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## **The 10 Most Highlighted Military Court Cases of Year 2015**

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In the second successive year after the late military coup, 2015 saw a large number of civilians tried under the military justice and the rule of the National Council for Peace and Order (NCPO), junta-ruling body, including offences against Article 112 (lèse majesté), Article 116 (sedition) and breaches of the Announcements or Orders of the NCPO which have been used to stifle any dissent or the exercise of the right to freedom of expression on political issues.

Meanwhile, people who have had nothing to do with political activities have been criminalized on offences concerning illegal possession or use of firearms, ammunitions or explosives. They have been tried in the military court in a large number as well. According to the Judge Advocate General's Department (JAG)'s information, from 22 May 2014 – 30 September 2015, there have been 1,408 civilians tried in the military court including 1,629 alleged offenders/defendants.<sup>1</sup>

In 2015, the Thai Lawyers for Human Rights (TLHR) has worked on 42 court cases. In total, since the 2014 coup, we have been handling 69 cases. Toward the year's end, we want to highlight the ten most notorious cases under the military court. It may reflect an overview of problems under the military justice and the rule of the NCPO.

It starts from the military personnel being the persons who report the case accusing a person of committing the crime, carrying out the arrest, participating in an interrogation, prosecuting the case by the Judge Advocate and adjudicating the case by military judges in military court as well as the detaining individuals in military barracks. The control of all procedures is basically subjected to the power of the

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<sup>1</sup> For more information, please see <https://tlhr2014.wordpress.com/2015/11/13/static-case-in-military-court/>

military. It could be said that such justice system is a “camouflaged justice process”. The following cases simply illustrate the process that Thai society has been through in the past year<sup>2</sup>

**1. The case of violating a ban of political gathering of 5 persons against one demonstrator: The case of Mr. Pansak Srithep decided to walk to turn himself in at the Pathumwan Police Station**

During 14-16 March 2015, Mr. Pansak Srithep, a member of the Resistant Citizen group, in his “proactive walking citizen” activity, has decided to turn himself in to the police by foot. He planned to walk from his home in Ban Bua Thong, Nonthaburi province to the Pathumwan Police Station in Bangkok as he was wanted as an alleged offender in the “Stolen Election” case where four activists were charged with violating the NCPO’s ban of political gathering for participating an event peacefully calling for election in February 2014. Having scheduled to arrive at the police station on 16 March 2015, he started walking from his home on 14 March heading toward the flyover in front of the Thai Rath news headquarters. But en route, he was arrested and asked to ride in a van driven to the Pathumwan Police Station without letting him walk. As a result, on the next day, he resumed his walk against, but this time from the plaque on the ground dedicated to “Sher”, his son who was shot dead during military’s crackdown on protests in 2010, at Soi Rang Nam toward Thammasat University and was receiving bouquets from well-wishers along the way.



*Police officers from Bang Bua Thong police station were blocking Mr. Pansak Srithep from his walking after he departed his residence and making him get in a*

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<sup>2</sup> For more information, please see <https://tlhr2014.wordpress.com/2015/11/13/static-case-in-military-court/>

*vehicle to Pathumwan police station*

Mr. Pansak was arrested on 26 March 2015 prior to embarking on his second proactive walking citizen activity and was charged for violating the NCPO Announcement No. 7/2014, the Computer Crimes Act's Article 14 and sedition law as per the Penal Code's Article 116, as a result of his walk on 15 March 2015. It was the suppression against the smallest demonstration ever since there was just one demonstrator. Still the charge laid against him is related to the crime committed by five or more persons as per the NCPO Announcement No. 7/2014, national security related offence as per Article 116, even though it only involves one person embarking on his foot to give testimony to the police for the other case he had been reported before.

## **2. The most nightly remand hearing: The remand hearing of the fourteen student activists of New Democracy Movement (NDM) took place over the night**

The night of 26 June 2015 was perhaps the longest night for the students and activists of the New Democracy Movement (NDM), including 14 students and activists from Bangkok and Dao Din group in Khon Kaen. The arrest against them was made at 17.30 when almost one hundred police and military officers stormed the headquarters of the Sathirakoses Nagapadipa foundation, aka "Suan Ngern Mee Ma", per the arrest warrants issued by the Military Court. The students were wanted for the symbolic action they organized at the Democracy Monument on 25 June 2015 and charged for violating the Head of the NCPO Order No. 3/2015 banning any political gathering of five or more people.

All of them were brought to the Phra Ratchawang Police Station to process their records of arrest. The students insisted that in the records of arrest, it should be mentioned that military officers were also involved with the arrest, but the police refused to comply with their demand. Thus, the activists decided not to sign their names on the records of arrest that day. Later, they were brought before the Bangkok military court for the hearing of the remand order the same evening. Outsiders were prevented from attending the hearing in the military court, even though there had been no order to have the trial conducted in closed-door. In the courtroom, only their attorneys, one officer from the National Human Rights Commission (NHRC) and the Vice President of Thammasat University on student affairs were allowed to be present.

Normally, the Military Court's office hours are until 16.30. But on that day, the Military Court was open at 22.00 when the inquiry officers handed in the request for the remand. The whole process for the remand hearing finished at 00.30. It was the most late-at-night remand hearing that has ever taken place. It reflected well how independent and impartial the Military Court was.



*An illustration simulates the hearing of pre-trial detention of the NDM students in military court at the night of 26 June 2015*

In addition, after the process was completed, the police led by Pol Maj Gen Chayaphon Chatchaidet asked for permission to search the vehicle belonging to Ms. Sirikan Charoensiri, an attorney of the student activists, with no court warrant. They were targeting the mobile phones belonging to the 14 students. Since the attorney viewed that the inquiry officers stayed with the alleged offenders from 17.00 until 00.30 without asking to seize their mobile devices, and since the police could not answer as to what they were looking for from the phones, she decided to not let them conduct the search. Upon the refusal, the police decided to seal the car with A4 papers, locked the wheels, surrounded the car with iron fences and impound it. The staff from TLHR had to sleep by the car to watch out on it in front of the military court the whole night.

### **3. The Criminal Court Blast: Torture alleged by at least four defendants**

The blast at the Criminal Court took place in the evening of 7 March 2015 involving fourteen suspects, the four of whom have been represented by TLHR and have alleged that they had been subjected to torture during the interrogation. Mr. Sansern Sriounruen<sup>3</sup>, Mr. Chanwit Chariyanukul, Mr. Norapat Luephon and Mr. Wichai

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<sup>3</sup>Mr. Sansern has written an account of this case and his short biography in *“How Sansern Sriounruen had refused to confess in the Court Blast case”*.

Yusuk complained that they had been allegedly mistreated including being hit, punched, booted in their heads, chests and backs and threatened with an assault in order to extract information from them.

In addition, some suspects were allegedly subjected to electrocution leaving visible traces on their skin including Mr. Sansern who claimed to have been tasered at his thigh 30-40 times leaving visible marks on his skin. They were held in custody under Martial Law. TLHR has sent a written request to the inquiry officers of the case asking them to compile evidence concerning the alleged torture against Mr. Sansern and later has received a reply from the Metropolitan Police Bureau that the injury sustained by Mr. Sansern was assumedly attributed to "some impact as a result of his falling onto a blunt object and it was not possible to determine the exact cause of the wound." This findings by the Metropolitan Police Bureau were concluded even though the investigation report of the inquiry officers included a medical examination report of the suspect conducted by physician from the Police General Hospital and the Correctional Hospital mentioning the finding of burns.

Since the 2014 coup, TLHR has received torture complaints from nineteen persons being held in custody. They all complained about the alleged torture that took place during the seven days of custody under Martial Law or the Head of the NCPO Order No. 3/2015, during which an access to outside world was made impossible. Therefore, the alleged torture could not be examined. And when the complaint was made, it would not likely to lead to any independent and impartial investigation. The blast at the Criminal Court was a case in which several suspects have complained about allegations of torture.



*Picture shows wounds on Mr. Sansern Sri-ounruen in an allegation of torture during military custody*

### ***Justice denied is injustice***

Apart from the complaints received concerning the allegations of torture of suspects in the Criminal Court Blast case, TLHR has also found the undue delay in justice process involving the case as well. The military court had scheduled to have the examination of all defendants in the first hearing on 9 November 2015, five months from the indictment on 5 June 2015. Another problem is some defendants had been indicted on other cases concurrently. As a result, the witness examination had to be shifted to 19 January 2016 prolonging their custody in the prison.<sup>4</sup> The whole process has been redundant for at least seven months and the hearing had been delayed. In addition, several other cases against civilians indicted with the military court have seen delay in witness examination since the military court had failed to schedule all the hearing dates since the arraignment. The hearings have often been scheduled one at a time with over a month in interval and often taken place half a day, morning or afternoon only. In certain trials, the examination of just one witness might take

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<sup>4</sup> Among the defendants, only Thatchaphan Pokkhorng was bailed out by the Military Court with the bond of 500,000 baht on 30 April since she was pregnant for seven months and suffering from Thalassemia.

place for a couple of days. This has essentially made the trials protracted.

#### **4. Applying security law with criticisms of persons: The Prayuth's money transfer case.**

Throughout the year has seen the use of the Penal Code's Article 116, a sedition law related to national security to stifle the exercise of the right to freedom of expression, particularly when it concerned criticisms of the NCPO. One of the most controversial cases took place in early July 2015 when Ms. Rinda Paruechabutr was arrested and accused to have violated Article 116 dealing with seditious act and for bringing into computer system forged data as per Article 14 of the Computer Crimes Act. It stemmed from her Facebook post which accused Prayuth Chan-ocha and his wife of transferring a massive amount of money abroad. She admitted to being the poster, but maintained it was her right to criticize and previous Prime Ministers had always been subjected to such act.

On 21 December 2015, the Bangkok Military Court ruled to disqualify the case against Rinda as far as Article 116 was concerned and said it could be prosecuted only as a libel case as per the Penal Code's Article 328 and the Computer Crimes Act. The Court thus prepared an opinion to be submitted to the Criminal Court for the latter Court to review if it fits their jurisdiction. The defendant in this, however, needs to return to hear the result of the decision later. If the Criminal Court concurs with the military court, the case would automatically not fall under the jurisdiction of the military court.<sup>5</sup>

TLHR has found that the sedition offence under Article 116 has been used as a political tool. Normally, any person committing any possible libelous acts against the powers that be or the NCPO should be charged with violation of libel or defamation offences. But in this case, the military authorities have opted to press the person with the sedition offence under Article 116 in order to have the case tried in the military court including the 'proactive walking citizen' case against Mr. Pansak Srithep. Similarly, the charge of sedition has been invoked in the case against Ms. Chayapa who was accused of posting the double coup rumor, or lately in the case of online-posting of infographic about the corruption of the military-run Rajabhakti

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<sup>5</sup>The Military Court ruled Rinda's post on the massive transfer by Prayuth was not culpable per Article 116, but a libel case, <https://tlhr2014.wordpress.com/2015/12/21/rinda-not-116/>

Park project.

Since the Bangkok Military Court has ruled in this case that it is a libel act and should be tried in a normal civilian court, if the military courts agrees with this ruling, it could refuse to admit to review such case in the future.

### **5. The record-breaking sentences in lese majeste cases: Sixty years in jail for 'Pongsak'**

The 7 August 2015 could be the 'most cruel' day of the year as the military court broke all the record by sentencing a defendant in a case of lese majeste offence under Article 112 to an unprecedented term of imprisonment.

The morning that day, the Bangkok Military Court has found 'Pongsak' guilty for violating Article 112 by posting Facebook messages using 'samparr' as his aliases. He was sentenced to sixty years for the six messages posted, or ten years per post. It was reduced by a half to thirty due to his pleading guilty.

On the same day in the afternoon, the Chiang Mai Military Court has found 'Sasiwimon' guilty for violating Article 112 by posting Facebook messages using 'Rungnapa Kampichai' as her aliases. She was sentenced to fifty eight years for the seven messages posted, or eight years per post. It was reduced by a half to twenty eight due to her pleading guilty.

Both cases reflect how severe penalties have been handed down by the Military Court in Article 112 cases. Previously in the Criminal Court, the penalty per count was five years. But in these cases, the Military Court has increased it to 8-10 years per count. Since the proposed sentencing in such cases is often based on the number of offensive acts made based on the number of Facebook messages posted, the defendants could have been sentenced to unprecedented penalty rates. It was indeed an alarming act of intimidation to use hefty penalty to suppress any expression of opinions.

Next year, there will be another case tried in the Bangkok Military Court, with possibility to break all records of lese majeste sentences, which "Anchan" was accused of committing 29 offensive acts under Article 112 for allegedly uploading and publicizing video clips made by "Banpot" on youtube.

## **6. The most mysterious and grotesque case: Deaths in custody in the temporary remand facility in the 11th Military Circle<sup>6</sup>**

Late October 2015, an event that was probably most bizarre and horrendous of the year took place. Rumor was abound for days regarding the custody of Mr. Suriyan Sucharitpolwong on 16 October 2015, though it was denied by Pol Maj Gen Akkaradet Pimolsri, Commander of the Crime Suppression Division. But on 21 October 2015, it turned out Mr. Suriyan Sucharitpolwong, Police Major Prakrom Warunprapa and Mr. Suriyan's secretary were brought to the Bangkok Military Court for hearing on their remand related to the charges concerning Article 112 and were later held in custody at the temporary remand facility in the Nakhon Chaisri temporary remand facility. A few days later, Police Major Prakrom Warunprapa died in custody on 23 October 2015 and according to the official narrative, he hung himself to death. Later on 7 November 2015, Mr. Suriyan Sucharitpolwong was also found death while in custody, allegedly from bloodstream infection. The explanation was made according to the statements released by the Corrections Department and relevant authorities without any investigation from outside organizations. The incidents took place in a military compound and in both cases, it did not appear that the relatives had been asked to be present during the autopsies and the cremations were arranged in haste right away after retrieving the bodies without proper Buddhist ceremonies.

TLHR has found that it is a problem which had stemmed from the invoking of the Head of the NCPO Order No. 3/2015 to hold a person in custody in an undisclosed place and to deny access to the person by his relatives or legal counsel. The establishment of such temporary prison inside the 11<sup>th</sup> Military Circle during the time has also made it impossible for accountability with help from other agencies. Without such checks and balances, it is prone to elicit the violation of rights which could not be held accountable. Until now, there has been no proper investigation into the cause of death of the two detainees. The case therefore presents the highest level of oddity and horrendousness.

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<sup>6</sup> Please see the opinion of the Thai Lawyers for Human Rights (TLHR) on the establishment of the Nakhon Chaisri temporary remand facility and the deaths in custody of Police Major Prakrom Warunprapa and Mr. Suriyan Sucharitpolwong at [https://tlhr2014.wordpress.com/2015/11/11/tlhr\\_opinions/](https://tlhr2014.wordpress.com/2015/11/11/tlhr_opinions/)



*(right to left) Maj. Gen. Pisitsak Senivongse Na Ayudhya, Mr. Suriyan Sucharitsongkul, Col Suchart Prommai and Maj. Gen. Khachachart Boondee*

### **7. Gross intimidation against attorneys: The planned sabotage of Bike for Dad case<sup>7</sup>**

Late November 2015, while preparations were being made for the organization of the Bike for Dad, event to honour His Majesty the King in his birth month scheduled on 11 December 2015, it was reported that arrest warrants were issued by the Royal Thai Police against nine suspects who were allegedly planning to sabotage several important events, for violating the Penal Code's Article 112 (lese majeste), and for bringing forged data into computer system.. Four of the nine suspects are defendants in the Khon Kaen Model case and were represented by Attorney Benjarat Meethien. One of the wanted suspects, Mr. Thanakrit Thongngernperm has been held in custody in the Khon Kaen prison for his involvement with the Khon Kaen model case. It was, therefore, impossible that he would be able to communicate by phone and be complicit with the planning as alleged.

On 29 November 2015, the attorney, Ms. Benjarat Meethien, had reported the case against Maj Gen Wijarn Jodtaeng, the legal chief of the National Council for Peace and Order (NCPO) and Pol Gen Sriwara Ransibrah-manakul, Deputy National Police as the head of the investigation team alleging that they have abused their office and have committed a libelous act and reported false information for issuing arrest warrant against Mr. Thanakrit. After that, she had to receive dozens of phone call from the police.

Later on 30 November 2015, after finishing her visit to her clients being held in the Nakhon Chaisri temporary remand facility, she was locked in the room by military

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<sup>7</sup> See the timeline of the planned sabotage of the Bike for Dad here, <https://tlhr2014.wordpress.com/2015/12/03/bike-for-dad-112-military-prison/>

who ordered her to wait for their commanders until she had to 'escape' from there taking the chance when some police officers from the Crime Suppression Division (CSD) came for her. But she was then followed by the CSD police who even sat and waited until she finished with her court session. She was brought to the Crime Suppression Division and asked to withdraw her case against the police and the military legal officer, though she refused to do so. The police decided to approach Mr. Thanakrit in the prison and threatened to sue him for reporting false information to the police and asked him to sign a document to withdraw the case. They offered to revoke the arrest warrant against him (in the new case) in exchange. On 8 December 2015, Maj Gen Wijarn Jodtaeng and Col Burin Thonggraphai, legal officers of the National Council for Peace and Order (NCPO) have reported the case against Attorney Benjarat accusing her of reporting false information to the inquiry officer and for libel.



*Attorney Benjarat Meethien gave an interview to media after filing criminal charges against Maj. Gen. Wicharn Jodtang, the chief of legal affairs of NCPO and Pol.Lt.Col. Mingmontree Siripong, the chief inquiry officer of Division 1, Crime Suppression Division. (Photo courtesy of Banrsdr Photo)*

TLHR has found it an act of gross intimidation against attorney, including the harassment she faced while visiting her clients and conducting her investigation in the temporary prison, how the inquiry officer having forced her to withdraw the case, and the legal case filed against her in retaliation, all as a result of her being legal counsel to Mr. Thanakrit Thongngernperm. Such acts shall make attorneys in general feel insecure and discourage them from pursuing their work. After all, the presumption of innocence principle which is key to justice process cannot be upheld given that the suspects have been denied access to their legal counsel.

## 8. The most bizarre case: Defaming the royal dog.

One of the cases that has generated wider ripples in society and become notorious worldwide was the arrest of Mr. Thanakorn Siriphaibun for violating offences related to lese majeste under the Penal Code's Article 112, sedition under Article 116 and the Computer Crimes Act's Article 14. The case may not be so special in terms of the charges since there has been a large number of cases charged with lese majeste and sedition since the military coup by the NCPO. h But to say that Mr. Thanakorn was arrested simply because of his clicking 'like' on a Facebook image and for posting a message deemed satirical to the King's dog as well as sharing an infographic on the corruption of the military-run Rajabhakti Park, it might bring so many question-marks to people's mind.

The Penal Code's Article 112 states that '[w]hoever defames, insults, or threatens the King, the Queen, the Heir-apparent, or the Regent, shall be punished with imprisonment of three to fifteen years'. And according to criminal law principle, the interpretation of the law has to be very strict. But by charging Mr. Thanakorn in the case, the interpretation of Article 112 has to be expanded to cover the King's dog. Meanwhile, both military and police authorities have come out to insist that by clicking 'like' on an offensive post, one can be held liable for violating Article 112. It has created a climate of fear causing panic in public and making one feel hopeless of the shrinking space of online freedom of expression. It is worth observing how in the coming year the inquiry officers, judge advocates and the military court will make their opinion regarding the draconian interpretation of the lese majeste law.



*Mr. Thanakorn Siripaiboon was being taken to a prison after the Bangkok Military Court approved the pre-trial detention requested by police on 14 December 2015. (Photo courtesy of Banrsdr Photo)*

## **9. Verdict in low-key: The posting of double coup rumor case**

The accused was quietly taken from her home and held in custody in a military barrack. The indictment made no news and the ruling was delivered the same day of the arraignment, first hearing quietly. It was the case against Ms. Chayapa, the defendant accused of posting rumor about a possible double coup on her personal Facebook and, as a result, found to have violating the offences related to sedition under Article 116 and the Computer Crimes Act plus lese majeste under Article 112 from her other posts. The low-key or silent prosecution could have been much worse except that Chayapa had appointed her attorney and if she was brought to the Bangkok military court, just like in the Court of Justice. With advance notice of the hearing date to her relatives and attorney.

Since Chayapa was remanded in custody in the Central Women Correctional Institution, she could not be brought to the Bangkok Military Court on the day the indictment was made. The attorney was not even allowed to make a copy of the indictment initially as the Court claimed they would send it directly to the defendant. Worse still, on the first hearing, the Court sentenced her to imprisonment and she had only been informed of the hearing date a few hours before it actually took place. Her attorney, who had gone to the Military Court one day before the first hearing, was not even informed about the hearing date. As a result, on the hearing day, Chayapa was brought to the Bangkok Military Court and the ruling was delivered without the presence of her attorney during the entire process. The Court had later dismissed the objection to the flaw of the procedure raised by the attorney. Chayapa personally informed her attorney that she was given the notice of hearing date after the ruling had been made and she was transferred back to the Central Women Correctional Institution. The procedure reflects such flaws that fail to ensure justice within the system of the military court and how civilians have to bear the brunt.

## **10. The apprehension of a pre-op patient: The abduction of Mr. Thanet Anantawong from the Sirindhorn Hospital**

The news that attracted most public attention in the last month of the year was perhaps the arrest of students and activists en route on their train ride to probe the corruption of the military-run Rajabhakti Park project. Though 36 persons who were briefly detained have been allowed to return home the same day, but the military junta has decided to come after them individually later. Mr. Thanet Anantawong was one of the 36 persons who was the first to be prosecuted.

On 13 December 2015, while staying for treatment in the Sirindhorn Hospital in Bangkok, he was apprehended by plainclothes military officers and detained for over six days in an undisclosed location. His friends had tried to approach the authorities to bring the medicine for him, but they were denied the access. As a result, Mr. Sirawith Seritiwat, aka "Sgt. New", had to file a case with the Criminal Court asking for a hearing on the unlawful detention. Although the writ of habeas corpus was filed with the Court twice, but it was turned down. The Criminal Court refused to conduct the hearing to determine the lawfulness of the detention as per the Criminal Procedure Code's Article 90 which states that the court shall be authorized to, by order, direct the person carrying such confinement to bring the person in question before it without delay. And if the person carrying the confinement is unable to satisfy the court that such confinement is lawful, the court shall, by order, release the person in question at once. The refusal to hold the habeas corpus hearing reflects how the Court has completely accepted the power of the Head of the NCPO Order No. 3/2015, which grants power to military officers to detain a person up to seven days without warrant and charges, without attempting to make any prior investigation to determine the lawfulness of the detention. During the entire time Mr. Thanet was held in custody, his relatives and attorney were denied access to him and he was also denied access to sufficient medical treatment and risked being subjected to torture and enforced disappearance.



*Mr. Thanet Anantawong had a physical check-up at a hospital after being released from the Nakorn Chaisri temporary remand facility in the night of 18 December 2015.(photo courtesy of Banrsdr Photo)*