

*Freedom of Expression in Thailand During 2014*  
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## Executive Summary

**1. What were the most important developments in 2014 as far as courts decisions on FoE are concerned? In your opinion, was it a “good” year as far as the Justice sector protection of FoE?**

2014 was bifurcated by the military coup d'état of May 22, 2014. While there were many problematic legal developments even prior to the coup, by Thai standards the civilian courts were relatively lenient in several of their freedom of expression judgments.

However, the military takeover was accompanied by the most serious crackdown on freedom of expression since the 1970s: people were arrested and given suspended jail sentences for “crimes” such as eating McDonald’s (a symbol of resistance to the coup) or failing to report to the junta in a timely fashion. In the four months following the coup, more than 850 people were summonsed or arrested for alleged acts of resistance. There was also a flurry of new *lèse-majesté* cases. In other words, this was a very bad year for freedom of expression in Thailand.

**2. What were the key issues or themes that Courts addressed?**

The key issues addressed were *lèse-majesté*, computer crime, and other charges concerning acts of resistance towards the coup, and failing to answer summonses to appear before the junta in a timely fashion. In addition, there were a number of new and ongoing defamation cases with serious implications for freedom of expression.

**3. What were the decisions with the greatest legal importance and/or influence?**

The most significant development was the use of military courts to process many civilian defendants in freedom of expression cases, and criminalization of all manner of activities through sweeping use of junta announcements in conjunction with martial law provisions. Another important development was a further attempt to extend *lèse-majesté* provisions to cover a long-deceased monarch, in a new case against leading public intellectual Sulak Sivarak.

**4. Was the international legal environment taken into account or referenced?**

Lawyers in a number of important cases brought before military courts argued that their clients’ rights under the ICPPR were being violated. Perhaps surprisingly, the junta’s interim constitution stated that Thais remained protected by binding international obligations – with the implication that the ICPPR (which Thailand ratified in 1996) could be invoked. However, the military courts declined to accept this line of defense.

**5. What shall we watch out for in 2015? What are the key cases on the agenda?**

Among the cases that should be watched closely in 2015 are those of: Thammasat University law professor Worachet Pakeerat; former education minister Jaturon Chaisaeng; political activist Sombat Boon-ngam-anong; *lèse-majesté* defendant Siraphop Kornarut; and human rights lawyer Anon Nampha. All five cases exemplify the challenges facing freedom of

expression in Thailand today. By pressing charges against a leading academic and a highly respected senior politician in military courts, the junta has chosen an alarming path of confrontation which adversely affects Thailand's image as a nation conforming to international legal norms. By bringing similar charges against a prominent political activist and one of the country's most high-profile human rights lawyers, the NCPO is sending strong signals that nobody should feel immune from its arbitrary dictats. These moves form part of an attempt to create a climate of total fear. The Siraphop case, the first in which a lèse-majesté defendant has sought to assert his innocence in a military court, marks a particularly intense stand-off.

### **Case Details: Important Developments Concerning Freedom of Expression**

Freedom of expression has been greatly curtailed in Thailand since the coup d'état on May 22, 2014. The National Council for Peace and Order (NCPO) junta's Announcement No. 37/2557, dated May 25, 2014 provided for those accused of lèse-majesté offences (Articles 107 – 112), offences against the internal security of the Kingdom (Articles 113 – 118), and offences stipulated by the NCPO's Announcements and Orders to be tried by military courts.

### **2014 Rulings on Lèse-majesté Cases Prior to the 2014 Coup<sup>1</sup>**

Prior to the May coup, the majority of lèse-majesté defendants were given only suspended sentences, in contrast to the recent tendency those convicted to be jailed. Relevant cases included:

**February 17, 2014:** The Supreme Court ruled that Bandit Aniya was guilty of committing lèse-majesté in comments made at a seminar of the Election Commission in 2003. The court gave Bandit a four year suspended sentence because he was elderly and suffering from mental illness. The Court of the First Instance had originally given him the same sentence in March 2006, but the Appeal Court later changed the sentence to 2 years 8 months in jail without suspension in December 2007.

**March 26, 2014:** The Appeal Court affirmed the decision of the First Court to dismiss charges against Surapak Puchaisaeng who was accused of owning a Facebook account containing content considered to be lèse-majesté. The Appeal Court dismissed the case on the grounds that the prosecution had not presented sufficient evidence that the defendant committed the offence.

**April 17, 2014:** The Bangkok South Criminal Court dismissed the case against a man who had sold the book, *The Devil's Discus*, which is banned in Thailand; the prosecution could not prove that the defendant was familiar with the book's contents, and so had failed to demonstrate that the defendant intended to commit the offense.

**May 8, 2014:** The Appeal Court affirmed the decision of the Court of First Instance over the case of Eakachai Hongkangwan who has been accused of selling CDs and documents contained lèse-majesté content, and who had been sentenced to five years in prison. However, the sentence was reduced to 3 years and 4 months because the defendant had given helpful testimony.

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<sup>1</sup> “สรุปสถานการณ์ปี 2557 2/5: คดีหมิ่นประมาทพระมหากษัตริย์ฯ เดินหน้าหนึ่งก้าวก่อนออกหลังสามก้าว” iLaw, January 6, 2015.

<http://freedom.ilaw.or.th/blog/LeseMajeste2014>

**May 21, 2014:** One day before the launch of coup d'état, the Criminal Court gave a 2 year jail term to Thitinan Kaewchantranon, who was accused of committing lèse-majesté by kicking the King's portrait. However, as the defendant pleaded guilty, the sentence was reduced to one year, while her sentence was suspended because of her mental illness, and due to the fact that she had never previously committed any offence.

### **Lèse-Majesté Cases after the 2014 Coup**

Following the launch of the coup d'état on May 22, 2014, the number of lèse-majesté cases greatly increased. The NCPO vowed to do everything to protect the monarchy from what it saw as an organized anti-monarchy movement, and developed a new system to handle lèse-majesté cases by the use of martial law (which grants permission for military officers to detain a suspect for 7 days), having lèse-majesté cases prosecuted by military prosecutors, and granting permission to military courts to try these cases.

Many lèse-majesté suspects were initially summoned by the NCPO and were then detained and prosecuted after they reported themselves. The independence of the military court is questionable since it is an agency operating under the jurisdiction of the Ministry of Defense. Since August 2014, the Defence Minister has been General Prawit Wongsuwan, a former army commander and the deputy leader of the NCPO. The court has also controversially tried lèse-majesté cases behind closed doors and had not allowed any observers to attend the trial. Lawyers for defendants in the military courts have been denied copies of documents relating to the case, which makes it very difficult for them to prepare their defense. Sentences handed down by the Military Court are typically twice as severe as those given by the civilian courts, and defendants have no right to appeal.

Rulings in lèse-majesté cases were as follows:

**July 10, 2014:** The Appeal Court handed a 5 year jail term to a man called Asawin, although the Court of First Instance had dismissed the case entirely.

**July 31, 2014:** The Ubon Ratchathani Provincial Court sentenced a 27 year-old lèse-majesté defendant to 27 years and 36 months jail term for posting 9 messages on three Facebook accounts – three years in jail on each of nine counts. The sentence was reduced to 13 years 24 months because he pleaded guilty. As the messages he was also prosecuted under the Computer Crime Act on 9 counts. Each count resulted in a 4-month sentence, so totaling 36 months. Despite some evidence of mental health problems, his sentence was not reduced or suspended accordingly. Arguably, the defendant should have been tried on just one count of lèse-majesté as provided for under Section 90 of the Criminal Court, rather than on nine separate counts.

**August 8, 2014:** The Criminal Court handed 5 years imprisonment to Yuthasak Kangwanwongsakun; his sentence was reduced to 2 years 6 months because he pleaded guilty. Yuthasak was a taxi driver who was accused by one of his passengers of committing lèse-majesté while they talked about politics. The passenger secretly recorded their conversation on a mobile phone.

**September 1, 2014:** The Ratchadaphisek Criminal Court sentenced Chaliew Jankhiat to 3 years in prison for uploading audio clips containing the voice of “Banphot DJ”, with content that could be considered as lèse-majesté. The sentence was reduced to 1 year and 6 months because he pleaded guilty. The sentence was suspended for a period of 2 years and he was released on the same date.

**September 19, 2014:** The Appeal Court re-affirmed the ruling of the Criminal Court of a 10 year jail sentence in a lèse-majesté case against Somyot Prueksakasemsuk.

**November 4, 2014:** The Criminal Court sentenced Akaradet Eiamsuwan to 5 years' imprisonment after he was accused of lèse-majesté for posting a message on Facebook which has been considered as having lèse-majesté content. The sentence was reduced to 2 years and 6 months because he pleaded guilty.

**November 18, 2014:** The Military Court gave a 10 year jail term to Kathawuth Bunphithak who was accused of hosting a radio program on the Internet talking about political issues which contained lèse-majesté content. The case marked the first civilian case that was tried by the Military Court after the NCPO took over the power. His sentence was reduced to five years imprisonment because he pleaded guilty.

**November 24, 2014:** The Military Court handed a 9 year jail term to Somsak Pakdeedech, a former editor of Thai e-news. The sentence was reduced to 4 years 6 months because the defendant pleaded guilty.

**November 28, 2014:** The Appeal Court affirmed the decision of the First Court concerned the case of Yuthapum Martnok. Yuthapum had been accused by his brother of committing lèse-majesté from swearing at home while watching a scene of the King in a wheelchair and writing something containing lèse-majesté on a CD.

**December 24, 2014:** The Criminal Court sentenced Prasit Chaisrisa, a former MP of the Pheu Thai Party, to five years in jail. Prasit was accused of lèse-majesté based on a speech he gave at the Imperial Ladprao shopping mall. The sentence was reduced to 2 years 6 months because he pleaded guilty.

### **Other Lèse-Majesté Cases that have not yet reached the Courts**

#### **Sulak Sivaraksa**

A self-proclaimed critical royalist, Sulak Sivarak (aged 81) is one of Thailand's most famous public intellectuals, and is no stranger to lèse-majesté accusations. Two retired royalist generals filed a lèse-majesté complaint against Sulak on October 16, 2014 because of a lecture he had given about King Naresuan, who ruled between 1590 and 1605, and looms large in royalist historiography. The lecture entitled "Thai History: Construction and Deconstruction" was given on October 5, 2014 at Thammasat University in Bangkok. Sulak reportedly claimed that the legend of an elephant battle between Naresuan and a Burmese king was invented, and he criticized Naresuan for his cruelty.

This is the second lèse-majesté case related to a past monarch. In 2013, as the Supreme Court handed down a landmark verdict to a lèse-majesté defendant who was found guilty of defaming King Rama IV, who reigned between 1851 and 1868.

#### **Somsak Jeamteerasakul**

Police prepared charges against well-known Thammasat University historian Somsak Jeamteerasakul for lèse-majesté in 2012, after the Royal Thai Army lodged a complaint against. Somsak has been accused of lèse-majesté on the basis of two articles discussing an interview with Princess Chulabhorn which were published on several websites in late March

and April 2011. But Article 112 of the Criminal Code mentions only the King, Queen, Heir-apparent, and the Regent: the law does not apply to the Princess.

Somsak was threatened with another lèse-majesté charge by the Royal Thai Army on February 6, 2014 after he criticized the Royal Family in his Facebook posts. Lt Col Winthai Suvaree, deputy spokesman of the Royal Thai Army at that time, said “The army has instructed its legal team to determine which parts [of Mr. Somsak’s posts] can be considered as libelous towards the monarchy,” and “Because the army is a part of civil authorities dedicated to protect the monarchy and preserve its dignity.”<sup>2</sup>

Somsak fled Thailand in the wake of the coup. It is unclear whether he was formally charged with lèse-majesté thereafter. On July 5, 2014 Somsak’s passport was revoked by the Foreign Ministry because he was allegedly accused of lèse-majesté and the criminal court had issued a warrant to arrest him. In a letter posted on his own Facebook account on February 26, 2015, soon after he was controversially fired from his position as a lecturer at Thammasat University, Somsak described how military officers had threatened his family. He said that armed soldiers in two military vehicles arrived at his home several weeks after the launch of the coup d’état, presumably to detain him for failing to report for a summons order. His family members were harassed at home and their offices.<sup>3</sup>

## Other Cases Related to Freedom of Expression

### Freedom of Assembly and Freedom of Expression in Public<sup>4</sup>

In the following cases, rulings were issued in 2014 relating to earlier trials.

**March 25, 2014:** The Chiang Rai Court dismissed the case of UDD members in Chiang Rai who had gathered together in front of the Chiang Rai police station in 2010. They had walked to the provincial hall in order to hand over a letter asking the government not to use violence against the UDD members who were protesting at the Ratchaprasong Intersection at that time, while the Emergency Decree was in force. The court ruled that theirs was a peaceful assembly.

**October 21, 2014:** The Appeal Court handed a one year jail term to Somchai Paiboon, a former district councilor from Pheu Thai Party, for giving a speech urging people to violate the law, so violating Article 116, 215 and 216 of the Criminal Code, as well as the Emergency Decree.

**November 26, 2014:** The Appeal Court dismissed the case against Jon Ungpakorn and nine other NGO activists, who had been accused of trespass and national security offences in 2007, after climbing over the fence of the parliament building to protest against the actions of the military-installed National Legislative Assembly. They had originally been convicted by the Court of First Instance.

### Cases Involving Acts of Resistance Against the 2014 Coup

After the May 2014 coup d’état, the NCPO issued Announcement No. 7/2557 which prohibited any assembly that had more than 5 participants. At least 134 people were arrested

<sup>2</sup> “Army Threatens Lèse-majesté Charge against Historian” *Khaosod English*, February 6, 2014. <http://www.khaosodenglish.com/detail.php?newsid=1391672959>

<sup>3</sup> “Junta Accused Exiled Historian of ‘Distorting Facts’ about Lèse-majesté” *Khaosod English*, February 26, 2015. <http://www.khaosodenglish.com/detail.php?newsid=1424925238&section=00>

<sup>4</sup> “สรุปสถานการณ์ปี 2557 3/5: เสรีภาพการชุมนุม/การแสดงออกสาธารณะและการตั้งข้อหาทางการเมือง” *iLaw*, January 6, 2015. <http://freedom.ilaw.or.th/blog/PoliticalCharges2014>

for peacefully protesting against the NCPO, while at least 48 people were arrested according based on Announcement No. 7/2557, which forbade public political gatherings. 24 out of these 48 suspects were arrested in the so-called “Khon Kaen model” case concerning an alleged anti-government plot. The accused individuals are still in detention, although their discussions were not even conducted in a public place. Of the remaining 24 individuals (15 cases) who expressed their opinions in a public place, 12 cases have been ruled on, as follows:

<b>Date of Sentence</b>	<b>Defendants</b>	<b>Court</b>	<b>Offenses</b>	<b>Rulings</b>
July 3, 2014	Veerayuth	Pathumwan District Court	Protest against the coup d'état in front of the Bangkok Art and Cultural Center on May 23, 2014	2 months suspended jail term, 6,000 baht fine. Sentence halved due to guilty plea.
August 14, 2014	Sarawuth	Chiang Rai Military Court	Holding anti-coup signs	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
August 25, 2014	Three Individuals from Chiang Rai	Chiang Rai Military Court	Eating McDonald's in protest against the NCPO	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
August 26, 2014	Four Individuals from Chiangrai	Chiang Rai Military Court	Eating McDonald's in protest against the NCPO	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
September 4, 2014	Surasith	Bangkok Military Court	Protested against the coup at Siam Paragon on June 8, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
September 8, 2014	Anurak	Bangkok Military Court	Posted on Facebook asking people to assemble against the coup	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
September 18, 2014	Pinyophap	Bangkok Military Court	Protested against the NCPO in front of McDonald's at Ratchaprasong Intersection on May 25, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
September 18, 2014	Voraphop	Bangkok Military Court	Protested against the NCPO in front of McDonald's at Ratchaprasong Intersection on May 25, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
September 18, 2014	Natthawuth	Bangkok Military Court	Protested against NCPO in front of	6 months suspended jail term, 10,000 baht

			McDonald's at Ratchaprasong Intersection on May 31, 2014.	fine. Sentence halved due to guilty plea.
September 18, 2014	Sumeth	Bangkok Military Court	Protested against the NCPO at Asoke Intersection on June 1, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
October 27, 2014	Chainarin	Bangkok Military Court	Holding up an anti-NCPO sign at Siam Paragon on June 1, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.
December 8, 2014	Neung	Bangkok Military Court	Participating in a protest at the Victory Monument on May 28, 2014.	6 months suspended jail term, 10,000 baht fine. Sentence halved due to guilty plea.

Source: *iLaw*

In all cases, prison terms were suspended, and none of the individuals who allegedly violated the announcement has ever been imprisoned. Moreover, their bail requests were granted during the investigation process; sureties ranged from 10,000 – 40,000 baht. Sumeth was the only person whose first bail request was rejected by the Military Court on June 4, 2014 but was eventually released on June 10, 2014. The case of Veerayuth, who was tried by a civilian court, resulted in a much less severe sentence. Military courts seemed to operate with a standard sentence of six months suspended jail term and 10,000 baht fine, which was given to all of those convicted.

Numerous other cases of resistance were dealt with more leniently, without recourse to the courts. These included cases of students arrested for illegally distributing sandwiches as a symbol of resistance to the coup,<sup>5</sup> a man who was arrested for eating a sandwich and reading a copy of George Orwell's 1984 while listening to the French National Anthem,<sup>6</sup> students who were arrested for giving out anti-coup stickers,<sup>7</sup> and a series of cases where protestors and students were arrested for giving the "Hunger Games" three-fingered salute, which had become a symbol of opposition to the coup.<sup>8</sup> In all of these cases, the suspects were released after being interrogated by the military and subjected to what the NCPO calls "attitude adjustment," normally after they had signed documents promising to desist from future anti-coup activities.

<sup>5</sup> "ทำไมแซนดวิช มีสรรพคุณด้านรัฐประหาร? คุยกับนักศึกษาของพื้นที่ให้ลปบริด ปชต." *Prachatai*, July 7, 2014. <http://www.prachatai.com/journal/2014/07/54444>

<sup>6</sup> "คุยกับ 'แซมปี 1984' นักศึกษาร่างใหญ่กินแซนดวิชก่อนถูกลากตัว ในวันครบรอบ 1 เดือนรัฐประหาร" *Prachatai*, August 19, 2014. <http://www.prachatai.com/journal/2014/08/55129>

<sup>7</sup> "ย้อนรอยการคุกคามนักศึกษา กรณีเปะสติกเกอร์ด้านรัฐประหาร" *Prachatai*, July 15, 2014. <http://prachatai.org/journal/2014/07/54585>

<sup>8</sup> See "ครึ่งกำลังทั่วกรุง-สกัดผู้ชุมนุมนัดเทอร์มินัล 21 ชู 3 นิ้ว-ต้านรัฐประหาร" *Prachatai*, June 1, 2014. <http://www.prachatai.com/journal/2014/06/53702>; "Exclusive Interview with Khon Kaen Student Activist Detained Fingering Salute" *Prachatai*, November 20, 2014. <http://www.prachatai.com/english/node/4505>; "นักศึกษาชู 3 นิ้วไล่ 'อัมรา' ตาม 'กสม.อยู่ไหนเมื่อปีนมา' ก่อนถูก ตร. เชิญไปปรับทัศนคติ" *Prachatai*, December 12, 2014. <http://www.prachatai.com/journal/2014/12/56954>.

## Defamation Cases and Cases related to the Computer Crime Act<sup>9</sup>

**January 23, 2014:** The Appeal Court gave a 15 day jail term (suspended for two years) and 1,000 baht fine to three defendants in a defamation case against the head of a local administration organization. The three individuals accused the politician of being a “dog” serving the interests of the Nhong Saeng power plant in Ayutthaya Province. The court affirmed the First Court’s ruling, which found that the prosecution witnesses had no reason to incriminate the defendants falsely.

**March 5, 2014:** The Appeal Court changed the decision in the case of Katha who was accused of spreading rumors about the King’s health which causes the stock market to crash in 2009. The Court of First Instance handed the defendant a 6 years jail term, which was reduced to 4 years because the defendant had pleaded guilty during the investigation. The Appeal Court ruled that the sentence was too heavy and reduced it to 2 years and 8 months. The Supreme Court did not approve on the temporary release of the defendant because he might flee; he was therefore taken into custody.

**April 22, 2014:** The Supreme Court dismissed the case of Ticha na Nakorn who had been accused of defamation by Pol Gen San Sarutanont for writing an article stating that San had behaved inappropriately towards a female reporter. The court said San’s behavior had been reported in the media before the defendant gave the interview and published the article, so the allegation did not start from the defendant’s actions. The court observed that that defendant worked on women’s issues, and was entitled to give her opinions in order to protect gender rights. Also, the content in the interview and the article focused on social issues that threatened the safety and dignity of women. The court believed that the defendant had acted honestly.

**September 10, 2014:** The Phuket Provincial Court decided to postpone the date of witness hearings for the case of Alan Morison and Chutima Sidasathian, from March 18–20, 2015 to July 14–16, 2015. Alan Morison and Chutima Sidasathian, journalists from *Phuketwan* have been sued by The Royal Thai Navy after they reported about the Navy’s alleged involvement in trafficking Rohingya people in Southern Thailand.

Both journalists reported on July 17, 2013 that the navy allegedly benefitted from cooperating with human trafficking offenders in the southern province of Phang Nga, a province located in the South of Thailand. Their report cited an article by Reuters. A Navy representative accused the two reporters of spreading false information which caused disgrace and harm to the reputation of the Navy.<sup>10</sup> The two journalists have been charged with defamation and offenses under Article 14(1) of the Computer Crime Act. In July 2014, Alan Morrison revealed that his passport had been seized since December 2013 and his visa had also been

<sup>9</sup> “สรุปสถานการณ์เสรีภาพการแสดงออกปี 2557 4/5: การฟ้องคดีหมิ่นประมาท และ พ.ร.บ. คอมพิวเตอร์ฯ เพื่อปิดกั้นการแสดงออก” *iLaw*, January 6, 2015. <http://freedom.ilaw.or.th/blog/Defamation2014>

<sup>10</sup> Lamubol, Suluck. “Navy Sues Journalists for Defamation and Violating Computer Crimes Act” *Prachatai*, December 20, 2013. <http://www.prachatai.com/english/node/3793>



suspended by the court. He could no longer work in Thailand as a result.<sup>11</sup> However, both journalists have been out on bail since April 17, 2014.

**October 29, 2014:** The Phra Khanong Provincial Court dismissed the case of Andy Hall, a researcher on labor rights who had been sued for defamation by the Natural Fruit Company after he gave an interview to Al Jazeera about working conditions in processed pineapple factories in Thailand. Hall faced four civil and criminal charges and one charge related to the Computer Crime Act. The Phra Khanong Court dismissed one defamation charge because Hall was in Burma when he gave the interview in question, and because the attorney-general should have been involved in the investigation, but was not. The court ruled that the prosecution had not been conducted in accordance with the law. However, Hall still faces a number of other charges.

**November 10, 2014:** The Appeal Court dismissed a case brought by the secretary-general of the Office of Administrative Court, Direkrith Jenkrongtham against the Thai Press Development Foundation (Isara Institute); and the Isra News Agency's director and editor, Prasong Lertratanawisuth and Sanoh Sukcharoen. They were accused over a story on Usra's website alleging that Direkrith had written a letter to the police chief asking him to help with the transfer of a police officer. Prasong and Sanoh faced charges of defamation and violating Article 14(1) of the Computer Crime Act. The court dismissed the case, stating that Direkrith was a public figure, and it was normal for such figures to be criticized.

### **International Legal Environment**

The ICCPR was referred to in the cases of Worachet, Jaturon, and Sombat. However, the Military Court who tried their cases has paid no attention to this line of defense. The NCPO has also sought to have some *lèse-majesté* suspects extradited to Thailand. However, since no other country involved has a similarly draconian law, these requests have failed the dual criminality test and have so far fallen on deaf ears.<sup>12</sup>

### **Key Cases on the Agenda for 2015**

#### **1. Worachet Pakeerat**

Prominent Thammasat University law professor Worachet Pakeerat was summoned by the NCPO to report himself twice on May 24 and June 9, but was abroad at the time. On June 10, his wife submitted a letter to the military which explained that he had no intention to defy the order and would be reporting late due to his health problems. Worachet was later arrested on June 16 after he returned from Hong Kong and subsequently taken into military custody.<sup>13</sup> On June 18, he was released from Bangkok Remand Prison after the military court granted his bail request with 20,000 baht cash as a surety.

On November 24, he appeared before the Bangkok Military Court to examine his list of witnesses and evidence against a charge of defying an order of the NCPO. He argued that the order in question violated Article 4 of the provisional Constitution, which stated Thailand

<sup>11</sup> "Thailand Trafficking Downgrade Likely to be Maintained, Says Phuketwan Editor" *Phuket Wan*, July 9, 2014. <http://phuketwan.com/tourism/thailand-trafficking-downgrade-likely-maintained-says-phuketwan-editor-20584/>

<sup>12</sup> Hyne, Casey. "Thailand May Attempt to Extradite UK Citizen for Insulting Monarchy" *Asian Correspondent*, June 20, 2014. <http://asiancorrespondent.com/123953/thailand-goes-after-a-uk-citizen-for-insulting-monarchy/>

<sup>13</sup> "Law Academic Worachet Escorted to Military Court" *Thai PBS*, June 18, 2014. <http://englishnews.thaipbs.or.th/law-academic-worachet-escorted-military-court>.

remained bound by its commitment to treaties such as the International Covenant on Civil and Political Rights (ICCPR). He further added that there was a problem with the court's independence because the Bangkok Military Court was under the jurisdiction of the Defense Ministry. Any defendant should also have the right of appeal.<sup>14</sup>

On January 26, the Bangkok Military Court later dismissed Worachet's request to ask the Constitutional Court to consider whether or not NCPO's Orders No. 37/2014 and 38/2014 contradicted Article 4 of the provisional Constitution. The Court cited its power to rule over the case in accordance with the announcement of the NCPO and the interim Charter written by the coup-makers. It also said that it does not violate the ICCPR because the interim Charter also gives civil and political rights in parallel with the ICCPR.<sup>15</sup> The first witness hearing will be on May 26. There are 7 witnesses on the plaintiff's side and 6 on the defendant's side, and hearings may take around a year.

## 2. Chaturon Chaisaeng

Former education minister and leading politician Chaturon Chaisaeng was summoned by the NCPO shortly after the launch of the coup d'état. He did not report himself but instead held a press conference at the Foreign Correspondents Club of Thailand (FCCT) on May 27, 2014. He was arrested in front of about 100 people after giving a statement in opposition to the coup.

"The report to the coup makers is against my conscience. I have passed several coup d'état but never been ordered to report myself.

I don't mean to flee nor to fight underground but I'm ready to be arrested when the day comes. After this, I insist on using my freedom fighting for the country to become democratic. I urge the National Council for Peace and Order (NCPO) to return the power to the people immediately. I'm demanding peacefully and in accordance with Article 2 in the Constitution and democratic principle.

As the NCPO has acquired its power unconstitutionally, I'm ready to be arrested by the NCPO and choose to express my civil disobedience. I urge that all the cases against civilians must not be tried in the Martial Court, but tried in the normal procedure.

I urge the NCPO to return power to the people and to return democracy immediately. It should also avoid suppressing the people and allow the people to express their opinions and political stances peacefully in order to avoid violence. This is better than publishing them to fight in another way.

There should be a solution to the conflict in Thai society without violence. The NCPO should release the detainees immediately. If there is a reform, it should open opportunities for all sides. There are also people who are against the 2007 Constitution. I hope the NCPO will also listen to comments from the international community.

For Thai people who are against the coup, I urge you to do it peacefully and to understand that it is a cumulative problem that has become worse because of the coup

<sup>14</sup> "Worachet to Challenge NCPO Orders" *The Nation*, November 25, 2014.

<http://www.nationmultimedia.com/politics/Worachet-to-challenge-NCPO-orders-30248488.html>.

<sup>15</sup> "Military Court Stands Firm Over Its Jurisdiction over Civilians" *Prachatai*, January 26, 2015.

<http://www.prachatai.com/english/node/4713>.

d'état. The most important thing is that people who are demanding democracy should realize the importance of people participation in building our democracy.

I thank the international community, which has expressed its opposition to the coup d'état and martial law, and urge the NCPO to return the country to democracy and to hold elections immediately. I hope the country will return to a civilized democratic society very soon.”

Chaturon was later detained at the Bangkok Remand Prison for 12 days before being released on bail by the military court on June 6, 2014. He faces charges of instigating unrest which could give him a sentence of up to seven years in jail, plus a two-year prison sentence for defying the junta's order.

He was seen handcuffed and in a brown prison outfit when he arrived at the Military Court. It was reported that when the pictures of Chaturon being escorted by armed soldiers hit the front pages of every newspaper, the NCPO tried to fix the damage done to its image by broadcasting clips on how well the detainees were treated in custody.<sup>16</sup>

On June 20, Chaturon appeared before the Military Court, and prosecutors added an additional charge of computer crime against him for placing online information they claim could have harmed national security. Chaturon told the court that he rejected the additional charge on the grounds that prosecutors applied it to him hastily and did not give him any chance to defend himself.<sup>17</sup>

Chaturon asked the Military Court to forward his petition to the Constitutional Court to consider if the case against him was legal or not. He also asked the Criminal Court to review whether the Military Court has the jurisdiction to put him on trial. Chaturon's legal team says that his offence took place before the NCPO issued Announcements No. 2014/37 and 2014/38, the announcements which granted the junta the authority to send civilians to military courts. They also claimed that taking a civilian to the Military Court under the two announcements contradicts the junta-sponsored provisional Constitution, Article 4 of which implies that citizens' rights are in line with rights under the International Covenant on Civil and Political Rights (ICCPR).<sup>18</sup>

The Bangkok Military Court informed on February 13, 2015 that it would forward the petition to the Criminal Court, thus postponing his trial for the time being. Regarding his other argument, the Court said that there is no written provision for it to act on the matter so it rejected the request to forward his case to the Constitutional Court. The trial could resume as early as May if the Criminal Court decides that the case should be handled by the Military Court. Otherwise, a committee will be set up if a final decision is needed on whether the case should be transferred to the Criminal Court or not.

### 3. Sombat Boon-ngam-anong<sup>19</sup>

Well-known political activist Sombat Boon-ngam-anong has been accused of various different offences: defying the NCPO's orders, violating Article 116 of the Criminal Code and Article 14(3) of the Computer Crime Act, and lèse-majesté. Sombat is also known as

<sup>16</sup> “Prayuth and the NCPO Need to Keep Their Promises” *The Nation*, May 30, 2014.

<http://www.nationmultimedia.com/politics/Prayuth-and-the-NCPO-need-to-keep-their-promises-30234999.html>

<sup>17</sup> “Ex-education Minister Rejects New Charge on Computer Crime” *The Nation*, June 21, 2014.

<http://www.nationmultimedia.com/politics/Ex-education-minister-rejects-new-charge-on-comput-30236770.html>

<sup>18</sup> “Chaturon's Lawyers Seek Review of Military Court's Jurisdiction” *The Nation*, February 14, 2015.

<http://www.nationmultimedia.com/politics/Chaturons-lawyers-seek-review-of-military-courts-30254076.html>

<sup>19</sup> “สมบัติ บุญงามอนงค์: ฟังคืนประกาศ คสช 41/2557, ป.อาญา ม. 116, ม. 112, และ พ.ร.บ. คอมฯ” *iLaw*, July 28, 2014.

<http://www.ilaw.or.th/node/3189>

Nuling and is widely known by his pseudonym, “Bor Kor Lai Jut”. He helped found the pro-Thaksin redshirt organization the Democratic Alliance Against Dictatorship (DADD), which changed its name to the “United Front of Democracy Against Dictatorship” (UDD) in 2010. A master of social media and political street theater, he was widely credited with a coordinating role in the initial wave of anti-coup protests.

Sombat was called to report himself to the junta on May 23, 2014 when his name appeared in the NCPO’s Order No. 3/2014. He did not report himself and was subsequently charged under the NCPO’s Announcement no. 41/2014. The National Intelligence Agency tracked down his IP address, and he was arrested at a house in Chonburi on June 5, 2014. The arrest was a joint cooperation between the chief of the Technology Crime Suppression Division (TCSD) and the Army’s 21<sup>st</sup> Infantry Regiment. His wife initially could not find where he was detained. On July 20, 2014 Sombat was officially charged of defying the NCPO’s orders. His case is currently ongoing at the Dusit District Court.

Sombat was also accused under Article 116 of the Criminal Code and Article 14(3) of the Computer Crime Act because he used Facebook and Twitter to call on the public to challenge and rally against the NCPO, while ignoring the junta’s calls of the NCPO to report himself. The accusation said that his actions could cause confusion and resistance among the public and lead to disorder in the country. On June 12, Sombat was sent to the Crime Suppression Division for interrogation after having been detained under martial law. Later on that day, he was taken to the Military Court to face three charges, and subsequently detained at the Bangkok Remand Prison.

On June 23, the Military Court approved the police’s request to further detain Sombat for another 12 days. Sombat objected because the reason was for the police to scrutinize criminal records and additional evidence to support the computer-related offenses, neither of which required any additional interrogation. The Court rejected Sombat’s bail request even though he had pledged to refrain from political activities, fully cooperate with civil officers, do social service work and take care of his family. Moreover, if the Court imposed any restrictive conditions, he would happily comply. On July 4, his bail request was eventually granted. His case resembled the cases against Worachet and Jaturon; Sombat’s lawyer also stated that NCPO’s Orders no. 37/2014 and 38/2014 were incompatible with Article 4 of the provisional Constitution, and sought to have the Constitutional Court to consider this issue.

Sombat was accused of lèse-majesté by a man from Roi Et Province who claimed to have visited Sombat’s Facebook page on January 4, 2014 and found an edited photo in which the faces of the King and the Queen had been removed and replaced by the faces of anti-government protest leader Suthep Thuegsuban and an unknown woman.<sup>20</sup> He applied for bail on July 1, 2014 after being interrogated by police in Roi Et police station. The Court granted him bail but required him not to cause any disturbance, lead any protest, or influence people to break the law. He was also not allowed to leave the country.

#### 4. Siraphop Kornarut<sup>21</sup>

Siraphop Kornarut was accused of lese-majeste for posting messages and caricatures online. Siraphop decided to fight the charges, marking the first lese-majeste case tried by the Military Court in which the defendant declined to plead guilty. On 13 November 2014, the Military Court considered his case behind closed doors. All observers were asked to leave the courtroom including Siraphop's son. His lawyer objected to the court's order arguing that secret trials are compatible with the ICCPR's Article 14, under which the defendant had the

<sup>20</sup> “สมมติ บุญงามอนงค์: 112” *iLaw*. <http://freedom.ilaw.or.th/th/case/586#detail>

<sup>21</sup> “สิรภพ: 112” *iLaw*. <http://freedom.ilaw.or.th/th/case/622#detail>

right to be tried openly. These objections were over-ruled. Siraphop's lawyer was not allowed by the Court to photocopy the documents related to the case: he could only look at the documents and take notes.

Siraphop was first charged with the violation of NCPO Order no. 41/2557 on July 1, 2014. He was then taken to the Military Court on July 2, 2014 for the court's permission for detention. The Court granted him bail. However, following a complaint about posts on Facebook and Prachatai that allegedly constituted *lèse-majesté*, he was taken to the Criminal Court on July 3, 2014. Siraphop was then detained according to the prosecutor's request, and has remained in custody following rejection of his bail applications.

## 5. Anon Nampha<sup>22</sup>

Anon is a volunteer lawyer for Thai Lawyers for Human Rights (TLHR). Since 2010, Anon has represented several prominent defendants charged under the Computer Crimes Act or with *lèse majesté*. His clients include Chiranuch Premchaiporn (Director of Prachatai news agency), Ampon Tangnoppakul (aka Akong SMS), and Tantawut Taweenarodom (aka Noom Nor Por Chor). He currently represents the red-shirt poet Rungsira, charged after the coup with *lèse majesté* and offences under the Computer Crime Act.

He was first arrested along with three others because of leading an anti-coup protest on February 14, 2015.<sup>23</sup> Police charged them with violating NCPO Order No. 7/2014, which prohibits any political public gathering of more than five people. People who violate this order can face a jail term of up to one year and a fine of up to 20,000 baht, or both. He was released the next day. Anon posted five Facebook messages while he and three others were detained and interrogated at Pathumwan Police Station the day he was arrested. Three of the five messages involved Lt Col Burin Thong Prapapai of the Judge Advocate General's Office, who has been very active since the coup, arresting many dissidents and *lèse-majesté* suspects. On February 14, he was also present at the police station and oversaw the protestors' arrests.

Anon's messages read as follows:

1. Oh my, a member of the Judge Advocate General's Office named Lt Col Burin Thongprapai came to the police station. This guy was once cross-examined by me in a military court. He seemed upset when I asked him about the coup d'état. Oh hell! In court, I can work as an attorney, but at the police station, it's getting chilly now.
2. My military brothers, please be merciful to me. In court, I just do my job because your boss really is a rebel.
3. Latest update: the police agree to let us go, but the military doesn't.
4. The problem is not that military personnel are bad, but the principle is not right. It's not right to have martial law which allows the military to exercise arbitrary power.
5. If we speak about the investigation today, the police have already resolved to release us, but the military doesn't want to. This interference by the military is not right in principle. The nature of the activity is against the military. People who are detained are against the military. And me, who examine the role of the military in violating human rights. This is the brutality of martial law. It ruins every principle.

<sup>22</sup> "Human Rights Lawyers Hears Charges Related to Anti-military Facebook Posts" *Prachatai*, March 5, 2015. <http://www.prachatai.com/english/node/4831>

<sup>23</sup> "4 Thai anti-coup Activists Arrested, Charged for Holding Peaceful Gathering" *Prachatai*, February 14, 2015. <http://www.prachatai.com/english/node/4792>

The police then accused Anon of posting false information online which might damage national security under Article 14 (2) of the Computer Crime Act. This was added to the accusations of violating a coup order by holding a political assembly of more than five people, filed against him for organizing the February 14 activity.