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# Human Rights One Year After the 2014 Coup: A Judicial Process in Camouflage Under the National Council for Peace and Order



THAI LAWYERS FOR HUMAN RIGHTS  
[COMPANY NAME]



## Thai Lawyers for Human Rights

109 Soi Sitthichon, Suthisarnwinichai Rd., Samsennok, Huaykwang, Bangkok 10310 Thailand Tel: 096-7893172 or 096-7893173 E-mail: [tlhr2014@gmail.com](mailto:tlhr2014@gmail.com)  
Website: <https://tlhr2014.wordpress.com/>

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### **Human Rights One Year After the 2014 Coup: A Judicial Process in Camouflage Under the National Council for Peace and Order**

The National Council for Peace and Order (NCPO) fomented a coup and seized the administrative power of the country on 22 May 2014. Martial Law was in force from 22 May 2014<sup>1</sup> until 1 April 2015, when it was revoked and Head of the NCPO Order No. 3/2015 regarding the maintenance of order and national security provide military officials with authority in the place of Martial Law.<sup>2</sup> The exercise of illegitimate authority, an absence of checks and balances, a lack of respect for the principles of the rule of law and international human rights law, and the violation of the basic rights and liberties of the people were manifest during the first year of rule by the NCPO.

With respect to legislation, the NCPO has promulgated the 2014 Interim Constitution, 184 NCPO Orders, 122 NCPO Announcements, and 17 Head of the NCPO Orders. The NCPO established the National Legislative Assembly (NLA) to examine legislation. A total of 112 laws have entered the examination process to date. This can be divided into 77 laws which have already been promulgated, 17 laws in which the NLA has approved the draft and they are in the process of being promulgated, and 18 laws which remain under examination. This form of legislation is without any base of consent and participation by the people. In terms of content, many of these legal instruments are contra to human rights. For example, NCPO Announcement No. 7/2014 prohibiting political demonstrations, NCPO Announcement No. 37/2014 regarding crimes within the jurisdiction of the military court, and the draft law on public demonstration are all in conflict with human rights.

With respect to administration, the NCPO used the authority provided under Martial Law to summon and invite 751 people to report for attitude adjustment.<sup>3</sup> The NCPO tracked down groups of people they viewed as “dangers to security” at home. They intervened or shut down at least 71 seminars or public activities, and prosecuted people who expressed their opinions or participated in political demonstrations.<sup>4</sup> In addition, the NCPO implemented policy to follow the master plan to resolve the problems of forest destruction, trespassing of public land and sustainable management of natural resources (Forestry Master Plan). They carried out this policy

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<sup>1</sup> On 22 May 2014, Martial Law was proclaimed nationally via NCPO Announcement No. 2/2014. On 20 May 2014, the nationwide proclamation of Martial Law was issued by the Army Chief, 2 days prior to the military coup. Note: Thailand uses Buddhist Era dates, which are Common Era plus 543 years. Therefore, 2557 is 2014, 2558 is 2015, etc. NCPO Announcements and Orders are numbered by year.

<sup>2</sup> The revocation of Martial Law does not affect those areas under imposition of Martial Law before 20 May 2014. Therefore, Martial Law remains in force in some border provinces of Thailand.

<sup>3</sup> iLaw, “364 days after the coup: An evaluation of the situation of freedom of expression” [“364 วันหลังประหาร ประมวลสถานการณ์เสรีภาพในการแสดงออก”], 19 May 2015, Available online at: <http://freedom.ilaw.or.th/blog/364%20days%20after%20coup> (Accessed on 31 May 2015).

<sup>4</sup> Ibid.

without any participation from the people or consideration of dispute resolution processes that involved negotiation prior to the implementation of the policy. More than 1000 households in more than 100 communities have been affected by the policy thus far.

With respect to the judiciary, the NCPO stipulated that cases involving certain kinds of crimes would be processed within the jurisdiction of the military court. These crimes included offences against the King, Queen, Heir-apparent, and Regent; offences against national security; offences under the Firearms, Ammunition, Explosive Articles, Fireworks and Imitation of Firearms Act; and violations of NCPO Announcements or Orders, or Head of the NCPO Orders. This has resulted in at least 700 civilians being processed in the military court system.<sup>5</sup>

Thai Lawyers for Human Rights (TLHR) was established in order to provide legal assistance to individuals whose human rights were violated after the coup and to collect information about the violation of human rights. TLHR provided legal advice to individuals in a 122 cases and legal assistance to a total of 60 suspects or defendants in 38 cases. However, in addition to the cases in which TLHR provided assistance, there are a large number of people whose human rights were violated and who were impacted by the NCPO's exercise of power. This is examined in the report that follows below.

## **1. The insecurity of expression under the NCPO**

The NCPO used various measures to restrict the right to freedom of expression. This included, in particular, the proclamation of Martial Law nationally under NCPO Announcement No. 2/2014, the summoning and inviting of people to report for attitude adjustment, NCPO Announcement No. 7/2014 prohibiting political demonstrations, and *lèse-majesté* prosecutions under Article 112 of the Criminal Code.

### **1.1 Summons to report and attitude adjustment**

During the first period after the 22-May-2014 coup, the NCPO issued orders summoning individuals, including politicians, academics, activists, and members of various political groups, to report themselves. A total of at least 751 persons were summoned to report themselves between 22 May 2014 and 1 April 2015. Military officials used authority provided for in Article 15 bis of the Martial Law Act to detain a person without charge for up to 7 days. Martial Law remained in force across the country until it was revoked and replaced with Head of N C P O Order No. 3/2015

During the first month following the coup, people were summoned to report themselves via announcement on television and via radio during the evenings. A list of names of people who were to report to the Army Club at Thewet in Bangkok the next morning were announced. Those who were summoned and reported themselves were then detained in secret locations. At least 5 persons were subsequently prosecuted under Article 112 of the Criminal Code (*lèse-majesté*) after reporting themselves or being arrested after not reporting themselves. In addition to the summoning via broadcast announcement of those who were to report themselves in Bangkok, people in provinces outside the capital were contacted and summoned to report to local army camps without any official announcement.

However, TLHR obtained information about those who were summoned to report themselves but were unwilling to do so and so then fled outside the country. This partially arose from the stipulation by the NCPO that violating or not following an order to report oneself is a

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<sup>5</sup> International Commission of Jurists( ICJ), *Submission to the UN Committee on Economic, Social and Cultural Rights*, 11 May 2015, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2015/05/Thailand-ICJ-CESCRsubmission-Advocacy-non-legal-submission-2015-ENG.pdf> (Accessed on 31 May 2015)

crime under NCPO Announcement No. 41/2014. Those who reported themselves had to agree to follow the conditions set by the NCPO following their release, namely that they will maintain a residence and not travel outside the country without the approval of the Head of the NCPO, cease political movement or participation in political meetings of any kind, and, if they violate these conditions or assist or support political activities, they agree to be prosecuted and subject to the freezing of their financial assets. Not reporting oneself or violating these conditions was stipulated to be punishable by up to 2 years in prison, a 40,000 baht fine, or both imprisonment and a fine. Individuals who are being prosecuted for these violations include Mr. Sombat Boonngamanong, Associate Professor Worachet Pakeerut, and Miss Jitra Kotchadet.

TLHR found that the majority of those that the NCPO summoned to report were involved in red shirt politics or had expressed opinions about amendments or revocation of *lèse-majesté* offence under Article 112 of the Criminal Code. The summoning of individuals to report when the individuals do not know the reason why they have been summoned, and perhaps not knowing where they have been taken for detention and are unable to contact people outside, and the stipulations that not reporting oneself is a crime and release carries conditions with it, are not violations in themselves. But these actions are *mala prohibita* crimes that violate the rights and liberty of the people and are in contravention to the International Covenant on Civil and Political Rights (ICCPR).

## **1.2 Prohibition of political demonstrations**

NCPO Announcement No. 7/2014 prohibits political demonstrations and restricts the assembly of 5 or more persons. Those who violate it are subject to a punishment of a maximum of 1 year imprisonment, a maximum fine of 20,000 baht, or both imprisonment and a fine. The Announcement has been widely enforced, and has extended to threats that people will be prosecuted under it if they do not provide cooperation in cancelling organizing seminars or public activities that are related to politics or may impact security. To date, there have been at least 71 activities or seminars which were either prohibited from being held or in which the authorities interfered.

However, there has been expression in public spaces that does not fit within the scope of NCPO Announcement No. 7/2014, but has been targeted under it. In some cases, this has resulted in individuals being detained by military officials and being forced to accept the condition of not carrying out further political movement in order to be released. This has included, for example, people who were using the three-finger salute, people who were eating sandwiches, and people who were wearing t-shirts that say “Peace Please,” etc.

An example of a case of prosecution under NCPO Announcement No. 7/2014 prohibiting political demonstrations is the case of Resistant Citizen, a dissident group, which organized the “Beloved Election” activity in front of the Bangkok Art and Culture Center (BACC) on 14 February 2015. This also includes the case of Mr. Pansak Srithep, who walked to report himself on 15 March 2015 to the Pathumwan police station with regard to the case resulting from the “Beloved Election” activity, even though the action in question only entailed walking from the area of Soi Rang Nam to Thammasat University in Bangkok.

In addition, TLHR also observes that although in some cases, the military officials do not have any authority to detain people, they may still arrest and detain people at police stations and enter a record in the daily police log. They further make a note that the people came to the police station voluntarily, even though in truth they may not have been able to refuse. For example, this was the case with the arrest and detention of Mr. Pansak Srithep, who intended to walk from his home in Nonthaburi to the Pathumwan police station in Bangkok on 14 March 2015. The police officials arrested him while he was before he reached Pathumwan police station but then

released him in the evening without any charges being pressed against him. Another example is that of Mr. Anurak Jentawanit, or “Ford Senthangsidaeng,” whose T-shirts, screen-printed with three-finger salute, were seized and who was taken into custody at Lumpini police station after joining a commemorative activity on 19 May 2015 along with seizing t-shirts. He was released in the evening without any charges being pressed against him. These are examples of arbitrary and illegal detention that constitutes a threat to freedom of expression which results in making people afraid of exercising it.

### **1.3 Prosecutions under Article 112 of the Criminal Code (*lèse-majesté*)**

Since the coup, the policy of suppressing those who violate Article 112 of the Criminal Code has been one of the objectives of the NCPO. Among those summoned to report themselves by the NCPO, one portion included activists who had campaigned for the amendment of Article 112 and some who had a history of criticizing the institution of the monarchy. This caused some who were on the list unwilling to report themselves; they fled outside the country because they were uncertain as to whether or not they would be accused of violating Article 112.

The majority of those prosecuted under Article 112 are not granted bail. Out of a total of 67 current accused and defendants, only 8 people have been granted bail and only in the case of 1 person has the court declined to authorize continued detention. In addition, Article 112 is one of the kinds of crimes which is within the jurisdiction of the military court in accordance with NCPO Announcement No. 37/2014.

According to the record of 112 cases that TLHR has been monitoring after the coup, at present, there are at least 30 cases in the jurisdiction of the military court and 6 cases in which judgments have been issued. The behavior that has resulted in arrests includes performance of plays, writing of poems, writing on bathroom walls, posting on Facebook, and sharing video clips online, etc. Cases in which the military court has already ruled has resulted in a minimum punishment of 3 years per count up to 10 years per count. The military court has tended to prescribe harsher punishments than the civil court. Normally the civilian courts, in 112 cases, sentence a punishment of 5-year imprisonment per count but the military courts hand down 10 years per count in a case in which the defendant has confessed.

It is the view of TLHR that during the first year following the coup, the people’s freedom of expression has been restricted, including in the realms of expressing opinions online, organizing public seminars, and opposing various state projects. Instruments used to restrict freedom of expression have included Martial Law, the NCPO Announcements, and Article 112. The NCPO has cited the nature of the “abnormal situation” as the reason for the restriction of freedom of expression. Ordinarily, the aforementioned rights and liberty are those which would be guaranteed and which the people would be able to exercise without fear that it would be criminalized. **The “abnormal situation” is used as the excuse of the NCPO and military officials in restricting the rights and liberties of the people.**

## **2. A Judicial Process in Camouflage: Martial Law and processing civilians in military courts**

The NCPO has severely violated the people’s rights in the judicial process. This extends from the promulgation of Martial Law to the processing of civilian cases in military courts. Taken together, this results in providing military officials with the power to carry out the judicial process from the stage of arrest, to the stage of filing charges, and then examining and ruling the case.

### **2.1 The announcement of Martial Law nationally**

NCPO Announcement No. 2/2014 regarding the nationwide imposition of Martial Law provided military officials with the authority to detain a person for up to 7 days following Article 15 bis of the Martial Law Act of 1914. Those detained under this provision included those who were summoned to report themselves, those who were arrested during protests, and those who were arrested before being formally charged.

The use of Martial Law impacted those arrested and detained as they were detained in undisclosed locations which could not be accessed or monitored by outsiders. Their families and lawyers could not visit the detainees. This practice has led to complaints that torture allegedly has taken place during detention under Martial Law, especially in cases involving weapons or bombs. TLHR has found that there are at least 18 persons who have complained of torture allegations. In addition, TLHR has found that there are at least 2 persons who were held for periods longer than the 7 days stipulated by Martial law, namely Miss Kritsuda Khunasaen and Mr. Yongyut Bundee. The military officials said that the detainees themselves voluntarily submitted to extended detention.

In addition to the detention in undisclosed places and allegations of torture and arbitrary detention, military officials further used their authority under Martial Law to intimidate the people from expressing their opinions or carrying out various activities. This included summoning people for attitude adjustment and forcing them to sign in acceptance of conditions of release following NCPO Announcement No. 40/2014 and Article 15 bis of the Martial Law Act of 1914. These conditions placed restrictions on the exercise of freedom of expression of people.

## **2.2 Processing civilian cases in the military court**

NCPO Announcement No. 37/2014 placed within the jurisdiction of the military court the prosecution of cases of offences against the King, Queen, Heir-apparent or Regent; offences against national security; offences against the Announcements or Orders of the NCPO; and offences involving war weapons, ammunition, or bombs. NCPO Announcement No. 38/2014 placed cases with offences linked to the four types noted above within the jurisdiction of the military court. At present, there are at least 700 persons with cases in the military court.<sup>6</sup>

**There are at least three problems with processing civilian cases in the military court. The first is with regards to independence and impartiality.** The military court is under the Ministry of Defense, the judge panels are under the Ministry of Defense and two out of three of the members of this panel are military officials who may not have completed legal studies.<sup>7</sup> The Minister of Defense and the Commander-in-Chief of the Army are able to appoint judges and stipulate the number, qualifications, necessary background knowledge, and the authority and function of the judge advocate generals, the military prosecutors, the military judge advocates, the military court sergeants, and the assistants for any of these positions.<sup>8</sup> This causes the structure of the military court to be in conflict with the principles of judicial independence and impartiality following Article 14 (1) of the International Covenant on Civil and Political Rights. This judges may be influenced by the Commander to either give a certain preference or punishment in a given case. The impartiality and the credibility of the judgments is impacted.

**Second,** the carrying out of cases in the military court in abnormal times (cases that have arisen between 25 May 2014 and 1 April 2015 while Martial Law was in force nationally) resulted in defendants being deprived of the right to appeal. This contravenes the rule of law and

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<sup>6</sup> Ibid.

<sup>7</sup> Article 5 of the Military Court Act stipulates that, "The entirety of the military court according to this law is under the Ministry of Defense."

<sup>8</sup> According to Articles 10, 11 and 30 of the Military Court Act.

Article 14 (5) of the ICCPR which stipulates that defendants must have the right to review of their case by a higher court.<sup>9</sup> In a system in which there is the rule of law, the examination by the judiciary must be independent, which occurs when there is an audit by a higher court of the performance of duties by the court of first instance.

**Third**, Thai Lawyers for Human Rights found a series of problems in practice throughout the year that has passed. The prosecution of civilians in military courts differs from civilian courts and there are various obstacles that accused and defendants face in accessing justice. These include the following:

### **1. Bail**

An accused who has been granted bail must report to the court every 12 days and must be accompanied by the bail bondsman. The court sets the appointment at 08.30 am, but sometimes the accused and bail bondsman must wait until the afternoon. They must wait for the investigating officials to bring the petition for detention to the court and must wait to receive a copy of the petition. The frequent trips to the court are a burden and each time they use a long period of time. In practice, when an accused is granted bail in the civilian court, s/he is the only one who must report to the court. In order to avoid placing the burden of frequent travel on the accused, the civilian court will meet once a month, or will meet on the day when the case must be filed or dismissed.

### **2. The Filing of the Case**

When the period of pre-charge detention permitted under the law is complete, the military court tends not to bring the defendant to appear at the court. Instead, the military prosecutor will first file the case and a copy of the indictment and the warrant to appear will be sent to the defendant at the prison afterwards. The prison officials give the warrant to appear to the defendant, but retain the copy of the indictment. The length of time between the case being filed and the defendant appearing before the court is often more than one month. During this time, the defendant does not have the opportunity to learn any details about the offences with which s/he has been charged. In cases in which the defendant already has a lawyer, the lawyer can ask for a copy of the indictment. But in some cases, for example *lèse-majesté* cases, the court has not allowed copies to be made of the indictments. This is so even though the defendant's lawyers explained that they wished to consult about the case with the defendant. This resulted in the defendant learning of the indictment late and not having an opportunity to prepare for the case or fully consult with his/her lawyers. In addition, the majority of defendants in the military court are not granted bail and are detained during their prosecution. In the civilian court, the indictment would be read to the defendant on the day that the prosecutor filed the charges and a copy of the indictment would be provided to the defendant. If the defendant does not have a lawyer and wishes to have one, the court will appoint one or provide the defendant with the opportunity to appoint his/her own lawyer. This lawyer then has the opportunity to study the indictment, the facts, the points of law and to fully provide legal advice to the defendant.

### **3. Delays in prosecution**

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<sup>9</sup> Article 14(5) of the ICCPR notes that, "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

With respect to the determination of the days for providing testimony, the majority of the time the court will stipulate to only hear testimony from one person on any given day and to only use the morning to do so. The military court makes a record of testimony by writing it down by hand after summarizing the answers of the witness. But the summary is only read to the witness, prosecution, and lawyer once the witness has finished giving his/her testimony [which may be over several days]. This results in an incomplete record of witness testimony and the legal parties and witnesses unable to lodge an immediate objection. This method of witness hearings results in cases taking longer than necessary, and defendants being detained for longer than necessary. In cases in which there are a large number of witnesses, there is a concern that the defendant will be detained during prosecution in the military court longer than the period of time needed to judge or even appeal a civilian court case.

In addition to the interference in the judicial process by the use of the military court, the NCPO has further stipulated that military officials can be appointed as Peace and Order Maintenance Officers according to Head of the NCPO Order No. 3/2015. They are able to perform the duties of investigating officials in cases that are within the jurisdiction of the military court. Thai Lawyers for Human Rights has found that in practice, military officials perform multiple roles in various cases.

This is the case, for example, in the case of Resistant Citizen and the “Beloved Election” activity on 14 February 2015 and the detention of 38 students who organized an activity to commemorate one year under the coup in front of the Bangkok Art and Culture Center on 22 May 2015.

It was observed that military personnel have performed the role at the stages of accusation, arrest, investigation, filing of charges, and issuing the judgment. This has resulted in the interference in the judicial process by military at every stage. It can be said that civilians who must appear in the military court for certain crimes are subject to **“A Judicial Process in Camouflage.”** This is in contravention to the rule of law and the principles of a fair trial **and we cannot expect that those who are accused and judged through the judicial process described above have had sufficient rights or experienced fairness throughout their prosecution.**

### **3. The exercise of power without accountability in Article 44**

Article 44 of the 2014 Interim Constitution provides the authority to the Head of the NCPO, via the approval of the NCPO, to make any order to disrupt or suppress or take any other actions, regardless of the legislative, executive or judicial force of that action, and that order or action, or any performance in accordance with that order, whether it is an order, or an action or performance, is deemed to be legal, constitutional and conclusive.

To date, the Head of the NCPO has issued a total of 18 Head of the NCPO Orders and Head of the NCPO Orders (limited) that have been a combination of the amendment of laws and the exercise of executive power. Article 44 has also been used to augment the power of military officials through Head of the NCPO Order No. 3/2015 regarding the maintenance of order and national security, which is an instrument that the NCPO promulgated in order to use in place of Martial Law. The appointment of military officials as Peace and Order Maintenance Officers means that they have the power to protect and suppress the four kinds of offences<sup>10</sup> that are in the jurisdiction of the military court according to NCPO Orders. The Peace and Order

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<sup>10</sup> According to the Head of NCPO Order No. 3/2015, these crimes included offences against the King, Queen, Heir-apparent, and Regent; offences against national security; offences under the Firearms, Ammunition, Explosive Articles, Fireworks and Imitation of Firearms Act; and violations of NCPO Announcements or Orders.

Maintenance Officers have the authority to detain individuals for up to 7 days and the power to act as investigation officials. This is the provision of power that is greater than that of Martial Law.

Seven members of Dao Din (Stars on Earth)<sup>11</sup>, a student group at Khon Kaen University, who went and held a banner opposing the coup on 22 May 2015 at the Democracy Monument in Khon Kaen province, were charged under Article 12 of the Head of the NCPO Order No. 3/2015. In addition, there was the dispersal of student protests in front of the Bangkok Art and Culture Center on same day as well. Plainclothes military officials joined this dispersal action; it is unknown if the plainclothes officials were Peace and Order Maintenance Officers or not.

In addition, there are Head of the NCPO Orders issued in accordance with Article 44 that are being used for various other issues. This includes the naming of members of the assembly and local administrations, the removal and transfer of civil service positions and committees related to education, the content of the National Broadcasting and Telecommunications Commission (NBTC), addressing fishing problems, addressing human trafficking, the suspension of civil servants, and the expropriation of land in order for use for special economic purposes. There may be civil servants and people affected by NCPO Orders who are unable to call for accountability.

**It is the view of TLHR that there are at least 2 problems with the legal provisions that draw authority from Article 44. They are as follows:**

**1. The legal provisions provide broad legislative, administrative, and judicial power.**

This contravenes the principle of separations of power, which divides power among many bodies in order to create checks and balances with the exercise of power among these bodies and prevents any given body from accumulating too much power. But Article 44 concentrates all of the power with one individual, namely the Head of the National Council for Peace and Order. This then causes the government bodies and the people to be unable to monitor the exercise of power and there is the risk that the arbitrary exercise of power will result.

**2. The legal provisions provide power without accountability.** The use of various forms of authority according to Article 44 are considered legal, constitutional and conclusive. In principle, the exercise of power must be accompanied by accountability, whether it is political or legal responsibility. But Article 44 ushers in the exercise of power without accountability. Although in practice harm may be caused by the use of this power, the individuals who are harmed may not be able to demand accountability. The repetition of this results in the production of a culture of impunity.

By providing authority to a singular individual, and that this authority lacks accountability, Article 44 places the people in a situation without guarantees for their rights and liberty. Further, in practice, Article 44 has been cited widely [as a reason for actions]. This includes, for example, the taking into custody of Mr. Samruay Sambutri, the president of the Tambon (sub-district) Administrative Organization (TAO) in Dong Praram sub-strict of Muang district in Prachinburi province, while he was in a meeting with members of the TAO on 8 April 2015. His office and vehicle were searched and documents related to the tenders for various projects were seized. Another example is the threat to use Article 44 against the people who are members of the 'Love Phu Zhang' group who raised a banner opposing the construction of a rubber factory in Phayao province on 9 April 2015. The people may not be able to monitor or

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<sup>11</sup> The Dao Din is a group of university students whose activities focus on the issues of land rights and natural resources in northeastern provinces. After the 2014 coup, the group has campaigned for democracy and rights and freedoms of people.

call for the officials acting under the authority of Article 44 to be held to account according to the law.

**It is the view of TLHR that the NCPO has not had to take accountability for the coup as a result of the auto-amnesty** in Article 48 of the 2014 Interim Constitution. Further, Article 47 of the same charter provides ongoing affirmation of the legality of the NCPO Announcements and Orders and the Head of the NCPO Orders. **One could say that the NCPO has total and absolute power that is without accountability for their previous actions and extending into the future. This is the maintenance and deep penetration of the culture of impunity of those who commit violations [of the people’s rights and liberty] in Thai society.**

#### 4. Resources and “encroachment”

##### 4.1 NCPO Order Nos. 64/2014 and 66/2014 and the Forestry Master Plan

On 14 June 2014, NCPO Order No. 64/2014 regarding the suppression and cessation of encroachment and the destruction of forest resources was announced. The Order stipulated that various agencies which have a related mission were to carry out a serious and results-oriented suppression and arrest of people who encroach, seize, possess, destroy, or act in ways that cause damage to the forest, including those who are accomplices or provide assistance. The NCPO united the Internal Security Operations Command (ISOC) and the Ministry of Natural Resources and Environment to cooperate to determine a strategy and conduct the “Master plan to resolve the problems of forest destruction, trespassing of public land and sustainable management of natural resources (Forestry Master Plan),” following the authorization of the Forestry Master Plan in August 2014.<sup>12</sup>

**The Forestry Master Plan sets as a primary objective the protection and preservation of forest areas to result in at least 40% of the country being forest within 10 years.** The Plan sets as an objective the cessation of cutting trees to destroy the forest and the request for the return of forest from the possession of encroachers within 1 year. The Plan stipulates that the amount of land covered by forest in 2013 is 102.1 million rai, or 31.57% of the country. This means that if they wanted to proceed in line with their objective, state officials from various agencies would have to find more than 27.2 million rai.

NCPO Order No. 66/2014 stipulated that the implementation of Order No. 64/2014 must not impact impoverished people, those with small incomes, landless people, and people who dwelled in the forest before the Order went into force. The Forestry Master Plan itself stipulated that the first to be addressed would be the capitalists or large-scale encroachers, **but instead the last year has held the arrest, prosecution, and displacement of members of communities in many areas around the country. Impoverished and landless people were more fully impacted than capitalists, influential figures, or people who possessed a large amount of land.**

The Orders and the Master Forestry Plan were created without participation from various sectors, especially from those live in or sustain themselves from the forest who are directly impacted by their implementation. This policy defines the problem of the encroachment upon and destruction of the forest as primarily one of “national security.” Viewing encroachment by villagers as the cause of the decrease in forest area across the country leads to a method of addressing the problem through suppression, including sending soldiers led by ISOC to

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<sup>12</sup> “Master Plan to resolve the problems of forest destruction, trespassing of public land and sustainable management of natural resources” [“แผนแม่บทแก้ไขปัญหาการตัดไม้ทำลายทรัพยากรป่าไม้, การบุกรุกที่ดินของรัฐ และการบริหารทรัพยากรธรรมชาติอย่างยั่งยืน”], Available online at: <http://ilab.dopa.go.th/data/download/download-2-16-1423195115.pdf> (Accessed on 31 May 2015).

implement the Plan, without paying attention to the method of cooperating to resolve the problems, examining and verifying the rights of the community in the forest, examining the historical, traditional, and cultural context of the community, or examining the development of land use. This has led to the broad and wide-ranging violation of the rights of the people and the community in accessing land from which to subsist and the destruction of the ways of life in many areas.

The conflict over accessing both forestry and land resources, the problem of the people accessing land from which to subsist and the problem of the overlap between the land for subsistence and residence with the forest, and the arrest and prosecution of villagers who lived and farmed in the forest all predate the coup. **But the use of totalitarian power to control and manage this problem with NCPO policy has further intensified the conflict and created broad negative impacts rather than resulting in the sustainable resolution of the problems of encroachment and destruction of the forest.**

#### **4.2 The displacement of people from the forest**

After NCPO Order No. 64/2014 and the announcement of the Forestry Master Plan, arrests and displacement of people from the forest occurred in every region of the country. An initial assessment is that this policy was implemented in more than 100 communities and impacted many thousands of families. There were 48 complaints of impacts from the NCPO Orders and the Forestry Master Plan submitted to the Land and Forest Sub-committee of the National Human Rights Commission.<sup>13</sup> The majority were in areas in which there had been previous disputes that were in the process of being resolved. But the NCPO Orders and the Forestry Master Plan were taken up for immediate use by state officials to displace people from the land with no regards for any prior processes of resolution.

**The range of forms of actions taken by the state officials in line with this policy can be divided as follows:**

##### **Arrest and Prosecution**

The method of suppression of the problem of encroachment of the forest in a decisive fashion resulted in an increase in the number of arrests and prosecutions on charges related to forest encroachment or possession of forbidden wood throughout the past year. The number of arrests and prosecutions is cited by involved state agencies as an indicator of their results. In addition, cases that arose prior to the coup have been accelerated as well. From the announcement of results covering the prior six months, on 24 April 2015, the Royal Thai Police Headquarters noted that they had 1,622 accused in 2,758 cases of destruction of the forest, 235 accused in 265 cases of the sale of prohibited wild animals or products, 110 accused in 108 cases of destruction of natural resources and the environment, and 602 accused in 1,920 cases of forest and public encroachment.<sup>14</sup>

However, the figures above do not separate out the cases of prosecution of “capitalists” who encroach upon and possess large-scale tracts of land for business or systematically cut down trees from the cases of “villagers,” including both ethnic minority groups and villagers who dwelled in the area of the forest before it was declared to be forest and who have ways of life

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<sup>13</sup> This information is current as of 21 May 2015.

<sup>14</sup> *Prachatai*, “Police Director-General announced results of *lèse-majesté* cases, 239 cases are settled out of 443 cases” [“ ผบ.ตร.แถลงผลงาน 6 เดือน คดีหมิ่นแล้วเสร็จ 239 คดีจากค้างปีก่อน 443 คดี”], 24 April 2015, Available online at <http://prachatai.org/journal/2015/04/58968> (Accessed 5 May 2015). The ISOC summarizes daily results of forest land expropriation here: <http://www.isoc04.go.th/>

that have long depended on forest resources or small-scale farmers' groups or landless farmers in various regions. The structural problems in the distribution of land ownership, including state policy, has pushed them to use the forest area. Information from various regions indicates that it is primarily members of this latter group who have been arrested, prosecuted, and in many cases, sentenced to prison terms.

In many cases of arrest, a large number of officials will come to arrest many people from the same village. The people arrested include the elderly and women with small children. Sometimes, more than 1 person in a family will be arrested, but they may be individually charged in separate cases. In some cases, the accusation of how much land the villager allegedly encroached upon will be larger than the amount actually used, which means that a higher punishment will follow. The loss of land, and especially freedom, significantly impacts the lives, livelihood, and emotions of both the person who is prosecuted and the entire family. Significant prosecutions have included, for example, the case of the villagers in Thung Pa Kha in Mae La Noi district of Mae Hong Son province<sup>15</sup> and the case of Baan Chad Rabieb in Phuphan district of Sakol Nakhon province.<sup>16</sup>

**These cases further occur in a context in which impoverished people are unable to access their rights in the judicial process.** This includes as regards collateral to use to request temporary release, lawyers, having a language interpreter to aid in communication for ethnic minority groups, discrimination, including the attitude of personnel in the judicial process that use methods of punishment to chasten or make an example out of a given person in order to make other people afraid. Therefore, this is a problem that has accumulated in the judicial process over time in order to make the people who are prosecuted under the policy of expropriating forest land, who are already marginalised, into victims who lack a way to fight or demand greater justice under these circumstances. The villagers who have been prosecuted have in many cases confessed, with the hope that the court will issue a suspended sentence or will reduce the punishment by half. If so, at least they will then not lose their freedom, or will lose it for the shortest period possible, even though they must sacrifice their land without knowing whether or not they will have the opportunity to access additional land..

In addition to the prosecution of cases, forestry officials and soldiers also carry out information surveys of every family. They come to photograph communities and they have used helicopters to fly, hover, and patrol in some areas. This creates worry for villagers in the area and in some cases, villagers have been summoned to hear charges of forest encroachment for which the officials have already collected information. An example of this is the case of the Phukao-Phuphankham National Park in Nonesang district of Nong Bua Lamphu province in which at least 13 villagers were issued summons.

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<sup>15</sup> Hundreds of police and military officials arrested 39 villagers in Baan Thung Pa Kha in Mae La Noi district of Mae Hong Son province on the charges of possessing illegal teak wood. Within those arrested, there was a 70-year-old woman who became very anxious and then died before hearing the judgment of the Court of First Instance. There was also a mother with a young, five-year-old child who was sentenced to one year in prison. The wood was collected by the villagers in order to use for their houses. But the Court was interested in bringing community rights, ways of life, or culture into the court examination. This resulted in all of the villagers being imprisoned with no suspended sentences by either the Court of First Instance or the Appeal Court.

<sup>16</sup> In the case of Baan Chad Rabieb in Phuphan district of Sakol Nakhon province, the villagers were charged with trespassing in a protected forest in 2012 after they signed their names on interim land title documents. They were then told that they would be issued with land title documents. They had submitted a petition on the issue, and this meant that the case had not gone to the Court yet. But after the coup, cases in which the prosecutor had filed charges were quickly pushed through. At present, there are villagers who have confessed to the charges and 3 people who were sentenced to 4 years (reduced to 2 years), 1 person who was sentenced to 2 years (reduced to 1 year). Two of those who have been sentenced already are husband and wife, and their family has been severely affected. The families of other defendants are also anxious and depressed.

The legal proceedings against these people labeled them as “encroachers,” even though many have dwelled in the area for a long time. Or they become “log smugglers,” even though the livelihood of many has always depended on these resources in their daily life. **The arrest and detention of these people is therefore a resolution of the problem with grave impacts amidst the structural problem of the concentration of land in a small number of hands while the majority of people do not have even land from which to subsist.**

### **The eviction of communities from their land**

The practice of expropriation of forest land through the eviction and evacuation of communities that dwell or subsist on land that was proclaimed to be a forest reserve or public land (even though many villagers were there previously) takes many forms. The officials still use continual pressure to achieve the aforementioned objective, such as in the case of Kao Batr Community in Nondindaeng district of Buriram province<sup>17</sup>, the case of Kok Yao Community and Baan Bo Kaew in Khon San district of Chaiyaphum province<sup>18</sup>, the case of Permsap community in Chaiburi district of Surat Thani province<sup>19</sup>, the case of Baan Huay Buk in Muang district of Nan province<sup>20</sup>, and the case of Baan Khlong Chan in Khaokitchanakut district of Chanthaburi province.<sup>21</sup>

In the case of these forced evictions, the government and officials have not prepared and organized a new area for the villagers who must leave their homes. This creates hardship and suffering in terms of residence, livelihood, and carrying out of life for the displaced villagers.

### **The uprooting and destruction of plants and crops**

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<sup>17</sup> Officials came to constantly intimidate members of Kao Batr community in Nondindaeng in Buriram province in June and July 2014. This included sending armed soldiers into the community. They informed every family that they had to move their houses out of the community and sprayed numbers on each house. They arrested and detained the community leader and searched his house. They set up a checkpoint to inspect the people and objects leaving the area. They took over the houses of villagers who were willing to sign to leave the area. They put pressure on the families that had not left to try to force them to leave until in the end, the villagers had to leave.

<sup>18</sup> In Kok Yao community and Baan Bo Kaew in Khon San district in Chaiyaphum province, the officials put a sign up that they were searching and seizing the area. They forced the villagers to pull up all of their crops, including their fruit trees, and leave the area within 15 days. When the villagers went to complain at various agencies, there were then 40-50 police and military officials who came into the community regularly and created a constant fear in the communities. In many areas, after labeling what they will seize, the officials will create a checkpoint and not allow the villagers to use the area or collect their crops. In some areas, if the officials encounter villagers when they are patrolling, they will threaten them until the leave.

<sup>19</sup> 5 military officials went into Permsap community in Chaiburi district of Surat Thani province and ordered villagers out of the community, and then surrounded the community and entry points and would not let anyone back in. The leaders of the community were summoned and detained for 3 days at the local army base.

<sup>20</sup> The authorities alleged that 5 villagers in Baan Huay Buk of Muang district in Nan province had trespassed on protected forest. They forced them to sign the land over. If they did not sign, then they would be prosecuted. A similar situation unfolded in Baan Dong Kham Noi in the area of Tat Ton National Park. In the case of public land in Kok Nong Sum in Pathumrat district of Roi Et province, 60 military, administrative, and forestry officials set up a stage to provide information and have the villagers sign their names to indicate that they wishes to leave the area in 1 day.

<sup>21</sup> The Navy wishes to use the area of Baan Khlong Chan in Khaokitchanakut district of Chanthaburi province for maneuvers. They therefore brought charges against them for allegedly encroaching on a protected forest. The court ruled that the villagers had to leave the area. However, the villagers petitioned the National Human Rights Commission as they did not have any land. The situation was in the process of being examined and resolved and the villagers were still living in the area and collecting fruit. But military and police officials, relying on the authority of Article 44, brought the court order, which was issued in 2013-2014, to arrest the villagers to make them leave the area.

In order to force the villagers to leave the area of the forest, the officials uproot and destroy plants and crops and demolish the houses of the villagers. For example, in the case of Baan Huay Hok in Viang Haeng district of Chiang Mai province, the Huay Nam National Park officials uprooted the crops of many villagers, including the rice and corn crops. Or the case of Mr. Amae Amoh, in which the military and forestry officials uprooted more than 3,200 11-year-old rubber trees, even though they were rubber trees whose planting the government had previously supported. This has taken place in other regions as well, in which officials amass forces to uproot tens of thousands of rai of rubber trees. This causes the villagers to lack income to support their families and to lack food security.

In sum, **NCPO Order No. 64/2014 and the Forestry Master Plan are characterized by the use of a totalitarian style of power in order to manage forestry and land resources.** This exercise of power is done without any attention to the context of development of the use of the area and the dwelling of the communities, the local community decisions and management of resources, the rights of the people to have a place to live, the rights of the people to access land for subsistence and a sufficient standard of living. Rather than being a method by which to address the problem of the decrease of forest resources, the practice of expropriation instead intensifies the conflict and the use of violence in the management of land and forest. This results in the multiplication of the problem of difference in Thai society, which may reach a crisis level in the future.

#### **4.3 The use of power to pressure community movements and provide benefits to capital**

As well as the issue of forest and land resources, the exercise of authority by military officials under Martial Law and according to Article 44 of the 2014 Interim Constitution impacts conflicts in access to resources broadly. In particular, the use of Martial Law to control and place pressure upon the movements of local communities opposing large-scale development projects and to in turn provide benefits to the operations of major capital groups.

**In the first year under the NCPO, seminars, meetings, and campaigns about various natural resources were surveilled, monitored, and many events were not permitted to be organized.**<sup>22</sup> In addition, military officials cited their authority under Martial Law to summon representatives of the villagers opposing development projects to come talk, or in some cases, the officials went to the homes of leaders to meet with the villagers and forbid them from engaging in social and political movement. In some cases, they had to sign documents agreeing to cease their activities, in the same manner that was used with leaders of various political groups. This was the case with the members of Khon Rak Baan Kerd who opposed the gold mining operation in Wang Sapung district in Loei province, the members of Assembly of the Poor who called for the gates of Pak Mun dam to be permanently opened, villagers involved in opposition to drilling for petroleum in Buriram province, villagers involved in opposition to the

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<sup>22</sup> One example of an activity about natural resources that attracted the surveillance, intimidation, and shutting down by the state was the “Dun Kao Laek” walk activity that was organized in Chiang Mai in November 2014. It was a campaign in opposition to the Forestry Master Plan and a proposal of a land reform plan. The military officials forbade them from carrying out the activity and some of those who were going to join the walk were arrested. Military officials were sent to inspect a meeting between villagers and lawyers from the Community Resource Center about the Xaiburi Dam in Udon Thani province in November 2014. The villagers and lawyers were told that in the future they had to ask for permission before meeting. More than 70 officials went to arrest and forbid the Northeastern Land and Forest Network organize a seminar to talk about how to address the impacts from NCPO Order No. 64/2014 and the Forestry Master Plan. A final example of intervention was sending officials to search the houses and corn fields of the Community Seed Production and Distribution Group in Phrao district of Chiang Mai province. They claimed that there had been a complaint that they distributed adulterated seeds.

construction of a waste power plant in Bo Haew sub-district in Lampang province, and the villagers who were impacted by the construction of the Rasi Salai dam and demonstrated to pressure the Irrigation Department to swiftly make compensation payments, etc. Even students who went to provide encouragement to the villagers in areas facing problems were then summoned by soldiers to be dissuaded or were surveilled.

Putting up signs opposing various “development projects” will cause the military officials or the rulers in some areas to remove the signs. For example, when villagers in Phusang district of Phayao province put up a sign opposing a rubber factory, rangers and the assistant district officer asked them to take the sign down and claimed that the villagers had not asked for permission and it was contrary to country’s peace and order in the country. The villagers with the Assembly of the Poor in Baan Huay Thap Nai Noi in Chaiyaphun province who put up a sign opposing the construction of Pong Khunpetch dam and villagers who put up signs opposing drilling for petroleum in Kalasin and Khon Kaen provinces faced similar actions.

**In addition to the placing pressure upon the the movements of the villagers, the military officials simultaneously cite the authority from Martial Law to take action in order to provide benefits to large-scale private business groups that are carrying out projects in various areas.** For example, in the case of villagers in Baan Namun in Krabuan district of Khon Kaen province, who oppose the petroleum drilling survey of Apiko (Khorat) Limited Company, the military and police officials brought force to guard and facilitate the company’s transport of their drilling equipment. They warned the villagers that they would use Martial Law against those who opposed them.

A similar series of events took place in case of the Khon Rak Baan Kerd group that opposes gold mining in Wang Sapung district of Loei province. In addition to citing Martial Law in order to not allow the villagers to hold meetings or carry out campaign activities, the soldiers set up 4 committees in order to resolve the problems of hardship and impact of the mine. But the aforementioned committees have instead attempted to push the villagers to agree to allow the company to transport ore out of the mine in exchange for withdrawal of the legal cases against the villagers. In the end, the villagers had to accept this proposal, since the soldiers said that they would use Martial Law to transport the ore anyway.

The unjust exercise of power extends to the development projects of the state itself. Martial Law is an instrument to carry out projects quickly by skipping over the process of public hearings. For example, in the case of the construction of Pong Khunpetch dam, the Department of Irrigation went to survey the land and forced the villagers in Baan Huay Thap Nai Noi, who are a group of the Assembly of the Poor who still oppose the dam, to sign documents accepting that the dam would be constructed.

Even though the phenomenon of cooperation and provision of benefits between state power and capital is a long-standing problem in Thai society, **in the political state following the coup and amidst the grabbing and citing of special laws by the state officials, the liberty of the people to organize groups, express opinions, and demonstrate to demand resolution of increasingly severe problems have been violated. This results in the reduction or the removal of the power of the people to negotiate with the state and capital.** This then impacts their rights to participate in the allocation and use resources and to determine their own futures, and until the status of the right to have a life in a good environment is increasingly of concern.

## **5. Justice Deferred: Interference in the processes of fact-finding and prosecution in the cases related to the dispersal of protests in April-May 2010**

TLHR has observed that in addition to the NCPO’s exercise of power in various arenas, the NCPO has also interfered in the processes of fact-finding and prosecution in the cases related

to the dispersal of protests in April-May 2010. During the period of large protests of the United Front of Democracy Against Dictatorship (UDD) from March until May 2010, there were a large number of injured persons and 94 deaths that resulted from the dispersal of protests by the Center for Resolution of the Emergency Situation (CRES).<sup>23</sup> Within the totality of those who were injured and lost their lives, there were people who joined the demonstrations, state officials, and people who walked by or lived in the area close to the incident. Five years have passed since the incident. There has been no progress in cases related to injuries sustained during the dispersal of protests. In cases of deaths during the dispersal of protests, there has been progress in only 28 out of 94 cases; in these 28 cases, there has been an inquest process and the court has issued orders about the cause of death. **Two important events following the 22 May 2014 coup impacted the prosecutions related to the dispersal of protests in 2010** and are addressed below.

### **1. The dismissal of charges against Mr. Abhisit Vejjajiva and Mr. Suthep Thaugsuban**

On 28 August 2014 the Criminal Court dismissed the case against Mr. Abhisit Vejjajiva, former prime minister, and Mr. Suthep Thaugsuban, former deputy prime minister and former director of the Center for the Resolution of the Emergency Situation (CRES).<sup>24</sup> The prosecutor had filed charges of premeditated murder and attempted premeditated murder under Articles 288, 80, 83 and 84 of the Criminal Code for the events during the period of 7 April - 19 May 2010. Both defendants had participated in the crime by ordering officials from various military units to use heavy weapons to control the area and disperse the protests of the United Front of Democracy Against Dictatorship (UDD) according to the CRES orders. This resulted in a large number of deaths and injuries.

**The Court ruled to dismiss the charges for the reason that the aforementioned actions were related to the two defendants exercising the authority of their positions and duties as prime minister and deputy prime minister, as well as CRES director, according to the 2005 Emergency Decree on Public Administration in a State of Emergency.** This was not a personal criminal act or beyond their civil service duties. Therefore, it was an accusation of an offence against their positions as well as being an accusation that should be examined at the same time by the National Anti-Corruption Commission (NACC). The NACC has the authority to investigate offences against position and if the NACC indicates there is a factual basis of the accusation, then charges must be filed with the Supreme Court's Criminal Division for Political Office Holders according to Article 66 of the Prevention and Suppression of Corruption Act of 1999 and Article 9 (1) of the the Criminal Procedure for Political Office Holders Act of 1999 and NCPO Announcements Nos. 11/2014 and 24/2014, which provided the NACC with the authority to investigate and indicate the factual basis of accusations against civil service positions and duties. The Criminal Court therefore ruled that the case as not within its jurisdiction and dismissed the charges. The Court also ruled that the families of the deceased were unable to be co-plaintiffs.

Due to this decision, the only trial process that remains is that of the accusations of offences against the civil service position and duties. This has resulted in further delays to the case as the trial process must be begun anew. Even though the families of the deceased have

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<sup>23</sup> The numbers here are cited from the report of the People's Information Center.

<sup>24</sup> "The Court dismisses the case against Abhisit-Suthep' for the crackdown, Says it is within the authority of the Supreme Court's Criminal Division for Political Office Holders" ["ศาลยกฟ้องคดี "อภิสิทธิ์-สุเทพ" สั่งสลายม็อบ ซึ่งเป็นอำนาจศาลฎีกาฯ นี้ ก ก าร เ มี อ ง "], *Manager*, 28 August 2014, Available online at: <http://www.manager.co.th/Crime/ViewNews.aspx?NewsID=957000098460>, (Accessed on 28 May 2015).

appealed the decision, but there has been no progress at this time. The latest news is that on 24 February 2015, the NACC passed a resolution to press charges against Mr. Abhisit and Mr. Suthep. The NCC has begun the process of summoning witnesses to provide testimony, such as Mr. Tawin Pliensri, the former secretary-general of the National Security Council, General Prawit Wongsuwan, the deputy prime minister for security, and General Anupong Paochinda, the Minister of Interior.

## **2. The establishment of a new special case investigation committee for cases related to the dispersal of protests in 2010**

On 1 April 2015 there was a news report that General Prayuth Chan-ocha had issued Prime Ministerial Order No. 68/2015 on 2 March 2015 establishing a police investigation committee led by Police Lieutenant Colonel Sriwara Rangsiaphramanukul, the Commander of the Metropolitan Police Bureau, Mrs. Suwanna Suwannajutha, the Director-General of the Department of Special Investigation (DSI), and prosecutorial officials in order to create a framework to investigate the cases of the 99 deaths that remain outstanding. They provided the reason that a new investigation committee had to be established as a result of the transfer and retirement of many others.<sup>25</sup>

Within the cases that fall under the responsibility of the new investigation committee, there are some cases in which the court has already issued an inquest order that the deaths came from a bullet from a high-speed gun shot from the side of state officials, such as in the cases of Charoon Chaimaen and Sayam Wattanakul who were shot and killed on Dinso Road on the evening of 10 April 2010<sup>26</sup>, all 6 people who were shot in Wat Pathumwanaram on 19 May 2010<sup>27</sup>, and the cases of Mr. Phan Khamkong and a young boy, Khunakorn Srisuwan, who were shot and killed under the Ratchaprarop airport link on the evening of 14 May 2010<sup>28</sup>. In some of the cases in which there has been an inquest ruling, the court has not stipulated whose actions caused the death in question.

What is important to note about the newly-established committee is that there are 7 military officials who are part of the membership. Mrs. Suwanna Suwannajutha gave the sole reason that this is so that they will be able to, “coordinate with the involved soldiers and the investigation of the cases will be able to swiftly progress.”<sup>29</sup> **Military officials have been appointed to the committee even though during the dispersal of protests, in addition to Mr.**

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<sup>25</sup> “The police-DSI establish a new committee to examine the case of 99 deaths” [“ตร.-กรมสอบสวนคดีพิเศษตั้งทีมสอบสวนคดี 99 ศพ ชุดใหม่”], *Prachatai*, 2 April 2015, Available online at: <http://www.prachatai.com/journal/2015/04/58685>, (Accessed on 28 May 2015).

<sup>26</sup> “The court rules that the deaths of 2 red shirts on 10 April in front of Satriwit were killed by bullets from the side of the officials” [“ศาลสั่งการตาย 2 เสื้อแดง 10 เมษายนหน้าร.สตริวิทฯ วิถีกระสุนมาจากฝ่าย จนท.”], *Prachatai*, 30 September 2013, Available online at: <http://www.prachatai.com/journal/2013/09/49003>, (Accessed on 28 May 2015).

<sup>27</sup> “The Court rules that the 6 deaths in Wat Pathumwanaram were killed by soldiers – There were no black shirts in the incident” [“ศาลสั่ง 6 ศพวัดปทุมฯ เสียชีวิตจากทหาร-ไม่มีชายชุดดำในที่เกิดเหตุ”], *Prachatai*, 6 August 2013, Available online at: <http://www.prachatai.com/journal/2013/08/48039>, (Accessed on 28 May 2015).

<sup>28</sup> “The Court issues an order in the first inquest case ‘Phan Khamkong’ lost his life due to soldiers” [“ศาลสั่งได้ส่วนการตายคดีแรก “พัน ค่ำ ก อ ง” เสียชีวิตจากทหาร”], *Prachatai*, 17 September 2013, Available online at: <http://www.prachatai.com/journal/2012/09/42676>, and “The Court orders the case of ‘Isa’ a gunshot victim of May 2010 lost his life due to soldiers” [“ศาลสั่งเป็นคดีที่ 4 “ค.ช.อิซา” เหยื่อกระสุน พ.ค. 53 เสียชีวิตจากทหาร”], *Prachatai*, 20 December 2012, Available online at: <http://www.prachatai.com/journal/2012/12/44309>, (Accessed on 28 May 2015).

<sup>29</sup> “UDD is confused about the case of 99 deaths” [“นปช.งงคดี 99 ศพ”], *Khao Sod*, 8 April 2015, Available online at: [http://daily.khaosod.co.th/view\\_news.php?newsid=TUROd01ERXdOREE0TURRMU9BPT0=&sectionid=TURNd01RPT0=&day=TWpBe5TMHdOQzB3T0E9PQ](http://daily.khaosod.co.th/view_news.php?newsid=TUROd01ERXdOREE0TURRMU9BPT0=&sectionid=TURNd01RPT0=&day=TWpBe5TMHdOQzB3T0E9PQ), (Accessed on 28 May 2015).

**Abhisit, who ordered the establishment of the CRES, and Mr. Suthep, who was the director of CRES, there were many high-ranking soldiers who participated in the planning meetings. That includes General Prayuth Chan-ocha, who at that time was the deputy commander of the Army and was part of the CRES forces as well. The army is a primary party to the conflict and the case in question.**

After the committee was established in the last week of April 2015, Thai Lawyers for Human Rights was informed by 4 people who were among those injured during the dispersal of protests on 10 April 2010 that the DSI sent letters to their homes summoning them to give testimony in May.

Drawing on interviews with people who were summoned, TLHR ascertained that those summoned were demonstrators who were injured on 10 April. The group included both those who had minor injuries, such as being hit with a can, and those who sustained injuries from being shot by a high-speed gun. They had all registered to request compensation funds from the Ministry of Social Development and Human Security following cabinet resolutions of 10 January 2012 and 6 March 2012 about the provision of compensation to people impacted by the political demonstrations between 2005-2010. Those who were summoned to provide testimony were afraid that given the current political context of rule by the NCPO, they would be arrested or charged with offences related to the incident in 2010.

On 11-12 May 2015, a TLHR staff member accompanied one of the injured persons who went to give testimony at the DSI. TLHR learned from the investigation officials at the DSI that injured persons from both 10 April and 13-19 May 2010 who were summoned were drawn from a list of persons who registered for compensation and a list of those provided by the treating hospitals. When TLHR asked which case file the information that they received from this investigation would be placed into, the investigation official did not respond. The official only informed that it was unrelated to the files of those who had died but whose cases has not yet entered the inquest process. At that time, the process of summoning people who were injured had only been going on for less than a month. From the observations during the questioning of the injured persons, TLHR found that the investigating officials emphasized the questions about the events that led people to become injured.

The TLHR staff member met other injured persons who were summoned by the DSI as well. They were all concerned that although this time they were not arrested or charged, they might be in the future.

In sum, with respect to the two aforementioned incidents, it is important to pay attention to the case of the people who were injured and lost their lives in May 2010. This is a case in which a large number of people lost their lives, including Thais, foreign people, and state officials, and it is important whether or not anyone is criminally punished. When the criminal prosecution of the people who held power during that time was stopped and the new investigation committee was established, its establishment by the military junta government was problematic. This is because the head of the junta, General Prayuth Chan-ocha, and many military officials at the level of commanding officers in the junta, were involved in the dispersal of protests. In the original case about the deaths that was dismissed, military officials at the levels of both issuing orders and carrying out orders were exempt from prosecution, for the reason that the courts wanted to retain them as witnesses.

## **Conclusion**

**Although the NCPO attempted to present itself as an impartial actor who would resolve the country's problems, including addressing conflict and creating reconciliation, the Army is not impartial. The Army is one of the parties to the conflict in Thai society and in the year since the coup, the people have had their liberty restricted in various ways. The majority of those who have been prosecuted have been citizens whose ideas are not in line with the Army or the NCPO. People have been summoned in order to subject them to "attitude adjustment" to bring their thinking in line with that of the NCPO.**

Upon examination of the total picture of human rights one year after the coup, it is the view of Thai Lawyers for Human Rights that **the peoples' rights and liberty have been violated. Freedom of expression was restricted, including as regards political expression, demands for resolution of problems with natural resources, problems of livelihood, or opposition to various development projects. The people have been prohibited from participating in the resolution of the nation's problems. The people do not have the right to a fair trial, as the military officials interfere in the judicial process from the stage of arrest and detention, making accusations, carrying out investigations, filing charges, and processing civilian cases in the military court. This results in the judicial process lacking independence and impartiality. This can perhaps be called "A Judicial Process in Camouflage," which is a one that cannot find or punish the real criminals or lead to the resolution of the chronic conflict in Thai society.**

- 1. Stop trying civilians in the Military Court**
- 2. Stop exercising Article 44 of the 2014 Interim Constitution of the Kingdom of Thailand**
- 3. Return power to the people as soon as possible, provide for the drafting of the Constitution with public participation and ensure that a general election be held**

**With respect in the rights and liberty of the people  
The Thai Lawyers for Human Rights (TLHR)**