weapons into Burma. It took about one year for the Thonburi Criminal Court to hear the cases until it acquitted one defendant, and sentenced another to eight years in jail.

**Late 1990**

Together with several Muslim lawyers including Mr. Aran Thongpan, Mr. Mook Sulaiman, Mr. Narong Duding, Mr. Kodaer Kotae, etc., Somchai gave legal aid to Muslims who led a protest at the Kruse Mosque in Muang district, Pattani province. The four Muslim leaders including Mr. Sorayuth Sakulnasantisat or Dr. Ding, Mr. Hayimae Bueding, Mr. Niso Nalao, and Mr. Hayimae Duwa were arrested and charged for treason related to separatist attempts in the South. Other charges levied against them included physical assault, obstructing the performance of officials, and lese majeste. The hearing took place for over six years in the Criminal Court.

Eventually, the Court of Lower Instance sentenced Dr. Ding to 33 years in jail, Mr. Hayimae Bueding seven years, Mr. Hayimae Duwa six years, and Mr. Niso Nalao eight years. The Appeal Court reduced jail term for Mr. Hayimae Duwa to five years, Mr. Hayimae Bueding to six years and Dr. Ding (Mr. Sorayuth Sakulnasantisat) to 18 years. Mr. Niso Nalao had pulled out the motion of appeal and thus his case was not heard by the Appeal Court. As a result, Mr. Hayimae Duwa had been jailed more than the term he deserved, and therefore was ordered to be immediately released. Later, Mr. Hayimae Bueding was also released without the case further submitted to

the Supreme Court. Only Dr. Ding appealed to the Supreme Court which sentenced him to 12 years in jail. Serving for two more years, he was released on royal pardon.

#### 1993

Together with the same team of lawyers from the Kruse Mosque case, Somchai represented defendants in the case concerning school arson in the four Southernmost provinces. Four defendants were held up from three areas and the cases were filed with the Bangkok Criminal Court. Somchai represented Mr. Kuheng Kotoneelo, Mr. Doha Jaehama, Mr. Madruding Jae-o, and Mr. Sama-ae Jani. As for the case against Mr. Kuheng and Mr. Doha, the Court of Lower Instance sentenced each defendant to 220 years in jail. While the Appeal Court upheld the decision, the Supreme Court acquitted the defendants. Meanwhile, the Court of Lower Instance acquitted Mr. Madruding and Mr. Sama-ae, and the Appeal Court upheld the decision. It took over three years to hear all the cases after which all defendants had been imprisoned for more than four years already.

Later, the lawyers sued Ministry of Interior asking for compensation for Mr. Kuheng Kotoneelo and Mr. Doha Jaehama after the cases against them were dismissed by the Supreme Court. For school arson charges, the defendants had been held in custody for more than three years, and thus the state was asked to compensate ten millions baht each for the losses as per the Constitution that intends to protect civil rights. The Court of Lower Instance dismissed the case claiming the state agency had performed its duties in accordance to applicable laws and could not be held liable for the offence against the plaintiffs. Both the Appeal Court and Supreme Court upheld the decision.

#### 1994

Joined the team to represent Mr. Hayi Da-o in the appeal motion against the case concerning the arrest of five Islam religious teachers from Chana district, Songkhla (4 persons) and Krongpenang district, Yala (1 person) who were charged for treason and being involved with separatist movements, having in possession weapons, murder, etc. The cases were filed at the Provincial Court of Songkhla and after five years of trial, the Court of Lower Instance acquitted four religious teachers from Chana district, and sentenced the religious teacher from Yala to execution, which

was reduced to life imprisonment. The cases against the four religious teachers were also handled by lawyers from Songkhla including Mr. Sarawuth Madlae and Mr. Chaichana. Though the sentences against them were appealed, the Appeal Court upheld the decision to acquit all five of them.

Right now, the case against Mr. Hayi Da-o is still pending in the Supreme Court.

#### 1995

Together with Mr. Kordae Kortae, Somchai represented three Iranian defendants who were accused of driving a truck loaded with C-4 bombs to explode the Israeli Embassy in Bangkok. The incidence took place by the Central Department Store, Chidlom branch. Initially, efforts were made to explain to the public prosecutors concerning the little available evidence against the defendants and as a result, the public prosecutors decided to drop the charges against two defendants, but insisted on prosecuting only Mr. Hossen. The Court of Lower Instance sentenced him to death. Though the Appeal Court upheld the decision, the Supreme Court acquitted him. The trial took place for about three years.

#### 1998

Somchai represented defendants facing treason charges as a result of their separatist movement. A number of PULO members were arrested en masse from Malaysia including Mr. Hayi Da-o Thanam, Mr. Hayi Budo Betong, Mr. Abdurrahman Thepha and Mr. Yami, five defendants, for treason and murder charges. The cases were filed at the Criminal Court. The trial took place for over five years while bail requests were denied by the Court. Eventually, the Court sentenced them to death, but it was converted to life imprisonment due to their confessing to the charges. Meanwhile, Mr. Abdurrahman Thepha and Mr. Yami were acquitted. So three of them were sentenced with jail terms and two acquitted.

After the cases were dismissed by the Court, the police filed new cases against the defendants at the Betong Court. The cases are still pending in the Court. Reportedly, Mr. Abdurrahman Thepha had been bailed out, but Mr. Yami and the other three defendants of the first case have still been imprisoned at the Bangkwang Central Prison.

### 1999

○ The fighting cock case at Borthong district, Chonburi. The police held in custody 200 people for gambling on fighting cocks at Borthong district, Chonburi. About ten alleged offenders, after confessing to the charge, decided to fight the case and complained to the Kwaeng Court in Chonburi. Somchai represented Mr. Saman, et al, ten of them, until the Court acquitted them. The case was not appealed and already final.

○ Ms. Krai, a sex worker by Sanamluang in Bangkok was arrested by police officers from Chanasongkhram Police Station for “being a member of a secret society or criminal association”. The public prosecutor asked the Court for extending her custody claiming the investigation was not completed. Somchai represented her and objected the request for extending her custody, and thus the public prosecutor withdrew the extension request. The Court therefore ordered her release as she was not indicted yet.

○ Libel suit: The Wachiraprakarn Hospital brought complaint to the South Bangkok Criminal Court against Mr. Wanchai Sornsiri et al for libel concerning their statement on kidney transplantation by the Hospital. Somchai represented Mr. Wanchai (former Executive Secretary of Lawyers Council of Thailand) and later the plaintiff agreed to withdraw the case.

○ The one methamphetamine pill: Police officers from Thong Lor Police Station arrested Mr. Somchai Kwanchoon, a third year student of the Faculty of Allied Health Sciences, Chulalongkorn University, for having in possession one pill of methamphetamine and obstructing the arrest of officials. The case was filed at the South Bangkok Criminal Court. Somchai represented the student until the case was dismissed by the Court (case pending in Appeal Court).

○ Murder of *Matchon* reporter in Pichit province: Mr. Sayomchai Witjitwittayapong, was murdered for his attempts to expose corruption practice involving the contract to lay sewage pipes. Somchai represented the plaintiffs (witness examination is taking place).

○ The murder of mangrove conservationist in Phuket province: Mr. Jurin Ratchapon, a member of the mangrove conservation group was gunned down by owners of shrimp farms. Somchai represented the plaintiffs (witness examination is taking place).

○ The case of tangerine farmer: Police officers from Dusit Police Station held in custody Mr. Weera Chomprat, leader of tangerine farmers in Pathumthani, who were demanding justice in front of the Government House. He was charged for leading ten persons upwards to assemble or threaten to do an act of violence. Somchai represented the plaintiff (witness examination is taking place in the Criminal Court).

○ A lawyer was accused of murdering a civilian: Police officers from Khannayao Police Station held in custody Mr. Somsak Pongsuwan, a lawyer, accusing him of murder. The case was filed with the Meenburi Court. Somchai represented the plaintiffs (witness examination is taking place).

○ The case of Pol. Lt. Gen. Seree Temiyawet filed a libel suit against the Lawyers Council of Thailand. The police commissioner filed a case against Mr. Sak Korsanguang and others altogether nine persons for defamation by means of publication as a foul statement was published in a newspaper. Somchai represented defendants no. 1 and 6 and the case is pending in the South Bangkok Criminal Court.

### 2000

The Election Commission sued Mr. Sawat Khamprakob and his son as his son made pamphlets to help him campaign when his father who was running for House of Senate in 2000. The practice was accused as a breach of election laws. Somchai represented the plaintiffs who sued the Election Commission and the case in pending the trial at Nakhonsawan Provincial Court.

### Late 2003

Somchai and other lawyers represented three defendants including Dr. Waemahadi Waeda-o, Mr. Uztan Manchoruk or Maisuru Hayi Abdullah, owner of the Burana Tono Pondok School in Muang district, Narathiwat and his son, Mr. Muyahet Abdullah. They were charged for being a threat to national security and being involved with

Jemaah Islamiyah (JI) group.

Prior to that, one Singaporean national was arrested in Thailand and was extradited to Singapore. He confessed to being a member of the JI movement and accused the three defendants as members of the group. Thus, the police came to arrest them.

But what appears to public was Dr. Waemahadi Waeda-o was a good person who has contributed a lot to society. Both the owner of the Pondok School and his son have made contribution to society as well. They used their own money to build schools for poor children. The three of them denied having any part with planting of the bombs or creating any instability in anyway.

During their being held in custody, their rights were gravely abused. They were barred from meeting with legal counsels, were forced by inquiry officers to sign in confession forms. They were taken to “a safe house” and got beaten up. Dr. Waemahadi Waeda-o told Somchai that he was put inside a bag and then attacked and booted. With examination of more than 100 witnesses, the Court of Lower Instance acquitted the three of them in 2005.

#### Early 2004

Together with lawyers from the Muslim Lawyers Club, he represented five alleged offenders including Mr. Makata Harong, Mr. Sukree Maming, Mr. Manasay Mana, Ms. Abdullah Abukari and Mr. Sudeeruman Malae for conspiring to burn down the school and gun robbery that happened on 4 January 2004.

According to the defendants, they were beaten up and had someone else urinate on their faces. Electric shocks were also applied at the body and genital. Thus, Somchai submitted a request to the Court asking them to support holding them in custody in the prison rather than leaving them under police custody. The letter of petition was signed one day prior to the disappearance of Somchai.

## Somchai Neelapaichit

### Chronology

- 11 March 2004** Somchai sent a letter to several government authorities detailing torture suffered by five clients
- 12 March 2004** **Disappearance:** Eyewitnesses saw Somchai being forced into a car in central Bangkok—never seen again
- 14 March 2004** Angkhana Neelapaichit (wife of Somchai) made formal complaint to the police that her husband was missing
- 16 March 2004** Police found Somchai’s car behind Bangkok’s north-eastern bus terminal (Mor-Chit 2)
- 18 March 2004** Prime Minister Thaksin Shinawatra ordered a fact-finding committee to look into the disappearance of Somchai - chaired by Sombat Amorn Wiwat, head of the Department for Special Investigations (DSI)—and 3 fact-finding sub-committees:
  - Sub-Committee on fact finding and analysis of evidence, chaired by Atapol Yaisawang (Director of Public Prosecutor on Special cases);
  - Sub-Committee on following Somchai (chaired by Sirichai Chotirat, Deputy Chief of National Intelligence Agency);
  - Sub-Committee on forensic evidence (chaired by Khunying Pornthip - Thailand’s leading forensic expert).
- 19 March 2004** The office of Royal Thai Police ordered to set up three Fact-



finding committees.

**20 March 2004** Senate office set up ad-hoc committee to investigate

**8 April 2004** 4 police officers arrested

**29 April 2004** 5<sup>th</sup> policeman arrested

**16 June 2004** five police suspects charged in court for ‘coercion’ and ‘robbery’

**20 June 2004** Senator Sak Koesangrueng, chairman of the senate investigation committee, said: “The Prime Minister said he knew that Somchai had been abducted and taken to Mae Hong Son. The Senate committee has twice invited him to give more details but [he] has not come.”

**15 April 2005** Communication submitted to UN Working Group on Enforced or Involuntary Disappearances.

**9 Aug - 10 Dec 2005** Trial of 5 defendants—all police officers

**12 January 2006** **Judgment:** one senior police officer (Police Major Ngern Tongasuk) found guilty on eye-witness testimony of coercing Somchai into a car—3 year prison sentence. **Case is still on appeal.**  
After meeting with Prime Minister Thaksin Shinawatra, Angkhana said that he had said Somchai was dead

**9 May 2006** Angkhana lodged a complaint with Permanent Secretary of the Ministry of Justice requesting DSI head (Pol. Gen. Sombat Amornwiwat) to be removed due to lack of independence. New DSI head appointed (Sunai Manomaiudom), who appointed new chief investigator, Pol. Lt.-Gen Tanee Somboonsup.

**3 November 2006** The Attorney-General’s Office announced that it had evidence of Somchai’s death.

**2 March 2007** DSI reported it had enough evidence to show Somchai was dead, but had been unable to locate the body. DSI announced cash reward of 500,000 baht (about US\$15,000) for information leading to finding his body.

**12 March 2007** Angkhana lodged a complaint with the Administrative Court against the Royal Thai Police for failure to take disciplinary action against the convicted police officer and the four other defendants. (The Chief of Police, Police General Seripisuth Temiyavej,

publicly criticized Angkhana for taking this step.)

The Administrative Court rejected the complaint and the decision was upheld by the Supreme Administrative Court.

**28 August 2007** Coup-leader and Army chief, Sonthi Boonyaratglin, told news reporters in Bangkok: “I have received information from investigators that some individuals close to former prime minister Thaksin were behind the disappearance of Somchai.”

**4 September 2007** Angkhana Neelapaichit submitted a letter of petition to Chairperson of National Counter Corruption Commission asking for them to expedite efforts to investigate allegations concerning the torture of persons held in custody by high ranking officers in the Royal Thai Police.

**22 February 2008** Angkhana Neelapaichit had a meeting with Mr. Charan Phakdithanakul, Permanent Secretary of Ministry of Justice and Mr. Sunai Manomaiudom, Director General of Department of Special Investigation (DSI) and asked for witness protection measures.

**12 March 2008** Angkhana Neelapaichit attended as an observer the UN Human Rights Council meeting and met with the UN Working Group on Enforced or Involuntary Disappearances in Geneva, Switzerland and issued and handed to the Thai government a statement on the fourth anniversary of the disappearance of Lawyer Somchai Neelapaichit.

**28 March 2008** DSI officers searched for evidence around the Maeklong River, near Big C Department Store. Around the foundation of the bridge, a 200 liter tank punched with a triangle hole was found along with some human bone residue and iron rods piercing through the tank.

**6 May 2008** Angkhana Neelapaichit met with Dr. Pornthip and Mr. Paul Green of International Commission of Jurists (ICJ). She asked for more detail about the oil stain found in the earth, but no further conclusion could be made.

**23 September 2008** Pol. Col. Weerasak Meenawanich, an inquiry officer on Somchai

case at DSI called and informed Angkhana Neelapaichit that Pol. Major Ngern Thongsuk fell into water at a dam in Pitsanulok and went disappeared as his nephew was drowned.

- 14 January 2009** Angkhana Neelapaichit asked the Prime Minister, while he was speaking to foreign press at the Foreign Correspondent Club of Thailand (FCCT) as to how the government will further handle Somchai case.
- 19 January 2009** Angkhana Neelapaichit had a meeting with Abhisit Vejjajiva, the Prime Minister, at the Government House asking them to expedite the process concerning the case of Somchai's disappearance.
- 20 January 2009** Angkhana Neelapaichit had a meeting with Ms. Margaret Sekaggya, Special Rapporteur on Human Rights Defenders
- 7 February 2009** Angkhana Neelapaichit went with the DSI team to Ratchaburi to look for evidence in the Maeklong River and around Pong Ekeng together with Minister of Justice, Permanent Secretary of Ministry of Justice, DSI's Director General, and Dr. Pornthip, Director of Central of Institute of Forensic Science
- 11 February 2009** Angkhana Neelapaichit had a meeting with Minister of Justice concerning the search for evidence in Somchai case.
- 5 March 2009** Angkhana Neelapaichit went with the DSI diving team to Ratchaburi to look for evidence in the Maeklong River and around Pong Ekeng (where the explosive material was destroyed).

#### Translator's Note

The endnotes are the work of the translator and are to help non-Thai readers without the same background knowledge of the intended readers of the Thai original.

The transliteration of Thai names is problematic. The name 'Neelapaichit', for example, can also be found with the spellings 'Neelaphajit', 'Neelapaijit', 'Nilapaijit' and so on. Where possible, the transliteration of each personal name uses the spelling in the Roman alphabet that is used by that person. Where it has proved impossible to discover this spelling, and in the case of place names, the simplified transliteration system of the Royal Institute has been used.

The names of Thai official agencies, police and military ranks, and government positions are given in their official English translation. In the few cases where no official translation can be found, the most approximate English translation has been used.

“Many times I have had to ask myself if it is worth exchanging everything we have in life for justice, which in the end we may never have the chance to find.”

