

UN Complaint for Urgent Action to the United Nations on the Judicial Harassment faced by Nada Chaiyajit, Thai Human Rights Defender

7 October 2022



#StopSLAPP

UN Complaint for Urgent Action to the United Nations on the Judicial Harassment faced by Nada Chaiyajit, Thai Human Rights Defender and LGBTIQ+ Rights Activist

Ms. Irene Khan

UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

Ms. Mary Lawlor

UN Special Rapporteur on the Situation of Human Rights Defenders

Mr. Clément Nyaletsossi Voule

UN Special Rapporteur on Freedom of Peaceful Assembly and Association

Ms. Elżbieta Karska, Ms. Fernanda Hopenhaym, Ms. Pichamon Yeophantong, Mr. Damilola Olawuyi, Mr. Robert McCorquodale

UN Working Group on Business and Human Rights

Mr. Victor Madrigal-Borloz

UN Independent Expert on Sexual Orientation and Gender Identity

Ms. Dorothy Estrada-Tanck, Ms. Melissa Upreti, Ms. Elizabeth Broderick, Ms. Ivana Radačić, Ms. Meskerem Geset Techane

UN Working Group on Discrimination Against Women and Girls

Mr. Diego García-Sayán

UN Special Rapporteur on the Independence of Judges and Lawyers

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Manushya Foundation

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**SUBJECT: UN COMPLAINT FOR URGENT ACTION TO THE UNITED NATIONS
ON THE JUDICIAL HARASSMENT FACED BY NADA CHAIYAJIT,
THAI HUMAN RIGHTS DEFENDER AND LGBTIQ+ RIGHTS ACTIVIST**

Bangkok, 7 October 2022

Dear Ms. Irene Khan, Ms. Mary Lawlor, Mr. Clément Nyaletsossi Voule, Ms. Elżbieta Karska, Ms. Fernanda Hopenhaym, Ms. Pichamon Yeophantong, Mr. Damilola Olawuyi, Mr. Robert McCorquodale, Mr. Victor Madrigal-Borloz, Ms. Dorothy Estrada-Tanck, Ms. Melissa Upreti, Ms. Elizabeth Broderick, Ms. Ivana Radačić, Ms. Meskerem Geset Techane, and Mr. Diego García-Sayán,

This complaint is respectfully submitted for consideration under your mandates, requesting urgent action to stop the ongoing judicial harassment against **Nada Chaiyajit**, an Intersex-trans woman Human Rights Activist and defender of LGBTIQ+ rights and corporate accountability for 15 years, as well as the Human Rights Campaign Advisor at [Manushya Foundation](#), and the Sexual Orientation, Gender Identity, and Expression Sex Characteristics (SOGIESC) advisor for the [Thai Business and Human Rights Network](#), on whose behalf she submits complaints to the National Human Rights Commission of Thailand (NHRCT) and other government agencies related to gender discrimination and sexual harassment in the workplace.

The criminalization of Nada Chaiyajit’s human rights work

On 10 September 2022, Nada Chaiyajit received a court summons asking her to appear on 31 October 2022 at the General Criminal Court of Ratchada in Bangkok for a preliminary hearing to be informed of potential charges against her. Nada Chaiyajit is being sued for defamation by Mr. Santsith Naothaworn, politician and elected Bangkok councilor from the Move Forward Party, for Ms. Chaiyajit’s social media posts denouncing sexual harassment.¹ The summons follow a complaint filed under Articles 326 (“defamation”), 328 (“libel”) and 91 (“multiple distinct offenses”) of the Criminal Code. In her social media posts, Nada Chaiyajit condemned Mr. Naothaworn for having sexually harassed a transgender woman (“Alice”, pseudonym) at work.

This is not the first case that Nada Chaiyajit is SLAPPed simply for exercising her human rights and promoting and protecting the rights of other human beings. In December 2021, Ms. Chaiyajit was

¹ Manushya Foundation, *Nada Chaiyajit was sued for defamation for Facebook posts denouncing sexual harassment!*, (13 September 2021), available at: <https://www.manushyafoundation.org/post/nada-chaiyajit-was-sued-for-defamation-for-facebook-posts-denouncing-sexual-harassment>; FIDH, *Thailand: Judicial harassment against women’s and LGBTIQ+ rights defender Nada Chaiyajit*, (21 September 2022), available at: <https://www.fidh.org/en/issues/human-rights-defenders/thailand-judicial-harassment-against-women-s-and-lgbtqi-rights>

charged under the COVID-19 related state emergency decree for her participation in a marriage-equality protest which took place in Ratchaprasong Intersection (Bangkok) on 28 November.²

In addition to judicial harassment, Nada Chaiyakit also faced transphobic death threats in February 2021 for assisting Ms. Phetcharin, a 21-year-old transgender woman, while being harassed by a journalist. Through messages and phone calls, Nada Chaiyakit was warned by the journalist to ‘stay out of his business.’ Her mental health was severely affected as a consequence.³

Human rights violations against Nada Chaiyakit

Thailand has seen the deterioration of democracy and growing digital dictatorship in recent years, with many individuals being summoned, charged, and even arrested for their online speech.⁴ More than 200 lèse-majesté lawsuits cases were documented between November 2020 and September 2022, 108 of which resulted from their comments made on *online* platforms.⁵ In addition, companies and powerful individuals have abused the criminal justice system and summoned individuals who expose and denounce their misdeeds.⁶ Nada Chaiyakit has become a victim of these unscrupulous practices and was summoned for merely exercising her **right to freedom of expression** online. Given the chilling effect on free speech of criminal prosecution, the UN Human Rights Committee reiterated on numerous occasions

² Manushya Foundation, *URGENT: 20 LGBTI Activists Summoned over #MarriageEquality Protest*, (14 December 2021), available at: <https://www.manushyafoundation.org/post/urgent-20-lgbti-activists-summoned-over-marriageequality-protest>

³ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtiq-persons>

⁴ Freedom House, *Freedom on the Net 2021: Thailand*, (2021), available at: <https://freedomhouse.org/country/thailand/freedom-net/2021>; Manushya Foundation, *Digital Rights in Thailand: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-digital-rights>

⁵ TLHR, สกิดิผู้ถูกดำเนินคดีมาตรา 112 “หมิ่นประมาทกษัตริย์” ปี 2563-65, available at: <https://tlhr2014.com/archives/23983>

⁶ Manushya Foundation, *People and Planet Over Profit: Thailand's Third Universal Periodic Review Cycle*, (13 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-people-and-planet-over-profit>; Manushya Foundation, *Women Human Rights Defenders push back against SLAPP charges!*, (30 September 2022), available at: <https://www.manushyafoundation.org/post/women-human-rights-defenders-push-back-against-slapp-charges>; Manushya Foundation, *#SLAPP RSAT to sue LGBTIQ+ activist Sirisak Chaited, wrongly claiming he damaged their reputation!*, (14 January 2022), available at: <https://www.manushyafoundation.org/post/rsat-to-sue-lgbtiq-activist-sirisak-chaited-wrongly-claiming-he-damaged-their-reputation>; WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum “Harnessing Levers Of Change” Asia Pacific To Be Held In Bangkok 20 -22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

that defamation laws shall not be used to stifle freedom of expression,⁷ and called on States to ensure that “human rights defenders are able to exercise their right to freedom of expression in their activities, including by decriminalizing the offenses of defamation and calumny.”⁸ The UN Human Rights Council has also expressed concerns with respect to the “abuse of legal provisions on defamation and criminal libel.”⁹

The **freedom of assembly and association** were also denied to Nada Chaiyajit, who was summoned by the police for taking the stage during the Marriage Equality protest at Ratchaprasong Intersection in Bangkok on 28 November 2021.¹⁰

Escalating trend on the use of SLAPPs against human rights defenders

Defamation cases and Strategic Lawsuits Against Public Participation (SLAPPs) are frequently used in Thailand by both State and non-State actors against human rights defenders, activists, human rights researchers and journalists denouncing rights violations.¹¹ Due to the absence of proper protective measures, crime reporting and SLAPPs are notoriously used by powerful individuals, public authorities and private companies as a weapon to suppress the online activities of human rights defenders and journalists when denouncing human rights abuses. For instance, since 2016, Thammakaset, a Thai poultry company, has brought at least 37 complaints against 22 human rights defenders for sharing allegations of labor rights violations.¹² In 2019, Thammakaset filed a series of criminal defamation

⁷ OHCHR, UN Human Rights Committee, *General comment No. 34 on Article 19: Freedoms of opinion and expression*, (12 September 2011), available at: <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>; <https://www.forum-asia.org/?p=31393>; OHCHR, *Thailand: UN experts condemn use of defamation laws to silence human rights defender Andy Hall*, (17 May 2018), available at: <https://www.ohchr.org/en/press-releases/2018/05/thailand-un-experts-condemn-use-defamation-laws-silence-human-rights>; OHCHR, UN Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, (25 April 2017), available at: <https://www.ohchr.org/en/documents/concluding-observations/ccprthaco2-concluding-observations-second-periodic-report>

⁸ OHCHR, UN Human Rights Committee, *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2767/2016*, para 11, (29 August 2018), available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/262/35/PDF/G1826235.pdf?OpenElement>

⁹ UN Human Rights Council, *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social And Cultural Rights, Including The Right To Development, Resolution adopted by the Human Rights Council, 12/16, Freedom of opinion and expression*, (12 October 2009), para 3, available at: <https://digitallibrary.un.org/record/668494?ln=en>

¹⁰ Manushya Foundation, *URGENT: 20 LGBTI Activists Summoned over #MarriageEquality Protest*, (14 December 2021), available at: <https://www.manushyafoundation.org/post/urgent-20-lgbti-activists-summoned-over-marriageequality-protest>

¹¹ Manushya Foundation, *People and Planet Over Profit: Thailand's Third Universal Periodic Review Cycle*, (13 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-people-and-planet-over-profit>

¹² Fortify Rights, *Thailand: Protect Human Rights Defenders from SLAPP*, (18 March 2022), available at: <https://www.fortifyrights.org/tha-inv-2022-03-18/>

lawsuits against human rights defenders who expressed support on social media for other human rights defenders targeted by the company in defamation cases.¹³ State actors have also long wielded defamation complaints to target activists and human rights defenders.¹⁴

In September 2020, a committee tasked with investigating defamatory content against the Prime Minister and his duties on social media platforms was established. Within less than a year, over 100 cases have been under *lèse-majesté*, defamation provisions and cyber laws, against those criticizing the Prime Minister.¹⁵

Since the military coup in 2014, it is estimated that more than 450 women human rights defenders have been subject to intimidation and harassment through SLAPPs.¹⁶

Request to examine the urgent action in support of Nada Chaipayjit

We request you to examine this complaint at the earliest opportunity and correspond with the government of Thailand, among other appropriate actions, to end all acts of harassment, including at the judicial level, against Nada Chaipayjit, and respect her right to due process and fair trial.

We also ask you to consider the Thai government's track record of respecting its international human rights obligations to advance human rights while examining this complaint, and urge it to decriminalize defamation by repealing sections 326 to 333 of the Criminal Code and enact a stand-alone anti-SLAPP law to ensure legal protections against SLAPPs aiming at silencing dissents, and protect individuals from judicial harassment by the State and non-State actors.

In case you require additional information, please do not hesitate to contact Ms. Emilie Palamy Pradichit, Founder and Executive Director of Manushya Foundation, whose contact details have been provided in Annex 1.

Your attention and action on this urgent matter is highly appreciated.

Sincerely,

¹³ Fortify Rights, *Thailand: Drop Charges, End the Judicial Harassment of Former National Human Rights Commissioner and Others*, (16 August 2021), available at: <https://www.fortifyrights.org/tha-inv-2021-08-16/>

¹⁴ Human Rights Watch, *To Speak Out is Dangerous, Criminalization of Peaceful Expression in Thailand*, (24 October 2019), available at: <https://www.hrw.org/report/2019/10/24/speak-out-dangerous/criminalization-peaceful-expression-thailand>; Article 19, *Thailand: Decriminalise defamation*, (31 March 2021), available at: <https://www.article19.org/resources/thailand-decriminalise-defamation/>

¹⁵ Article 19, *Thailand: Stop defamation cases against the Prime Minister's critics*, (10 June 2021), available at: <https://www.article19.org/resources/thailand-stop-defamation-cases-against-prime-ministers-critics/>

¹⁶ WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum "Harnessing Levers Of Change" Asia Pacific To Be Held In Bangkok 20-22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

Manushya Foundation (MF)

ANNEX 1

DETAILS ON THE JUDICIAL HARASSMENT CASE AGAINST NADA CHAIYAJIT

Name of the victim(s):	Nada Chaiyajit
Gender:	Intersex-trans woman
Nationality:	Thai
Profession:	Human Rights Campaign Advisor at Manushya Foundation

<p>Describe human rights activities in which the victim(s) is/are engaged, including involvement with human rights organizations (the name of the organization, main activities, focus area etc.)</p>	<p>Engagement of Ms. Nada Chaiyajit in human rights activities</p> <p>Human rights activist and defender of LGBTIQ+ issues and corporate accountability for 15 years, Ms. Chaiyajit contributes to the protection and respect for human rights in Thailand. She is Human Rights Campaign Advisor at Manushya Foundation, and the Sexual Orientation, Gender Identity, and Expression Sex Characteristics (SOGIESC) advisor for the Thai Business and Human Rights Network, on whose behalf she submits complaints to the National Human Rights Commission of Thailand (NHRCT) and other government agencies related to gender discrimination and sexual harassment in the workplace.</p> <p>As a transgender woman, Ms. Chaiyajit experienced first-hand negative impacts of discrimination and encountered several obstacles to getting an education, including persistent exclusion from school tests because of her gender expression. She was subjected to levels of violence and discrimination, including harassment from both professors and students. Ms. Chaiyajit dropped out of university and enrolled again to complete her bachelor's degree at 33 years old in 2013. After she graduated, she was turned down by the University when she applied to have her diploma and transcript issued. In Thailand, it is mandatory to attach a photo to the diploma; there are several guidelines that must be followed when taking the photo, including wearing a certain gown that is gender specific.¹⁷</p> <p>Discrimination against LGBTIQ+ persons is widespread: Ms. Chaiyajit plays a crucial role in defending fundamental rights and protecting victims. She does this by documenting human rights violations, providing victims legal assistance, and raising awareness of human rights at both national and international levels. Thailand lacks a legal framework protecting the rights of LGBTIQ+ persons. Although the 2015 Gender Equality Act (“the Act”) defines unfair gender discrimination and creates protection for people who identify themselves as male, female or of a different appearance from sex assigned at birth,¹⁸ in line with sections 4 and 27 of the 2017 Constitution of Thailand, stipulating that all persons are equal before the law and shall enjoy equal protection under the law,¹⁹ it does not explicitly protect from discrimination based on sexual</p>
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¹⁷ Outright Action International, *Nada Chaiyajit, Gender Activist, Advances Rights For Trans Students In Thai University*, (12 September 2017), available at: <https://outrightinternational.org/content/nada-chaiyajit-gender-activist-advances-rights-trans-students-thai-university>

¹⁸ Gender Equality Act B.E. 2558 (2015), available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=100442&p_country=THA&p_count=441

¹⁹ Thailand's Constitution of 2017, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103607/132859/F-1348511433/THA103607%202019.pdf>

	<p>orientation and gender identity, resulting in numerous cases of discrimination faced by the LGBTIQ+ community. The Act also fails to protect LGBTIQ+ persons from gender-harassment, gender-based hate speech and hate crimes, arbitrary arrests, and judicial harassment.²⁰ Transgender identity is neither legally recognized. The Person Name Act of 1962 prohibits making changes to one’s legal title, sex, and gender in official documents for transgender people, and allows it for intersex people under strict conditions, such as showing of medical proof of intersexuality at birth and after a gender confirmation surgery.²¹</p> <p>A 2018 UNDP study on Legal Gender Recognition in Thailand indicates that the absence of a law allowing transgender people to change their title, sex, or gender on official documentation creates substantial barriers to social inclusion and enjoyment of human rights.²² Indeed, in January 2021, an investigating officer at the general consulate of the Ministry of Foreign Affairs accused a transgender person of being a criminal during her passport renewal procedure, because her gender identity and expression did not match her given sex at birth, which resulted in significant delay in getting her passport.²³ LGBTIQ+ Youth are also discriminated against at school, particularly when dress codes are enforced in accordance with their sex assigned at birth. If transgender students cross-dress, they risk being banned from entering specific programmes or taking exams.²⁴</p> <p>1. Fighting for the inclusion of LGBTIQ+ people in education settings</p> <p>1.1. Challenging the university’s regulations: A major step in her fight for equal rights was when she was a university student the second time around, when she decided to dispute the rules at her university. In a landmark case, Ms. Chaiyajit petitioned the university to issue her documents according to her gender identity. The university approved her request, for the first time ever, laying the groundwork for Thai transgender students to get official documents according to</p>
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²⁰ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at:

<https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtqi-persons>

²¹ Person Name Act B.E. 2505 (1962), Unofficial Translation, available at:

<https://report.dopa.go.th/laws/document/2/221.pdf>

²² UNDP, *Legal Gender Recognition in Thailand: A Legal and Policy Review*, (1 May 2018), available at:

<https://www.undp.org/thailand/publications/legal-gender-recognition-thailand-legal-and-policy-review>

²³ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at:

<https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtqi-persons>

²⁴ Manushya Foundation, *The Rights of LGBTIQ+ Youth And Children In Thailand: Joint Submission To The UN Universal Periodic Review (UPR) For Thailand's Third UPR Cycle 39th Session Of The UPR Working Group*, (25 March 2021), available at: <https://www.manushyafoundation.org/joint-upr-submission-lgbtqi>

	<p>the gender with which they identify. Thanks to Ms. Chaiyajit’s efforts, all seven transgender students graduating that year were respected the right to have their gender recognized in their certificates and transcripts as well as to wear clothes to match their gender identity when attending the graduation ceremony.²⁵</p> <p>1.1.2. Submitting a complaint to the Committee on Unfair Gender Discrimination (WorLorPor): Through her legal expertise, Ms. Chaiyajit successfully defended the rights of transgender people in Thailand under the Gender Equality Act.²⁶ After having submitted the above-mentioned petition at the university level, Ms. Chaiyajit went further and filed an official complaint to the Committee on Unfair Gender Discrimination (WorLorPor) at the federal level. The requirement for the Committee to invite both parties to the table made it extremely challenging. Following her conversations with WorLorPor and owing to the submission of an internal petition at her university, Ms. Chaiyajit won her case to modify the policy at the university she had studied.²⁷ More broadly, this has established a nationwide precedent for government organizations and enterprises, both in the private and public sectors, that any policy that discriminates against transgender people is unlawful.²⁸</p> <p>2. Combating rising LGBTIQ-phobia: Ms. Chaiyajit has assisted multiple victims of gender-based hate in seeking justice. In January and February 2021, Ms. Phetcharin, a 21-years-old transgender woman from Loei province, received threatening messages and phone calls from a man who claimed to be a journalist from Thairath TV. The woman reached out to Ms. Chaiyajit who assisted Ms.</p>
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²⁵ Outright Action International, *Nada Chaiyajit, Gender Activist, Advances Rights For Trans Students In Thai University*, (12 September 2017), available at: <https://outrightinternational.org/content/nada-chaiyajit-gender-activist-advances-rights-trans-students-thai-university>

²⁶ Outright International, *Nada Chaiyajit, Gender Activist, Advances Rights For Trans Students In Thai University*, (12 September 2017), available at: <https://outrightinternational.org/content/nada-chaiyajit-gender-activist-advances-rights-trans-students-thai-university>

²⁷ Outright Action International, *Nada Chaiyajit, Gender Activist, Advances Rights For Trans Students In Thai University*, (12 September 2017), available at: <https://outrightinternational.org/content/nada-chaiyajit-gender-activist-advances-rights-trans-students-thai-university>

²⁸ Outright Action International, *Nada Chaiyajit, Gender Activist, Advances Rights For Trans Students In Thai University*, (12 September 2017), available at: <https://outrightinternational.org/content/nada-chaiyajit-gender-activist-advances-rights-trans-students-thai-university>

	<p>Petcharin in seeking justice.²⁹ Currently, the case is under investigation by the Office of the Attorney General and Bang Sue Police Station.</p> <p>LGBTIQ+ community face severe exclusion in the workplace. While gay and lesbian face unfair treatment toward job promotion and equal welfare, transgender people are the most vulnerable in terms of recruitment. For instance, in 2020, Fluke, a transgender intern at Central Plaza Westgate, was denied access to gender-specific restrooms. In another case, June, a transgender woman, was rejected a job at Cute Press exclusively because of her gender identity, as the position was only open for cisgender women. In 2021, Mimi, a transgender employee at Gaysorn Village Department Store, was subjected to sexual harassment by the company's owner.³⁰</p> <p>Ms. Chaiyajit has assisted multiple victims of discrimination in the workplace. For instance, she provided pro-bono legal services to combat workplace discrimination and advance LGBTIQ+ people's rights. Ms. Chaiyajit brought justice to Pairie in the case Pairie v. Samsung and Adecco Thailand. In addition to the legal support, Ms. Chaiyajit also conducted advocacy online, sharing on Facebook the story of Ms. Pairie, a transgender woman who sought a job as a salesperson for Thai Samsung Electronics, and starting a petition on Change.org.³¹ Ms. Pairie applied for a position with Adecco Thailand, a recruitment agency. She was then contacted by a representative from Samsung, indicating that there is a problem with her documents because her appearance does not match her title. Ms. Chaiyajit was able to tackle the phobia that led to SOGIESC economic exclusion and raise public awareness as well as support the victim of gender discrimination. On 18 September 2019, in Surat Thani, the representatives from Samsung Electronics and Adecco Thailand met with Ms. Pairie to apologize to her for the incident. Moreover, the meeting created a platform for constructive and frank engagement between the two companies and Ms. Pairie, along with representatives from the Rainbow Sky Association of Thailand and the Manushya Foundation to discuss remedy for Ms. Pairie, as well as to stress on the importance and necessity for both companies to conduct meaningful stakeholder</p>
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²⁹ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtig-persons>

³⁰ Manushya Foundation, *Sexual Orientation, Gender Identity And Expression, And Sex Characteristics (SOGIESC) Rights In Thailand: Joint Submission To The UN Universal Periodic Review (UPR) For Thailand's Third UPR Cycle, 39th Session Of The UPR Working Group*, (25 March 2021), available at: <https://www.manushyafoundation.org/joint-upr-submission-sogiesc>

³¹ Change.org, *เรียกร้องให้ Samsung ออกมาแสดงความรับผิดชอบ เลือกปฏิบัติ ไม่รับบุคคลข้ามเพศเข้าทำงาน*, available at: <http://bitly.ws/uZYW>

	<p>engagement and enforce human rights due diligence in line with global standards. In relation to remedy for Ms. Pairie, Thai Samsung Electronics and Adecco Thailand have considered remedial measures respecting human dignity and human rights, in line with both Samsung and Adecco’s business conduct guidelines that provide equal opportunities to all qualified employees and applicants.³²</p> <p>3. Battling disinformation and myths about LGBTIQ+ people and fighting for their legal gender recognition: Through her activism and human rights work, Ms. Chaiyajit seeks to assert LGBTIQ+ people’s rights and raise awareness of their plight in Thailand. Ms. Chaiyajit applies an intersectional lens to her work, meaning that she fights for the respect of human rights of all LGBTIQ+ persons, including those who face extensive legal discrimination and massive violence due to the intersection between their gender or sexual orientation and their other characteristics. This includes LGBTIQ+ refugees and asylum seekers, LGBTIQ+ persons with disabilities, HIV, LGBTIQ+ people living in the Deep South of Thailand, sex workers, LGBTIQ+ people part of ethnic groups etc.</p> <p>In June 2022, Ms. Chaiyajit spoke with BK Magazine about the myths and stereotypes around LGBTIQ+ people that persist in Thailand. She highlighted that the myth of transgender women is often associated with being sexual and seeking validation from men.³³</p> <p>In her role of SOGIESC advisor for Thai Business and Human Rights Network, Ms. Chaiyajit assisted Ms. Mint, a transgender woman, who was compelled to reveal her gender identity when she went to visit her friend at a hotel in Pattaya. The hotel supervisor at the front desk claimed that it was one of the hotel's regulations meant to prevent and protect the hotel’s guests from any</p>
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³² Manushya Foundation, *Tackling Gender Discrimination in the workplace: the case of June vs Cute Press SSUP*, (31 August 2020), available at: <https://www.manushyafoundation.org/post/tackling-gender-discrimination-at-the-workplace-the-case-of-june-vs-cute-press-ssup-group>; Manushya Foundation, *Joint Media Statement: Regarding Solutions To Uphold Human Rights In Adecco New Petchburi Co. Ltd. And Thai Samsung Electronics Co. Ltd.'s Supply Chains After A Discrimination Case Was Reported*, (20 September 2019), available at: <https://www.manushyafoundation.org/joint-statement-diversity-samsung-a>

³³ Manushya Foundation, *#Interview: Nada Chaiyajit debunking myths around the LGBTIQ+ community at the BK Magazine!*, (17 June 2022), available at: <https://www.manushyafoundation.org/post/interview-nada-chaiyajit-debunking-myths-around-the-lgbtqi-community-at-the-bk-magazine>; BK, *It’s time to end these backward beliefs about LGBTQ+ life in Thailand*, (10 June 2022), available at: https://bk.asia-city.com/city-living/news/its-time-to-end-these-backward-beliefs-about-lgbtq-life-thailand?fbclid=IwAR3DGD2n_CRxuX7vcmYv2GbHp8EK5vjbxUWwLI-F2uyQyd1sZ5Qxts6eZ9Q

	<p>misunderstanding or deception from transgender people. Moreover, the hotel staff emphasized that trans women are not real women. After Ms. Mint reported her case with Manushya Foundation and RSAT, the hotel manager admitted their mistake and confessed having no knowledge of the 2015 Gender Equality Act and the National Action Plan (NAP) on Business and Human Rights (BHR). Indeed, although Thailand enacted the NAP-BHR in October 2019, its implementation remains very weak, with most businesses not aware of their responsibility to respect human rights. This results in LGBTIQ+ clients facing gender discrimination when accessing services as customers.³⁴</p> <p>4. Advocating for marriage equality: The absence of legislation recognizing the rights to family establishment of LGBTIQ+ people causes significant social exclusion and human rights violations. Section 1448 of The Civil and Commercial Code stipulates that a marriage is between a man and a woman, implicitly outlawing same-sex-marriage and directly infringing upon people’s right to equality and non-discrimination.³⁵ On 17 November 2021, the Constitutional Court ruled that Section 1448 is not unconstitutional. In its ruling, the Court stated that the purpose of the marriage is “to reproduce”, during which husbands and wives create a special bonding as a family, claiming it is a "natural order" and a foundational institution of the society. The Court made the backward conclusion that a marriage of people with gender diversity cannot reproduce and thus they are unable to form such a "delicate" familial bond. The Court discouraged lawmakers from legalizing same-sex marriage by comparing same-sex couples to animals: <i>“If science discovers more details that some animal species exhibit strange biological behaviors or characteristics, they will be grouped into separate groups for further study.”</i>³⁶</p> <p>The Draft Civil Partnership Bill introduced by the Move Forward Party and approved by the Cabinet in July 2020 was passed in the first reading in June</p>
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³⁴ Manushya Foundation, *Situation Of LGBTIQ+ Persons, Including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at:

<https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtqi-persons>

³⁵ Thai Civil and Commercial Code, Section 1448-1460, available at:

<https://library.siam-legal.com/thai-law/civil-and-commercial-code-marriage-section-1448-1460/>

³⁶ Manushya Foundation, *Inhumane anti-Marriage Equality Ruling: The Constitutional Court never fails to shock us!*, (3 December 2021), available at:

<https://www.manushyafoundation.org/post/the-constitutional-court-never-fails-to-shock-us>

	<p>2022.³⁷ However, it only allows same-sex couples to register a civil partnership, which does not equal marriage. Through this Draft Bill, LGBTIQ+ couples are treated as second-class citizens,³⁸ causing significant social exclusion and human rights violations of LGBTIQ+ persons.³⁹</p> <p>Ms. Chaiyajit has been advocating for LGBTIQ+ rights for more than a decade, including for the recognition of same-sex marriage. On 28 November 2021, she participated at the Marriage Equality protest at Ratchaprasong Intersection in Bangkok. However, Ms. Chaiyajit and other 19 fellow activists were summoned by the police, as the authorities claimed the protest breached the COVID-19 restrictions. The Thai government has used the COVID-19 pandemic to justify violating the exercise of free speech and peaceful assembly, sidelining fundamental freedoms.⁴⁰</p> <p>Of note, no cases of royalists summoned under the covid-related state emergency decree have been reported over the past years, despite the numerous occasions in which they staged protests for various causes, including opposing the calls for amending the Constitution,⁴¹ or asking for the revocation of Amnesty International’s license and its expulsion from the country.⁴² The</p>
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³⁷ Manushya Foundation, *#BREAKING The Marriage Equality Bill was passed in the first reading!*, (15 June 2022), available at: <https://www.manushyafoundation.org/post/breaking-the-marriage-equality-bill-was-passed-in-the-first-reading>; Bangkok Post, *Parliament passes marriage equality bill, 3 other drafts*, (15 June 2022), available at: <https://www.bangkokpost.com/thailand/general/2326978/parliament-passes-marriage-equality-bill-3-other-drafts>

³⁸ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtig-persons>

³⁹ Manushya Foundation, *Situation of LGBTIQ+ Persons, including LGBTIQ+ Youth & Children: Thailand's Third Universal Periodic Review Cycle*, (29 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-lgbtig-persons>

⁴⁰ Manushya Foundation, *URGENT: 20 LGBTI Activists Summoned over #MarriageEquality Protest*, (14 December 2021), available at: <https://www.manushyafoundation.org/post/urgent-20-lgbti-activists-summoned-over-marriageequality-protest>

⁴¹ Al Jazeera, *Thailand royalists rally against calls for amending constitution*, (23 September 2020), available at: <https://www.aljazeera.com/news/2020/9/23/thai-royalists-march-against-calls-for-amending-constitution>; Thai PBS World, *Royalist group converges near parliament to submit letter of protest*, (17 November 2020), available at: <https://www.thaipbsworld.com/royalist-group-converges-near-parliament-to-submit-letter-of-protest/>

⁴² AP News, *Thai royalists submit petition to oust Amnesty International*, (17 February 2022), available at: <https://apnews.com/article/national-security-bangkok-amnesty-international-8be6a7e920904ad2092126a8f1faa76e>

	<p>authorities appear to encourage groups that align with the government’s political agenda and even stoke negative sentiments against human rights defenders.</p> <p>Thanks to her expertise, Ms. Chaiyajit was also invited to multiple speaking engagements to share her expertise on equal marriage. In the most recent panel discussion, which took place in August 2022, she talked about her experience fighting for marriage equality in Thailand.⁴³</p> <p>5. Campaigning: Ms. Chaiyajit raised awareness of the LGBTIQ+ people's rights and their plight in Thailand, and powered various petitions to create change on Change.org.⁴⁴</p>
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⁴³ Manushya Foundation Twitter Page, *Public tweet of 17 August 2022 about the talk on marriage equality in Thailand*, (17 August 2022), available at:

<https://mobile.twitter.com/ManushyaFdn/status/1559783264868773888>

⁴⁴ Change Organization Thailand, *SOGIESC Rights Campaigns conducted by Nada Chaiyajit*, available at:

<https://www.change.org/samsung> (September 2019); <https://change.org/ssup> (August 2020);

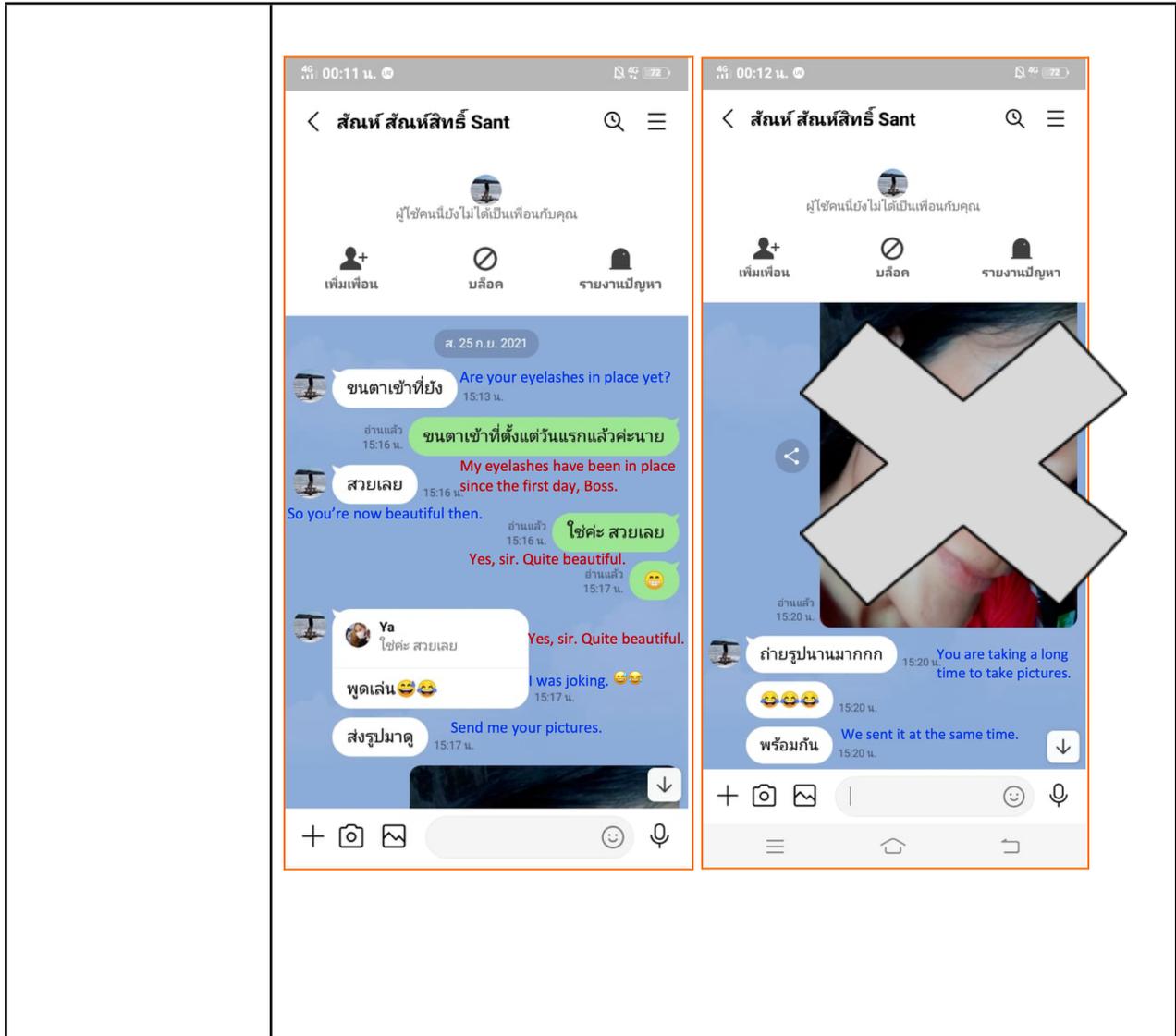
<https://www.change.org/krugolf> (June 2021); <https://change.org/gaysorn> (August 2021);

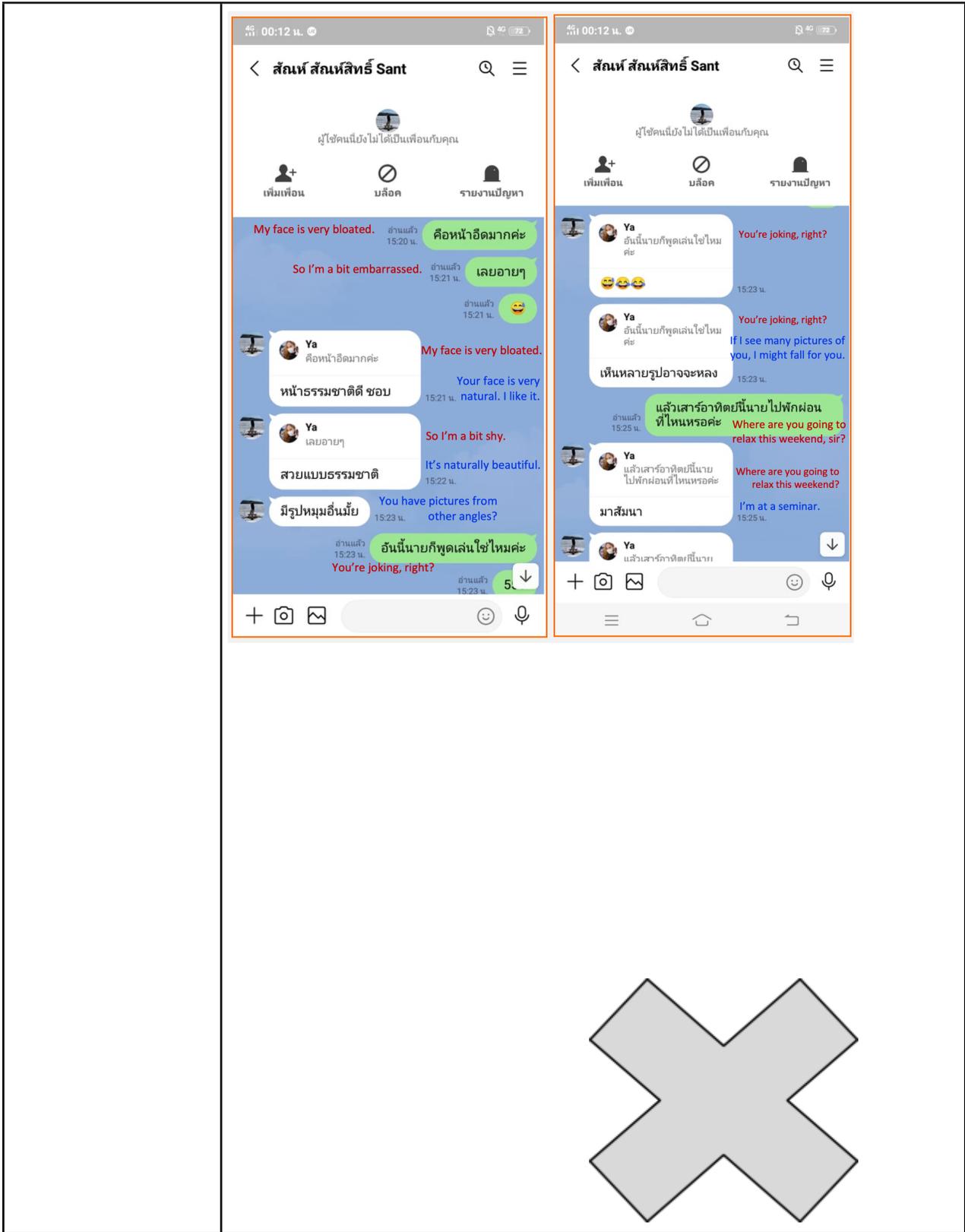
<https://change.org/buu> (November 2021); <https://change.org/bjc> (November 2021);

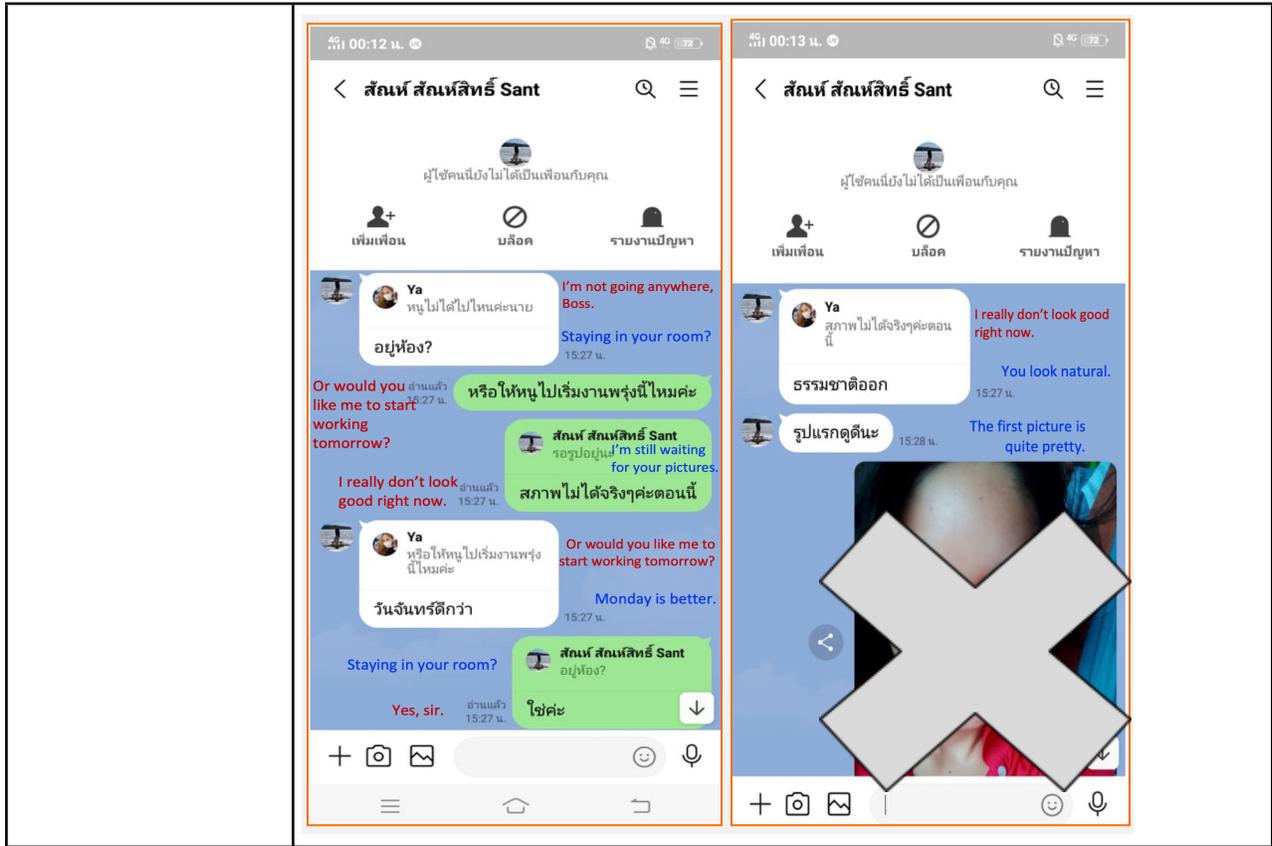
<https://www.change.org/ThaiLGBTIQSeries> (January 2022)

	<div data-bbox="482 260 878 829"> <p>เรื่องเรียนกับ ม ยกเลิกระเบียบบังคับนักศึกษาข้ามเพศให้ขอใบรับรอง 'โรคจิตสลับเพศ' เพื่อขอเข้ารับปริญญา</p> <p>จากกระแสสังคมที่วิจารณ์ถึงประกาศของโรงพยาบาลมหาวิทยาลัยบูรพาสำหรับนักศึกษาที่สำเร็จการศึกษาในปี 2561 และ 2562... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 2,007 คน</p> <hr/> <p>เรื่องเรียนกับ ชาญ ศรีวิกรม์ ประธานกลุ่มเกย์หรือเฟลอร์ดี ศรีปี กรม ห้างเกษรฯ ต้องมีนโยบายป้องกันการล่วงละเมิดทางเพศในสถานประกอบการและบังคับใช้อย่างเคร่งครัด</p> <p>อุตสาหกรรมแฟชั่น (Fashion Village) ดำเนินการขึ้นตั้งแต่ขาดสติผู้ค้าที่มีพฤติกรรมล่วงละเมิดทางเพศต่อพนักงาน... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 6,541 คน</p> <hr/> <p>เรื่องเรียนกับ กลุ่มบริหารงานบุคคล สำนักงานเขตพื้นที่มัธยมศึกษา ขอเรียกร้องให้ข้าราชการข้ามเพศทำบัตรประจำตัว และแต่งกายตามเพศสภาพได้</p> <p>ครูกลุ่มที่เป็นครูสอนภาษาต่างประเทศมานานกว่า 13 ปี กว่าครึ่งหนึ่งของชีวิตทำงาน ครูกลุ่มนี้ต้องแบกรับความขมขื่น โศกขม... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 6,850 คน</p> </div> <div data-bbox="889 260 1383 829"> <p>แคมเปญประสบความสำเร็จ</p> <p>เรื่องเรียนกับ บริษัทในเครือ SSUP Beauty and Wellness ลงชื่อขอให้ Cute Press & Oriental Princess แสดงความรับผิดชอบกรณีไม่รับคนข้ามเพศเข้าทำงาน</p> <p>Update 2 กันยายน: ขอบคณทาง SSUP และทีมท่านที่ร่วมลงชื่อสนับสนุนการรณรงค์สิทธิในอุตสาหกรรมแฟชั่นและการคุ้มครองคนข้ามเพศในโลกของการทำงาน #ไทม์ฉบับจริง... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 1,690 คน</p> <hr/> <p>แคมเปญประสบความสำเร็จ</p> <p>เรื่องเรียนกับ Samsung Thailand เรียกร้องให้ Samsung ออกมาแสดงความรับผิดชอบ เลือกปฏิบัติ ไม่รับบุคคลข้ามเพศเข้าทำงาน</p> <p>เรื่องราวของน้องแพร์ ผู้นิยามตัวเองว่าเป็น "สาวประเภทสอง" เธอคือบุคคลข้ามเพศ ผู้ไม่เคยบดบังเพศสภาพของเธอ และใช้ชีวิตด้วยความภาคภูมิใจ... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 7,275 คน</p> </div> <div data-bbox="482 844 1076 1381"> <p>เรื่องเรียนกับ ช่อง one, ช่อง GMM, ช่อง 3 หยุดตีตราความรักของ LGBTI+ ว่าเป็น 'พฤติกรรมไม่เหมาะสม'</p> <p>ในช่วงที่ตลาดซีรีส์วายของไทยกำลังบูม หลายเรื่องมีแฟนคลับมากมายทั้งในไทยและต่างประเทศ เหตุนี้ที่คนชอบก็เพราะประเด็นความหลากหลายทางเพศเป็นเรื่องก้าวหน้า... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 5,460 คน</p> <hr/> <p>เรื่องเรียนกับ บริษัท เบอร์ลี จุกเกอร์ (Berli Jucker: BJC), บริษัท ไทย เรียกร้องให้บริษัท BJC แสดงความรับผิดชอบกรณีไม่รับคนข้ามเพศเข้าทำงาน</p> <p>นี่คือเรื่องราวของ 'บอลลูน' แรงงานหญิงข้ามเพศชาวสระบุรีที่ถูกกีดกันไม่ให้สมัครงาน ในตำแหน่ง QA เพราะการแสดงออกทางเพศสภาพโดยบริษัท ไทย มาลาया กลาส จำกัด... เรียนรู้เพิ่มเติม</p> <p> Nada Chaipayjit 👤 ผู้สนับสนุน 2,182 คน</p> </div>
<p>Describe what happened, where, when, and what is the current situation (please provide as much relevant detail as possible and describe events chronologically,</p>	<p>Denouncing sexual harassment at work by Mr. Santsith Naothaworn's and seeking justice for the victim: On 10 September 2022, Ms. Chaipayjit received a court summons following a complaint for defamation by a politician, over social media posts denouncing the sexual misconduct.</p> <p>1. Background of the Case</p> <p>1.1. Inappropriate behavior during the job interview: On 14 September 2021, Ms. Alice applied for a job posting with P.S.N Land Company Limited, which provides residence service in Thong Lor. On 22 September, Ms. Alice got an</p>

<p>including any previous incidents)</p>	<p>interview with one of the administrative staff at the workplace. When she arrived, Mr. Santsith Naothaworn, the politician who accused Ms. Chaiyajit of defamation, was not in the office. However, after the administrative staff took a picture of her and shared it with Mr. Naothaworn, he showed up at the office and interviewed the woman in question. During the interview, Mr. Naothaworn revealed that her job was actually to support his role as a COVID-19 Social Support Group, namely Zen-Dai (เส้นด้าย), intended as a part of a political campaign for Bangkok Councilor’s Election. During the interview, Mr. Naothaworn asked her a very personal and inappropriate question: “<i>Did you have sex change yet?</i>”. Although Ms. Alice rightfully felt humiliated, she tolerated such behavior because she needed the job to financially survive the COVID-19 crisis.</p> <p>When Mr. Naothaworn told Ms. Alice that the role would begin the following day, she indicated that she was unable to start because she had already committed to working as an eyelash extension model. They agreed that her role would begin on 27 September. Before the end of the job interview, Mr. Naothaworn asked for her Line application ID for future communication regarding her job’s duty.</p> <p>1.2. Sexual harassment through text messages: One week after the interview, on 25 September 2021, Mr. Naothaworn contacted Ms. Alice, asking her questions unrelated to the job, such as “<i>What does your eyelash’s extension look like? Can I see it?</i>”. She was surprised and started to worry that if she refused to send pictures, he would cancel the job offer. When he finally received the photo after grumbling about how long it took her to send it, Mr. Naothaworn began praising her beauty and requesting additional photos in different poses. Having to deal with inappropriate demands and comments from Mr. Naothaworn, she tried to cut the conversation short by saying “<i>You like making jokes?</i>”; however, he replied: “<i>This time I mean it,</i>” “<i>I want to see your figure,</i>” “<i>I will look at you with my own eyes,</i>” “<i>If I see many pictures of you, I might fall for you.</i>”</p> <p>Although she realized that she may have to deal with an employer who sexually harasses her, she needed the job to economically survive and believed that since most of the work was going to be conducted in public spaces, things might improve.</p> <p><i>The text exchange between Mr. Naothaworn and Ms. Alice is attached below. The translation in English is provided in blue for Mr. Naothaworn’s messages and red for Ms. Alice.</i></p>
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1.3. Sexual harassment in the workplace: There were also series of harmful act related to sexual harassment she experienced during the time she had to work closely with him, mostly verbal abuses, such as “*Did you know you are beautiful?*”. On various occasions, he whispered in the woman’s ear words like “*You have such good shape with a small waistline.*”

On 9 October 2021, the woman claimed she experienced the worst episode of sexual harassment, up to that day. Working with Mr. Naothaworn at his office, she asked him to review the content of a social media post she was preparing as part of her job. He suddenly widened his legs and touched his genitalia. In that moment, the woman suppressed her fears, anger and humiliation, although she very clearly understood she was being treated like a sexual object. She told herself if she finishes her first month, she will resign to set herself free from such a harmful and sexually abusive working environment. She claimed to have seen a CCTV set up inside his working space, but she was very certain the video record had been erased. During the Move-Forward Party investigation on him, Mr.

	<p>Naothaworn said the CCTV was conveniently out of order. He also brought his wife and another three employees to confirm how much of a “gentleman” he was.</p> <p>On 19 October 2021, ten days after the last sexual harassment, the company administrative staff texted Ms. Alice via Line application to inform her that Mr. Naothaworn did not want her to come back to work.</p> <p><u>2. Ms. Chaiyajit’s Work to Seek Justice for Ms. Alice</u></p> <p>After she got laid off, Ms. Alice got in contact with Ms. Chaiyajit. However, Ms. Alice knew that Mr. Naothaworn was the candidate of one of the most famous political parties in Thailand, the Move Forward Party. Additionally, the Zen-Dai group is also one of the strongest COVID-19 social support groups. She also felt that her transgender identity would come into play negatively, especially since transgender people in Thailand experience high levels of discrimination.⁴⁵ Subsequently, there was a significant power imbalance between Ms. Alice and Mr. Naothaworn.</p> <p>This brought about Ms. Alice being hesitant about revealing the case of sexual harassment and seeking justice at first. Mr. Naothaworn continued his political work and he won the elections, becoming the Bangkok Councilor of Wattana District.</p> <p>After the win of Mr. Naothaworn, Ms. Alice wrote to Ms. Chaiyajit and they discussed a possible social media campaign, whilst estimating the potential risk of initiating a legal procedure against Mr. Naothaworn. After carefully weighing the situation, Ms. Alice decided to appoint Ms. Chaiyajit, specialized in pursuing justice for victims of human rights violations, to act on her behalf and expose the sexual misconduct by Mr. Naothaworn. In order to bring justice to Ms. Alice and to protect the large public from such human rights violations, it was imperative to denounce the case. Ms. Chaiyajit made the decision to spearhead this campaign to shield the woman from a defamation lawsuit.</p> <p>2.1. Social media activism: On 24 May 2022, Ms. Chaiyajit posted about the case on Facebook and Twitter, tagging Mr. Wiroj Lakkhanaadisorn, a former Bangkok governor candidate and member of the House of Representatives. With the consent of Ms. Alice, she made public the chat on LINE application between Ms. Alice and Mr. Naothaworn. In her post, Ms. Chaiyajit exclusively focused on the</p>
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⁴⁵ Human Rights Watch, *Thailand: Transgender People Denied Equal Rights*, (16 December 2022), available at: <https://www.hrw.org/news/2021/12/16/thailand-transgender-people-denied-equal-rights>

evidences and facts regarding the perpetrator’s sexual harassment behavior, as well as the legal obligation stipulated in both national and international human rights law, which require the adherence of political actors. Ms. Chaiyajit chose not to mention Mr. Naothaworn, referring to him instead as the newly elected Bangkok Councilor of Wattana District.

The Facebook post of Ms. Chaiyajit and the translation are attached below:



Nada Chaiyajit อยู่กับ SirisakPosh ChaitedSpice และ
คนอื่น ๆ อีก 3 คน

24 พฤษภาคม · 🌐

...

#ไม่เอาสมาชิกสภากรุงเทพที่มีพฤติกรรมคุกคามทางเพศ

การเลือกตั้งผู้ว่าราชการและสมาชิกสภากรุงเทพฯ ครั้งประวัติศาสตร์ได้ผ่านพ้นไปแล้ว เราได้ผู้ว่าราชการกรุงเทพคนใหม่ และสมาชิกสภากรุงเทพที่กำลังรอให้ ก.ก.ต.ประกาศรับรองผลการเลือกตั้งอย่างเป็นทางการ ในขณะที่ชาวกรุงเทพกำลังเฉลิมฉลองคำคืนแห่งชัยชนะของผู้สมัคร ส.ก. ท่านหนึ่งประจำเขตวัฒนา นาดาได้รับข้อความที่จากน้องคนหนึ่งชื่อ อลิส (นามสมมติ) เธอเป็นหญิงข้ามเพศ ที่เคยเข้ามาทำงานเป็นลูกจ้าง ในช่วงระยะเวลาสั้น ๆ ของว่าที่ ส.ก. ท่านนี้ เมื่อครั้งสมัยทำงานเพื่อสังคม ในนามกลุ่มเส้นด้าย เพื่อช่วยเหลือผู้ติดเชื้อโควิด-19 ไปพร้อม ๆ กับการลงพื้นที่ในฐานะว่าที่ผู้สมัคร ส.ก.ของพรรคก้าวไกล โดยนาดาได้รับเรื่องราวร้องทุกข์ขอความช่วยเหลือของเธอไว้พร้อม ๆ กับที่เธอขอรับคำปรึกษาจากคณะผู้ก่อตั้ง Trans For Career Thailand ซึ่ง ในขณะนั้นมีคุณชารีนา **Nijshanaaj Sudlarphaar** ภายหลังจากที่เราปรึกษา เราเห็นแล้วว่าข้อความที่ปรากฏในแชทไลน์ เป็นข้อความที่ไม่เหมาะสมที่ นายจ้างจะใช้เป็นบทสนทนาทั่วไประหว่าง **#ผู้ที่มีฐานอำนาจมากกว่าในฐานะนายจ้าง** และ **#ผู้มีแหล่งอำนาจน้อยกว่าในฐานะลูกจ้าง** มันคือการคุกคามทางเพศหรือก่อให้เกิดความรำคาญทางเพศใช่หรือไม่ ยังไม่นับเหตุการณ์ที่เธอถูกเรียกเข้าห้องทำงานส่วนตัวแล้วเจอกับ...ตามที่เธอเขียนมาแล้วให้นาดารับทราบด้านล่างนี้

"วันที่ 14 ก.ย. 2564 ฉันได้ทักข้อความไปสมัครงาน ในตำแหน่งธุรการทั่วไป ของบริษัท.... ซึ่งเป็นบริษัทด้านอสังหาริมทรัพย์ ให้เช่าที่พัก โดยมีการนัดสัมภาษณ์งานในวันที่ 22 ก.ย. 2564 เวลา 09.00 น. ได้สัมภาษณ์กับHR ของบริษัท และ HR ได้ทำการถ่ายรูปของฉันส่งไปให้กับทางเจ้าของ หลังจากนั้น เจ้าของได้เดินทางเข้ามาสัมภาษณ์ฉันด้วยตัวเอง มีถามคำถามฉันด้วยว่าแปลงเพศหรือยัง ในวันนั้นฉันได้ทดลองงานจนถึง 18.00 น. ในระหว่างวันของการทดลองงาน ช่วงบ่ายทางเจ้าของได้ให้ฉันเดินทางไปดูงานที่ศูนย์เส้นด้ายวัฒนาซึ่งอยู่ในซอยปรีดิย์พนมยงค์ 25 ค่าพาฉันเดินดูรอบๆศูนย์ รวมถึงพาเข้าห้องทำงาน ซึ่งมาทราบทีหลังว่าปกติจะห้ามคนเข้าไป ฉันไม่รู้วัตถุประสงค์ว่าเพราะอะไร ในระหว่างที่ฉันได้เข้าไปทำงานแล้ว ทุกครั้งที่ไปศูนย์ ก็จะมีคำพูดแปลก ๆ เช่นวิจารณ์เกี่ยวกับรูปร่างของฉันว่า "เอวเล็ก หุ่นดีมากเลย" และทางเจ้าของให้แอดไลน์ส่วนตัวในวันแรกของการสัมภาษณ์ และให้ฉันมาเริ่มงานในวันจันทร์ที่ 27 ก.ย. 2564 แต่ในวันที่ 25 ก.ย. 2564 ทางเจ้าของได้ส่งข้อความมาทางไลน์ในเชิง sexual

2564 แต่ในวันที่ 25 ก.ย. 2564 ทางเจ้าของได้ส่งข้อความมาทางไลน์ในเชิง sexual harassment ซึ่งทำให้ฉันรู้สึกประหลาดใจและอึดอัดมาก แต่ฉันก็ต้องการทำงานไปก่อนเพราะว่าเพิ่งมาจาก ตจว. แต่ในทุก ๆ วันหยุดประจำสัปดาห์ฉันก็ได้ไปสัมผัสกับงานที่อื่นเพราะรู้สึกอึดอัด ใจกับการถูกคุกคาม ในคำพูด และการกระทำที่ทำให้รู้สึกอึดอัดคือ มีครั้งนึงคุยงานกันเกี่ยวกับข้อความที่จะโพสต์ลงบนเพจส่วนตัวฉันนั้น ย่อชาด้านล่าง ส่วนเจ้าของนั้นบนแก้อี เค้านิ่งทำอ้าปากพร้อมกับเอามือลูบเข้าตัวเอง ฉันรู้สึกสะอิดสะเอียนมาก แต่ก็ทำเป็นไม่รู้ไม่ซีเก็บความรู้สึกไว้ทำงานต่อไป หวังว่าหากได้งานที่ใหม่ ฉันจะลาออกที่นี้ในสิ้นเดือน ต.ค.2564 แต่วันที่ 19 ต.ค. 2564 เวลา 20.30 น. โดยประมาณ ฉันได้รับแจ้งจาก HR ส่งข้อความมาทางไลน์ให้ฉันพ้นสภาพการเป็นพนักงานของบริษัท ด้วยเหตุนี้ฉันจึงต้องการเปิดเผยเรื่องราวที่ฉันรู้สึกอึดอัด ใจ ให้กับทางเพจได้รับฟังและหวังว่าจะได้รับความชอบธรรมกับเหตุการณ์ที่เกิดขึ้นค่ะ”

ทั้งท้าย โพสต์นี้ หลายคนคงตั้งคำถามว่าทำไมถึงเพิ่งมาพูดเอาตอนนี้... นาดาจะขอตั้งคำถามกลับไปว่า แล้วคุณมาละเมิดผู้เสียหายทำไม คุณเข้าใจความสัมพันธ์เชิงอำนาจไหม คนหนึ่งเป็นลูกจ้าง อยากรอดตายจากภาวะตกงานในช่วง โควิด ปากท้องที่ต้องเลี้ยงตัวเอง ถ้าคุณเข้าใจคุณจะรู้ว่าทำไม พ.ร.บ.คุ้มครองแรงงาน มาตรา 16 ถึงได้ “ห้ามนายจ้าง หัวหน้างาน ผู้ควบคุมงาน หรือผู้ตรวจงานกระทำการล่วงเกินคุกคาม หรือก่อความรำคาญทางเพศต่อลูกจ้าง”

แล้วไม่ต้องมากล่าวหาว่า นาดาหวังผลทางการเมืองใด ๆ ที่ตัดสินใจโพสต์ก็เพื่อร้องขอความยุติธรรม ในฐานะนักปกป้องสิทธิที่ชื่อตรงต่ออุดมการณ์ในการต่อสู้เพื่อความเป็นธรรมทางเพศของตัวเองเพราะนี่คือกระดูกสันหลังของนาดา กรณีของน้องอลิสไม่ใช่กรณีแรกกรณีเดียวที่นาดาส่งเสียง สังคมทราบและรับรู้ถึงบทบาทการทำหน้าที่ของนาดาเป็นอย่างดี อยากฝากถึงคุณวิโรจน์ ในฐานะอดีตผู้สมัครผู้ว่าฯกรุงเทพฯ และอดีตสมาชิกสภาผู้แทนราษฎร ที่ได้วางหลักการเรื่อง **#คนเท่ากัน** และยึดมั่นในหลักการสิทธิมนุษยชน นาดาขอให้คุณ **Wiroj Lakkhanaadisorn - วิโรจน์ ลักขณาอดิศร** ทำการตรวจสอบข้อเท็จจริงพร้อมมาตรการในการตรวจสอบคุณสมบัติผู้สมัครรับเลือกตั้งในทุกระดับและให้ความเป็นธรรมกับน้องอลิสผู้เสียหายจากเหตุการณ์ดังกล่าวนี้ด้วย หากพบว่ามีกรกระทำผิดจริงก็ขอให้มีการดำเนินการอย่างเด็ดขาดต่อว่าที่ ส.ก.ป้ายแดงคนนี้

Ms. Chaiyajit's original post denouncing Mr. Naothaworn misconduct⁴⁶

Translation of the post

#NoToBangkokCouncilorWhoCommitsSexualHarassment

The historic Bangkok Gubernatorial Election has ended. We have a new governor and council who are waiting for the EC (Election Committee) to officially certify the election results. While Bangkokians are celebrating the victory of a councilor

⁴⁶ Nada Chaiyajit's Facebook Page, *Public Post of 24 May 2022 denouncing Mr. Naothaworn misconduct*, (24 May 2022), available at: https://m.facebook.com/story.php?story_fbid=pfbid0kwE4e9dA2gtgwj5pHdzBmM2mGXcF3XB2Saq5TciCGoSqNwZ9P5LaUHsVi1ueZoKI&id=700205231

in Wattana district, I received a message from a transgender woman named Alice (pseudonym). She was a short-term employee of the councilor-elect while he was working with the not-for-profit group Sen Dai, which offers help to COVID-19 patients. At the same time, he was also carrying out his election campaign for a councilor seat as a member of the Move Forward Party. I was sent the complaint and request for help as she was asking for advice from Sarina (Nijshanaaj Sudlarphaar), the founder of Trans For Career Thailand. After discussions, we have come to a conclusion that the text messages in LINE were inappropriate, and were not normal conversations between an #EmployerWithMorePower and an #EmployeeWithLessPower. Is this an act of sexual harassment? This is not to mention when Alice was called into his office and encountered ... as told in what she informed me below:

“On 14 September 2021, I sent a message to apply for the General Administrator position at [redacted] company, which is a real estate company that manages rental properties. I was invited to an interview with the HR department on 22 September 2021 at 9 a.m. After HR sent pictures of me to the company owner, he arrived at the company to interview me himself. One of the questions he asked me was “Have you undergone sex reassignment surgery?”. On that day, I worked on probation until 6 p.m., and in the afternoon, the owner told me to go observe the Sen-dai center in Wattana, located in Pridi Banomyong 25. He gave me a tour around the center and led me into his office, which I later learned that employees were usually not allowed to enter. I didn’t know the reason why he took me to his office. While I was his employee, every time I visited the center, I would receive strange comments from him, such as critiques of my body, “Your waist is so small. You’re so fit.” He also asked me to add him on the LINE app on the interview day, and told me to start work on Monday 27 September 2021. However, on 25 September 2021, the owner sent me messages that were sexually harassing me, which surprised me and made me very uncomfortable. I had no options but to continue working because I had recently moved to Bangkok from another province. On every day off, though, I would go to interviews for other jobs because I felt very discomfoted by the verbal harassment I faced. An action that made me feel very uncomfortable happened during the time we were discussing a post that was to be published on the Facebook page of Sen-dai in Wattana. I was crouching down on the floor, while the owner was sitting in a chair, spreading his legs and stroking his crotch. I felt very nauseated, but I acted as if nothing happened, suppressed my feelings, and continued working. I was hoping that if I was offered a new job, I would resign at the end of October 2021. However, on 19 September 2021 at around 8.30 p.m., I was informed by HR that my status as an employee had been terminated. For this

reason, I would like to tell my story which has been the cause of my distress, and hope to seek justice for the incidents that happened.”

Before I end this post, many people may be asking why I only brought this to light now... I would like to ask you back: Why did you violate the victim? Do you understand power relations? One party is an employee who was desperate to survive unemployment during COVID-19 as she had to support herself financially. If you understand, you will realize why Section 16 of the Labor Protection Act mandates that “an employer, a chief, a supervisor, or a work inspector shall be prohibited from committing sexual abuse, harassment or nuisance against an employee.”

And do not accuse me of angling for political gains. The reason I decided to make this post is to demand justice as a human rights defender who is faithful to her determination to fight for gender equality. This is my core value. Alice’s case is not the first or only case I speak up about, and people in society are well aware of this role of mine. To Mr. Wiroj, as a former Bangkok governor candidate and member of the House of Representatives who has put forward the #AllIndividualsAreEqual principle and stood firm in human rights values: I would like to ask you to conduct an investigation, introduce measures to thoroughly screen candidates at all levels, and deliver justice to Alice, the individual affected by the incidents mentioned above. If misconduct is found, necessary steps need to be taken to discipline the new councilor-elect.

The post gained a lot of public traction, both on social media and on television.

www.youtube.com › watch

ก้าวไกล สอบปมร้อง ส.ก.เขตวัฒนา คูกคามทางเพศ - YouTube



พรรคก้าวไกลตั้งกรรมการสอบกรณี ส.ก.เขตวัฒนา ถูกร้องเรียนมีพฤติกรรมคุกคามทางเพศ โดย โทษสูงสุดถึงขั้นขอยกจากพรรค นาย...

YouTube · Thai PBS News · May 27, 2565 BE

ms-my.facebook.com › ... › TOP News › Video

TOP News - พรรคก้าวไกล สั่งสอบ "ว่าที่ ส.ก.เขตวัฒนา" | Facebook



ก้าวไกล สั่งสอบ "ว่าที่ ส.ก.เขตวัฒนา" หลังโดนแฉ พฤติกรรมจาว
คุกคามทางเพศอดีตลูกจ้างว่าที่สเขตวัฒนา #ก้าวไกล #คุกคามทาง...

Facebook · TOP News · May 26, 2565 BE

www.youtube.com › watch

"ก้าวไกล"ฟันโทษ ส.ก.เขตวัฒนาถูกร้องคุกคามทางเพศ โชเชี่ย ...



ก้าวไกล #คุกคามทางเพศ #สมาชิกสภากรุงเทพมหานคร เขตวัฒนา จากกรณี
นาคา โชเชี่ยด์ ที่ปรึกษาจางานรณรงค์ด้านสิทธิมนุษยชน มูลนิธิมานุษยะ ...

YouTube · TOP NEWS · Jun 5, 2565 BE

www.youtube.com › watch

"ก้าวไกล" สั่งสอบ "ว่าที่ ส.ก.เขตวัฒนา" หลัง โดนแฉ พฤติกรรมจาว ...



ก้าวไกล สั่งสอบ "ว่าที่ ส.ก.เขตวัฒนา" หลัง โดนแฉ พฤติกรรมจาว
คุกคามทางเพศอดีตลูกจ้างว่าที่สเขตวัฒนา #ก้าวไกล #เขตวัฒนา...

YouTube · TOP NEWS · May 26, 2565 BE

www.youtube.com › watch

ก้าวไกล สอบวินัย ส.ก.เขตวัฒนา โชว์หินใส่สาวสอง ยังไม่ได้ปิด



ก้าวไกล สอบวินัย ส.ก.เขตวัฒนา โชว์หินใส่สาวสอง เผยโทษ 2 สถาน
หนักสุดขับออก ขอรับสมาชิกซะะ สแกนปัญหาไม่หวั่นถึง ยังไม่ได้...

YouTube · matchon tv · May 26, 2565 BE

www.youtube.com › watch

ก้าวไกล นั่งไม่ติด ตั้ง กก.สอบวินัย ส.ก.เขตวัฒนา คุกคามทางเพศสาวสอง



ก้าวไกล #เขตวัฒนา #รายการย้อนหลัง #TOPNEWSYoutube :
<https://bit.ly/YoubTopTVFB> : <https://bit.ly/FBTOPTVIG> ...

YouTube · TOP NEWS · May 26, 2565 BE

Translation of the headlines above:

- *Move Forward Party Investigates Wattana Councilor Accused of Sexual Harassment;*⁴⁷
- *Move Forward Party Orders Investigation on Wattana Councilor-Elect;*⁴⁸
- *Move Forward Penalizes Wattana Councilor Alleged of Sexual Harassment;*⁴⁹

⁴⁷ Thai PBS YouTube Channel, *Move Forward Party Investigates Wattana Councilor Accused of Sexual Harassment*, (27 May 2022), available at: <https://youtu.be/ze4ro9w1Oqw>

⁴⁸ Top News Online Facebook Page, *Move Forward Party Orders Investigation on Wattana Councilor-Elect*, (26 May 2022), available at: <https://fb.watch/fYStnqP2Sb/>

⁴⁹ Top News YouTube Channel, *Move Forward Penalizes Wattana Councilor Alleged of Sexual Harassment*, (5 June 2022), available at: <https://youtu.be/nH24ajuiD34>

- *Move Forward Orders Investigation on Wattana Councilor-Elect After Scandalous Conduct Surfaces;*⁵⁰
- *Move Forward Orders Disciplinary Investigation on Wattana Councilor Who Shows Off to Trans Woman, Insists Not Trying to Cover Up;*⁵¹
- *Move Forward in Shambles: Party’s Committee to Investigate Wattana Councilor Sexually Harassing Trans Woman.*⁵²

2.2. Complaint submission to the National Human Rights Commission of Thailand against Mr. Naothaworn: On 30 May 2022, Ms. Chaiyajit supported Ms. Alice in submitting a complaint to the National Human Rights Commission of Thailand (NHRCT) in regards to the sexual harassment by Mr. Naothaworn on the grounds of serious misconduct, following the Move-Forward Party’s code of conduct.



Ms. Chaiyajit and Ms. Alice handing over the relevant documents to NHRCT

2.3. The investigation by the Disciplinary and Ethics Committee of the Move-Forward Party: After the Disciplinary and Ethics Committee of the Move-Forward Party conducted an investigation, the board acknowledged in an official public letter – dated 2 June 2022 and attached below – that Mr.

⁵⁰ Top News YouTube Channel, *Move Forward Orders Investigation on Wattana Councilor-Elect After Scandalous Conduct Surfaces*, (26 May 2022), available at: https://youtu.be/2iG8_TEsFwo

⁵¹ Matichon TV YouTube Channel, *Move Forward Orders Disciplinary Investigation on Wattana Councilor Who Shows Off to Trans Woman, Insists Not Trying to Cover Up*, (26 May 2022), available at: <https://youtu.be/MQLupCinYIE>

⁵² Top News YouTube Channel, *Move Forward in Shambles: Party’s Committee to Investigate Wattana Councilor Sexually Harassing Trans Woman*, (26 May 2022), available at: <https://youtu.be/3JwOxGRx7tw>

Naothaworn is responsible for sexual harassment, being found guilty of serious misconduct against the woman.

As a result, the party suspended his membership and banned him from serving in the Bangkok Council for one year. He was also placed on probation to prevent similar incidents from happening in the future. Ms. Alice received compensation from the politician, but only for the violation of labor rights because he did not respect the one-month notice to dismiss an employee, according to Thai law.



Official public letter by the Move-Forward Party finding Mr. Santsith Naothaworn guilty of serious misconduct⁵³

Translation of the letter above

Statement on Complaint Calling for Investigation into Member of Move Forward Party

⁵³ Move Forward Party, แถลงกรณีมีผู้ร้องเรียนให้ตรวจสอบพฤติกรรมของสมาชิกพรรค, (2 June 2022), available at: <https://www.moveforwardparty.org/statement/13330/>

This is in response to a complaint calling for an investigation into a member of the Move Forward Party, who currently holds the position of a Bangkok councilor. The charging party has accused the party member in question of sexual harassment or causing a nuisance with sexual behaviors upon an employee in the company.

The Disciplinary and Ethics Committee of the Move Forward Party has gathered the facts, and hearings involving the charging party and the accused have taken place. Both parties have fully exercised their right to present evidence.

From the evidence presented, conversations via the application LINE on 25 September 2021 fall under sexual harassment or nuisance sex behaviors via verbal means, which impact the feelings and dignity of the charging party. Conducts of this nature are not consistent with the ideology and values that we hold, including respect for the diversity of genders, sexes, races, and religions, as well as equality.

Following the aforementioned case, the Party has taken measures to deprive the member of certain rights, including the right to occupy any positions in the Party. The Party also will not submit the member's name for significant positions in the Bangkok Metropolitan Council. These measures are in effect for 1 year, starting from the day the Disciplinary and Ethics Committee of the Move Forward Party delivered the verdict (2 June 2022) onwards.

At the same time, the Party has ordered a probationary period, and if the member is found to repeat the offenses, the Party will take the ultimate disciplinary action against the member.

The Move-Forward Party released the statement of the investigation on Twitter on the 4 June 2022 (attached below), but omitted to include an official letter response to the complaint. As a result, the Move Forward Party faced backlash for lacking courage and hiding the statement.



พรรคก้าวไกล - Move Forw...
@MFPThailand

พรรคก้าวไกลมีมติกรณีสมาชิกพรรคถูกร้องเรียนพฤติกรรมไม่เหมาะสม
อ่านรายละเอียดได้ในลิงค์

Translate Tweet

moveforwardparty.org
แถลงกรณีผู้ร้องเรียนให้ตรวจสอบพฤติกรรมของสมาชิกพรรค - พรรคก้าวไกล

06:00 · 4/6/2565 BE · Twitter Web App

Twitter Post by the Move-Forward Party on the investigation⁵⁴

On 5 June 2022, as a result of overwhelming backlash from the Move-Forward Party’s supporters, the party decided to present the findings of the case investigation during their weekly press conference. The party alleged that they conducted investigation with respect to due process and gave equal opportunity to both parties to present their evidence. Mr. Naothaworn was found guilty of serious misconduct.⁵⁵

However, never once did Mr. Naothaworn release any statement regarding official apology regarding the sexual harassment against Ms. Alice, or any pledge to take specific actions to address the human rights violations he committed.

2.4. Official complaint submission against Mr. Naothaworn with the National Human Rights Commission of Thailand: Ten days after the Move-Forward Party made public the investigation, neither Ms. Chaiyajit nor Ms. Alice was contacted regarding compensation. As a result, they decided to submit a complaint against Mr. Naothaworn and the Move Forward Party for their failure to identify gender-based violence in the workplace. Through the complaint to NHRCT, Ms.

⁵⁴ Move Forward Party Twitter Page, พรรคก้าวไกลมีมติกรณีสมาชิกพรรคถูกร้องเรียนพฤติกรรมไม่เหมาะสม, (4 June 2022), available at:

<https://twitter.com/mfpthailand/status/1532859678744453120?s=46&t=YTHB2uGiM7WnG5c3h0odMg>

⁵⁵ Thairath, “ก้าวไกล” ชู ส.ก.คุกคามทางเพศ หากทำผิดซ้ำอีก พร้อมขับออกจากพรรคทันที, (5 June 2022), available at: <https://www.thairath.co.th/news/politic/2411041>

Chaiyajit and Ms. Alice also seek to push for the amendment of the current national code of conduct for political office holders to include local political office holders.



Ms. Chaiyajit and Ms. Alice handing over the relevant documents to the NHRCT

3. The Criminalization of Ms. Chaiyajit for publicly Denouncing the Acts of Sexual Harassment

On 10 September 2022, Ms. Chaiyajit received a court summons asking her to appear on 31 October 2022 at the General Criminal Court of Ratchada in Bangkok to be informed of potential charges against her.

The complaint stems from Ms. Chaiyajit's social media posts. Freedom of expression is the cornerstone of democracy and essential to democratic governments. Nonetheless, online venues for human rights advocates and activists living under digital authoritarianism are drastically decreasing in Thailand where freedom of speech is highly restricted.

Ms. Chaiyajit was summoned for purely exercising her right to freedom of expression online, protected under international law. This is an unacceptable disregard to basic human rights, and the UN High Commissioner for Human Rights stressed on the importance of taking steps to ensure freedom of expression is unhindered for all.⁵⁶

⁵⁶ OHCHR, *Human rights and democracy in the digital age*, (25 April 2022), available at: <https://www.ohchr.org/en/statements/2022/04/human-rights-and-democracy-digital-age>

<p>Describe actions taken by the victim(s) and/or the authorities after the alleged violation. Is there any ongoing investigation of the case?</p>	<p>After receiving the court summons, Ms. Chaiyajit informed Manushya Foundation and the International Federation for Human Rights (FIDH), as Manushya Foundation is a member of the FIDH in Thailand.</p> <p>Manushya Foundation has started to raise awareness of the case and informed the international community of yet another appalling human rights violation in Thailand, creating content in both English and Thai about Ms. Chaiyajit case and posting it on its social media accounts⁵⁷ and website.⁵⁸ The success of raising awareness of the case is demonstrated by the huge number of views, reactions, shares, likes or retweets. To illustrate, the Thai tweet has been shared more than 240 times, whereas the English blogpost on the website has received roughly 150 views.</p> <p>The Observatory for the Protection of Human Rights Defenders, a joint action programme by FIDH and World Organization Against Torture (OMCT), issued an urgent appeal in Ms. Chaiyajit case on 14 September 2022, requesting prompt action from Thai authorities to stop the judicial harassment against Ms. Chaiyajit. The Observatory specifically “condemns the judicial harassment against [Ms. Chaiyajit], which seems to be only aimed at preventing her from exercising her right to freedom of expression and her legitimate human rights activities” and</p>
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⁵⁷ Manushya Foundation Public Posts in English: Manushya Foundation Instagram Page, *Public post of 13 September in support of Nada Chaiyajit*, (13 September 2022), available at: <https://www.instagram.com/p/CicWqFqrR4n/>; Manushya Foundation Facebook Page, *Public post of 13 September in support of Nada Chaiyajit*, (13 September 2022), available at: https://m.facebook.com/story.php?story_fbid=pfbid0zevfycaytzsJyukAhaKTM9Gu7T73ePNqFHvpJm6PhbxB3PstdDpFwQfe1bYd6NTGI&id=1911394555809652; Manushya Foundation Twitter Page, *Public tweet of 13 September in support of Nada Chaiyajit*, (13 September 2022), available at: <https://twitter.com/manushyafdn/status/1569630499165065216?s=46&t=llGrFPTFQPcQu6QyBcTxNQ>; Manushya Foundation LinkedIn Page, *Public post of 13 September in support of Nada Chaiyajit*, (13 September 2022), available at:

https://www.linkedin.com/posts/manushyafoundation_slapp-wearemanushyan-whatshappeninginthailand-activity-6975394111788896256-sFpD?utm_source=share&utm_medium=member_desktop; Manushya Foundation Public Posts in Thai: on Instagram - <https://www.instagram.com/p/CicM0JvLh3v/>; on Facebook - <https://www.facebook.com/ManushyaFdn/photos/pcb.3307771982838562/3307769642838796>; on Twitter - <https://twitter.com/manushyafdn/status/1569611913402920960?s=46&t=llGrFPTFQPcQu6QyBcTxNQ>

⁵⁸ Manushya Foundation, *Nada Chaiyajit was sued for defamation for Facebook posts denouncing sexual harassment!*, (13 September 2022), available at: <https://www.manushyafoundation.org/post/nada-chaiyajit-was-sued-for-defamation-for-facebook-posts-denouncing-sexual-harassment>; Manushya Foundation, *นาดา ไชยจิตต์ ถูก ‘ฟ้องคดีปิดปาก’ หลังโพสต์ประณามพฤติกรรมละเมิดทางเพศต่ออดีตลูกจ้างหญิงข้ามเพศ*, (13 September 2022), available at: <http://bitly.ws/uHEM>

	<p>noted how judicial harassment is a tactic often employed against human rights defenders across Thailand.⁵⁹</p>
<p>Describe the link between the alleged violation and the victim’s human rights work or their exercise of human rights</p>	<p>1. Linkage between the alleged human rights violation and the victim’s human rights work: In all her human rights work, Ms. Chaiyajit’s only goal was to defend human rights and denounce violations of the same. However, she fell prey to a weak, if not defunct, human rights defenders’ protection system.</p> <p><i>The lack of protection of HRDs and lack of effective anti-SLAPP measures</i></p> <p>Thailand neither recognizes HRDs in its 2017 Constitution and national legislation nor has specific legislation comprehensively protecting whistleblowers and strengthening their rights. This aspect is partially covered by two relevant Acts: Organic Act on Counter Corruption of 1999,⁶⁰ and the Witness Protection Act of 2003 prescribing measures for protecting the person giving testimony or for whistleblowers,⁶¹ although they do not define the term “whistleblower”. Moreover, many provisions under the Witness Protection Act are vague and discretionary. On the other hand, despite being a key priority area in the Thai NAP-BHR, the measures to protect HRDs are voluntary and businesses do not follow them. The NAP-BHR is ineffective in protecting HRDs and does not put an end to the abusive use of SLAPPs to silence HRDs.⁶²</p> <p>Human rights defenders who wish to seek accountability of government officials involved in malfeasances cases have the option to do so pursuant to the 2016 Act on the Establishment of the Criminal Court for Corruption and Malfeasance Cases. Under the Act, malfeasance cases filed at the Criminal Court would be examined using the inquisitorial system. That is, judges take on an active role in investigating the facts of the case. Most Thai criminal trial judges, however, are not trained in this system as the country’s criminal procedure employs the</p>

⁵⁹ FIDH, *Thailand: Judicial harassment against Women and LGBTQI+ rights defender Nada Chaiyajit*, (21 September 2022), available at: <https://www.fidh.org/en/issues/human-rights-defenders/thailand-judicial-harassment-against-women-s-and-lgbtqi-rights>

⁶⁰ Organic Act On Anti-Corruption B.E. 2542 (1999), available at: http://web.krisdika.go.th/data/document/ext809/809752_0001.pdf

⁶¹ Witness Protection Act B.E. 2546 (2003), available at: [http://web.krisdika.go.th/data/outside/outside21/file/WITNESS_PROTECTION_ACT_B.E._2546_\(2003\).pdf](http://web.krisdika.go.th/data/outside/outside21/file/WITNESS_PROTECTION_ACT_B.E._2546_(2003).pdf)

⁶² Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

	<p>adversarial method instead.⁶³ In addition, public prosecutors potentially have the power to refuse accepting SLAPP cases, according to Section 21 of the Public Prosecution Organ and Public Prosecutors Act (2010). The Section stipulates that: “Should a public prosecutor find that a criminal prosecution will be of no use to the general public, will affect the national safety or security, or will impair significant interest of the State, he shall refer his opinion to the Attorney General who may then render an order of non-prosecution.”⁶⁴ In January 2022, the Bill on Anti-SLAPP for Corruption and Misconduct Cases, proposed by the National Anti-Corruption Commission, was approved by the cabinet.⁶⁵ The law defines SLAPP lawsuits as cases where the plaintiff intends to “suppress public participation in defense of the public interest in good faith” or “has the purpose of intimidation, suppressing information, negotiating, or ending litigation.”⁶⁶ It vests judges, public prosecutors, and inquiry officers with the power to reject SLAPP lawsuits as soon as they are filed. The law is essential to catalyze change in the fight against government and corporate corruption and misconduct, as well as promote accountability. Nevertheless, it only applies to instances of corruption and wrongdoing that fall under the jurisdiction of the National Anti-Corruption Commission.⁶⁷</p> <p>Efforts to put an end to the practice of SLAPP were previously undertaken at the Thai parliament, introducing amendments to the Criminal Procedure Code intended to equip courts with a legal basis to dismiss criminal cases initiated in bad faith against individuals involved in human rights or public interest work. Yet, these are insufficient. In December 2018, the Criminal Procedure Code was amended to include Section 161/1 as an anti-SLAPP provision. This amendment vests courts with the power to dismiss a lawsuit filed in bad faith or by distorting facts in order to intimidate or take advantage of the defendant, and prohibits the filing of a new lawsuit by the same private plaintiff on similar grounds against the</p>
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⁶³ Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

⁶⁴ Public Prosecution Organ and Public Prosecutors Act (2010), available at: <http://web.krisdika.go.th/data/law/law2/%CD23/%CD23-20-2553-a0001.pdf>; Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

⁶⁵ Bangkok Post, *Give graft a SLAPP*, (27 January 2022), available at: <https://www.bangkokpost.com/opinion/opinion/2254271/give-graft-a-slapp>

⁶⁶ U.S. Department of State, *2022 Investment Climate Statements: Thailand*, available at: <https://www.state.gov/reports/2022-investment-climate-statements/thailand/>

⁶⁷ ICJ, Advocacy leaflet about Strategic Lawsuits Against Public Participation in Thailand, available at: <https://www.ici.org/wp-content/uploads/2022/09/poster-SLAPP-EN.pdf>

	<p>defendants. Nevertheless, this mechanism does not apply to public prosecutors, even when they are representing a plaintiff in the same case that has been filed in bad faith or by distorting facts.⁶⁸ The amendment introduces another provision, Section 165/2, into the Criminal Procedure Code. It states that a defendant may declare to the court a fact or a law, which the court could use to declare the absence of merit in the case in its preliminary stage. The fact that the burden of proof is placed on the defendant or the person facing harassment—often HRDs with limited resources, finances, and access to information—makes this section extremely problematic.⁶⁹ Sections 161/1 and 165/2 have been in force since 2019.</p> <p><i>SLAPP as a weapon to protect corporate impunity in Thailand</i></p> <p>Since the 2014 coup, SLAPPs cases have been on an upward trend, with a total of 450 women human rights defenders to have faced judicial harassment.⁷⁰ It attracted the attention of the UN Human Rights Council Special Procedures in May 2018, for instance, following the judicial harassment of two human rights defenders over their denunciation of the labor conditions migrant workers were subjected to at Thammakaset Co. Ltd., a Thai company.⁷¹ In a positive development, the Bangkok Criminal Court acquitted the charges against them in 2020,⁷² and the Court of Appeals upheld the Criminal Court’s verdict in March 2022.⁷³ However, in September 2022, the company successfully petitioned against the acquittal of both HRDs; the case is now being considered by the Supreme Court.⁷⁴ In other instances, defamation lawsuits brought against HRDs have gone on with lengthy preliminary hearings for years, highly impacting them.</p>
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⁶⁸ Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

⁶⁹ Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

⁷⁰ WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum “Harnessing Levers Of Change” Asia Pacific To Be Held In Bangkok 20-22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

⁷¹ OHCHR, *UN Special Procedures Communication to the Royal Government of Thailand*, AL THA 3/2018, (10 May 2018), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24298>

⁷² Fortify Rights, *Thailand: Prevent Attacks on Free Expression by Businesses*, (9 June 2020), available at: <https://www.fortifyrights.org/tha-inv-2020-06-09/>

⁷³ Fortify Rights, *Thailand: Dismiss Ongoing Criminal Defamation Cases, Decriminalize Defamation*, (31 March 2022), available at: <https://www.fortifyrights.org/tha-inv-2022-03-31/>

⁷⁴ Sutharee Wannasiri Twitter Page, *Public Tweet of 5 September 2022 concerning the acquittal verdict*, (5 September 2022), available at: <https://twitter.com/SuthareeW/status/1566667460979224578?s=20&t=ATKBRz50xTmMME-S7YuHTQ>

The Special Procedures again drew its focus on the issue in January 2019; this time, judicial harassment against British human rights defender Mr. Andy Hall for his advocacy on the inhumane working conditions of migrant workers in pineapple processing factories belonging to Natural Fruit Company was highlighted.⁷⁵ In both cases, the applicants relied on Thailand’s criminal defamation provisions. The Special Procedures sent a communication to Thailand in each one, requesting details of the incidents and the steps which have been taken by the Thai government to ensure that such human rights abuses did not go overlooked. Among other things, the Thai government stated in its response that, “[i]n a fast-moving digital era where statement [sic] and news are spread swiftly, a danger of ‘chilling effects’ or ‘self-censorship’ as concerned may be caused or exacerbated by the defamation lawsuits. The judgment of Thai courts must also be carefully considered in such context of a danger to immunize human rights experts, CSOs, and professional media from liability **for their use of distorted, false, ambiguous or half-truth statement, rhetorical hyperbole and vigorous epithet and their failure to comply with professional ethics to guard against the possibility that such statements could unfairly and seriously damage reputation of others, including a businessman or the whole business sector leading to irreparable harms and even a total collapse of business.**”⁷⁶ The Thai government essentially confirmed that its defamation laws may be used against human rights defenders where their work is perceived as detrimental to others. This is wholly absurd; the very nature of their work requires human rights defenders to challenge the status quo. In the process of unveiling injustices, they have to speak up against powerful actors and implicated interests.

Hence, the Declaration on Human Rights Defenders provides that States must ensure the availability of adequate institutional and legal frameworks at the domestic level to prevent the unlawful targeting of human rights defenders by those they challenge. Thailand clearly has done the opposite of this, sanctioning instead the weaponization of defamation laws against those speaking their truth to power and going further as to state “*there is an unproven claim that criminal prosecution for defamation could no longer be justified in modern times*” and

⁷⁵ OHCHR, *UN Special Procedures Communication to the Royal Government of Thailand*, AL THA 1/2019, (30 January 2019), available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23739>

⁷⁶ OHCHR, *Thailand’s response to the joint communication from HRC Special Procedures No. AL THA 3/2018 dated 10 May 2018 and AL THA 1/2019 dated 30 January 2019*, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34701>

	<p>that there is “an appropriate space” for its use.⁷⁷ Thailand’s rationale explains how Thammakaset, the company behind the May 2018 prosecution of human rights defenders, was able to launch close to 40 defamation complaints against various activists who criticized their labor practices in the past four years.⁷⁸ In October 2019 and March 2020, Thammakaset filed complaints against three women human rights defenders, for having allegedly defamed Thammakaset by expressing support on social media for other HRDs facing lawsuits brought by the company.⁷⁹ On 12 September 2022, the South Bangkok Criminal Court ruled the defamation charges admissible and ordered the case to proceed to trial,⁸⁰ the proceedings are scheduled for 14 November.⁸¹</p> <p>Further evidence of the Thai SLAPP epidemic against human rights defenders can be found in the statements of human rights groups large and small, and UN bodies. The Human Rights Lawyers Association (HRLA) documented 255 SLAPP suits in Thailand from 1997 to September 2020, with the majority ending up in criminal charges with severe imprisonment terms.⁸² According to ARTICLE 19, 58 of these cases were related specifically to individuals who voiced their opinions about human rights violations, government misconduct and other issues of public concern. The Computer Crime Act and Sections 326 or 328 of the Criminal Code were used most frequently in these cases. A large portion of defendants were community leaders, or environmental or human rights activists, and some were media workers, academics, and politicians.⁸³</p>
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⁷⁷ OHCHR, *Thailand’s response to the joint communication from HRC Special Procedures No. AL THA 3/2018 dated 10 May 2018 and AL THA 1/2019 dated 30 January 2019*, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=34701>

⁷⁸ WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum “Harnessing Levers Of Change” Asia Pacific To Be Held In Bangkok 20 -22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

⁷⁹ Manushya Foundation, *People and Planet Over Profit: Thailand’s Third Universal Periodic Review Cycle*, (13 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-people-and-planet-over-profit>; Fortify Rights, *Thailand: End Judicial Harassment of Women Human Rights Defenders*, (3 June 2020), available at: <https://www.fortifyrights.org/tha-inv-2020-06-03/>

⁸⁰ Prachatai English, *Court accepts agribusiness’ defamation lawsuit against human rights defenders*, (14 September 2022), available at: <https://prachatai.com/english/node/10012>

⁸¹ WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum “Harnessing Levers Of Change” Asia Pacific To Be Held In Bangkok 20-22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

⁸² Human Rights Lawyers Association, *Database of SLAPP lawsuits in Thailand*, available at: <https://naksit.net/slappdatabase-center/>

⁸³ ARTICLE 19, *Truth Be Told: Criminal Defamation in Thai law and the case for reform*, (2021), pp. 15-16, available at: https://www.article19.org/wp-content/uploads/2021/03/Thailand_Truth_be_told_decriminalise_defamation-1.pdf

	<p><i>The need for a standalone anti-SLAPP legislation and to decriminalize defamation</i></p> <p>In April 2017, the UN Human Rights Committee expressed its concern, in response to Thailand’s second periodic report under the ICCPR, about “<i>criminal proceedings, especially criminal defamation charges, brought against human rights defenders, activists, journalists and other individuals under [the CCA, Criminal Code, Order 3/2015 and several restrictions imposed through section 44 of the interim Constitution]</i>” in contravention to the fundamental freedoms of expression and to hold opinion they are entitled to.⁸⁴ In the same vein, the UN Working Group on Business and Human Rights requested, in April 2018, that the Thai government “<i>ensure[s] that defamation cases are not used by businesses as a tool to undermine legitimate rights and freedoms of affected rights holders, civil society organizations and human rights defenders.</i>” The Working Group further recommended that Thailand enacts an anti-SLAPP legislation to prevent civil liability of targeted human rights defenders for their work.⁸⁵ At its 3rd UPR cycle, Thailand received a total of nine recommendations to provide adequate protection to human rights defenders and creation of an enabling environment to protect their work.⁸⁶</p> <p>In March 2019, Manushya Foundation and the Thai Business and Human Rights Network—a coalition of grassroots organizations, HRDs, academics and experts—developed a Thematic Assessment Chapter on the Protection of HRDs, part of the Independent CSO National Baseline Assessment (NBA) on BHR, calling on the government to ensure the protection of HRDs and enact a standalone</p>
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⁸⁴ OHCHR, UN Human Rights Committee, *Concluding observations on the second periodic report of Thailand, CCPR/C/THA.CO/2*, (25 April 2017), available at: <https://www.ohchr.org/en/documents/concluding-observations/ccprthaco2-concluding-observations-second-periodic-report>

⁸⁵ OHCHR, *Statement at the end of visit to Thailand by the United Nations Working Group on Business and Human Rights*, (4 April 2018), available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22915&LangID=E>

⁸⁶ OHCHR, UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Thailand, A/HRC/49/17*, (21 December 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/383/31/PDF/G2138331.pdf?OpenElement>

	<p>anti-SLAPP law; as well as to decriminalize defamation.⁸⁷ The organizations reiterated their calls in their Joint Comments to the Final Draft NAP on BHR.⁸⁸</p> <p>In March 2019, too, the International Commission of Jurists (ICJ) called on Thailand to strengthen its anti-SLAPP regime by adopting a standalone anti-SLAPP law or amending the Civil and Criminal Procedure Codes.⁸⁹</p> <p>On 19 September 2022, the same demands were made by 71 civil society organizations and 15 individual activists through their joint open letter to organizers and stakeholders of the 4th UN Responsible Business and Human Rights Forum. The open letter highlighted the failure of Thailand’s NAP on BHR to protect human rights defenders from getting SLAPP-ed, noting the ongoing SLAPP suits against WHRDs.⁹⁰ There are a handful of similar calls and reports made by other organizations,⁹¹ all of which point to the conclusion that SLAPP cases in Thailand are indeed a phenomenon closely linked to a campaign against human rights work carried out by private actors and government agents alike.</p> <p>Concern over Thai judiciary to admit SLAPP suit against Nada Chaiyajit</p> <p>Hence, despite Thailand’s claim that it has taken steps to suppress SLAPP cases, particularly through the introduction of two new provisions in the Criminal</p>
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⁸⁷ Manushya Foundation, *Thematic Assessment Chapter Of The Independent CSO National Baseline Assessment (NBA) On Business & Human Rights: The Protection Of Human Rights Defenders*, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-protection-hrds>

⁸⁸ Manushya Foundation, *Comments On The Final Draft National Action Plan (NAP) On Business And Human Rights (BHR) In Thailand, Chapter 4: Human Rights Defenders*, (15 March 2019), available at: <https://www.manushyafoundation.org/comments-on-the-nap-on-bhr>

⁸⁹ ICJ, *Thailand: ICJ and HRLA express concern about inadequate protections for human rights defenders in draft National Action Plan on Business and Human Rights*, (15 March 2019), available at:

<https://www.icj.org/thailand-icj-and-hrla-express-concern-about-inadequate-protections-for-human-rights-defenders-in-draft-national-action-plan-on-business-and-human-rights/>

⁹⁰ WOREC, *Joint Open Letter To Organizers And Stakeholders Of 4th United Nations Responsible Business And Human Rights Forum “Harnessing Levers Of Change” Asia Pacific To Be Held In Bangkok 20 -22 September 2022*, (19 September 2022), available at: <https://worecnepal.org/publications/147/2022-09-20>

⁹¹ Human Rights Lawyers Association, *Recommendations on the Protection of Those who Exercise Their Rights and Freedoms from Strategic Lawsuits Against Public Participations*, (October 2019), available at:

<https://th.boell.org/en/2019/12/03/recommendations-protection-those-who-exercise-their-rights-and-freeds-strategic>; Lawyers’ Rights Watch Canada, *Thailand’s SLAPP suits against defenders: One acquittal and one case dropped | Update*, (3 November 2020), available at:

<https://www.lrw.org/thailands-slapp-suits-against-defenders-one-acquittal-and-one-case-dropped-update/>;

Business & Human Rights Resource Centre, *Thailand: Rights group calls for drop of criminal SLAPP against former National Human Rights Commissioner filed by chicken company*, (3 March 2022), available at:

<https://www.business-humanrights.org/en/latest-news/thailand-rights-group-calls-for-drop-of-criminal-slapp-against-former-national-human-rights-commissioner-filed-by-chicken-company/>

	<p>Procedure Code, it has proved ineffective in practice. SLAPP suits continue to soar. In light of the above analysis related to the ineffectiveness of anti-SLAPP measures in Thailand, there is a clear nexus between the complaint currently being faced by Ms. Chaiyajit and the human rights overtones of her social media posts. Her case follows a years-long pattern which will continue to weaken the Thai activism landscape if no proper action is taken. Should her case proceed to trial, she would have the burden to prove that the proceedings against her were not initiated in bad faith. Not only would this be onerous in light of Ms. Chaiyajit’s limited capability to secure strong legal representation and therefore build a strong defense, the tendency of Thai judges to admit SLAPP suits means that there is a likelihood her trial would be skewed in favor of the plaintiff.</p> <p>2. Authorities involved: Businessman and Move Forward Party politician, Mr. Santsith Naothaworn; the Thai authorities; and the judicial system.</p> <p>3. Shrinking civic space and reprisals: SLAPP cases are just one facet of the freedom of expression conundrum in Thailand. Indeed, during both of its UPR cycles post-2014 coup, Thailand received a slew of recommendations from other governments to bring about tangible change to address its shrinking civic space; in the 2nd UPR which took place in 2016, there were a total of 69 recommendations on this subject, touching upon sub-themes including freedom of expression, freedom of association and peaceful assembly, and arbitrary arrest and detention. Despite Thailand’s acceptance of a considerable portion of these recommendations, it took almost no active steps to implement them.⁹² Thus, in its 3rd UPR which concluded last year, Thailand received even more recommendations on these same issues, totaling 84. Thailand accepted these recommendations with a few concerning exceptions. For instance, it rejected all recommendations to amend the royal defamation, sedition, and attack on honor provisions within the Criminal Code, in addition to the Computer Crime Act. It also refused to enhance protection of peaceful protesters and political opponents, and to cease arbitrary arrest, detention and harassment of civil society actors and human rights defenders.⁹³</p>
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⁹² Manushya Foundation, *Civic Space in Thailand #WhatsHappeningInThailand: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-civic-space>

⁹³ Manushya Foundation, *Thailand's Third UPR Outcome: We Must Not Congratulate the Thai Government!*, (22 March 2022), available at: <https://www.manushyafoundation.org/post/thailand-s-third-upr-outcome-we-must-not-congratulate-the-thai-government>; FIDH, *Thailand: Statement for the outcome of the Universal Periodic Review (UPR)*, (24 March 2022), available at: <https://www.fidh.org/en/region/asia/thailand/oral-statement-for-the-outcome-of-the-upr-of-thailand>

	<p>Civil society bears the brunt of the Thai government’s clampdown on free speech, especially in the wake of the coronavirus outbreak. Aside from the Criminal Code and Computer Crime Act, the government also started enforcing the Emergency Decree on Public Administration in the State of Emergency in 2020.⁹⁴ The law, originally intended to control the spread of the virus, was subsequently wielded against civil society groups and anti-royal activists who attempted to shed light on Thailand’s mishandling of the pandemic. Between May 2020 and August 2021, some 900 protesters were charged on the basis of emergency regulations for arranging peaceful protests and sharing their views through digital platforms.⁹⁵ The government equated their activities to misinformation-spreading or fearmongering, both punishable by imprisonment and exorbitant fines.⁹⁶</p> <p>The precarity of civil liberties in Thailand is exacerbated by corruption and bias in the judiciary. On 10 November 2021, the Constitutional Court ruled against activists who demanded a royal reform, reasoning that it constituted an attempt to overthrow the monarchy. The activists were furthermore ordered to cease all further action.⁹⁷ The decision demonstrates that even the government’s supposedly most independent branch no longer serves as a safe recourse for human rights defenders fighting to enjoy their basic freedoms. Activists and pro-democracy protesters who have been subject to arbitrary arrest and</p>
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⁹⁴ Manushya Foundation, *Civic Space in Thailand #WhatsHappeningInThailand: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at:

<https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-civic-space>

⁹⁵ Thai Lawyers for Human Rights, *สิงหาคม 64: เดือนเดียวผู้ถูกดำเนินคดีการเมืองเพิ่มไปกว่า 404 ราย ยอดรวมทะลุไปไม่น้อยกว่า 1,161 คนแล้ว*, (8 September 2021), available at: <https://tlhr2014.com/archives/34729>; Scoop Independent News, *Thailand: Prevent Misuse Of COVID-19 Emergency Decree, Bring Provisions In Line With Human Rights Law*, (29 September 2021), available at:

<https://www.scoop.co.nz/stories/WO2109/S00290/thailand-prevent-misuse-of-covid-19-emergency-decree-bringing-provisions-in-line-with-human-rights-law.htm>

⁹⁶ The Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005), available at: http://web.krisdika.go.th/data/document/ext810/810259_0001.pdf; Manushya Foundation, *Joint Solidarity Statement- Thailand: Stop Digital Dictatorship Over Online Freedom, #StopDigitalDictatorship, WhatsHappeningInThailand*, (25 October 2020), available at:

<https://www.manushyafoundation.org/statement-th-onlinefreedom-protests>

⁹⁷ Manushya Foundation, *Thailand: Constitutional Court ruled call for Royal Reform is an attempt to overthrow the Monarchy!*, (10 November 2021), available at:

<https://www.manushyafoundation.org/post/thailand-constitutional-court-ruled-calls-for-royal-reform-is-attempt-to-overthrow-monarchy>

	<p>detention are often denied due process and fair trial guarantees.⁹⁸ In many cases, individuals are tried behind closed doors and have their bail requests denied. A case in point is Anchan Praelert, who was sentenced to 87 years on 19 January 2021 by the Bangkok Criminal Court on lèse-majesté charges over 29 videos she uploaded concerning the monarchy. Her sentence was subsequently halved after she pled guilty.⁹⁹ The Court denied her bail application, holding that she presented a flight risk.¹⁰⁰ Denial of bail request also occurred in the case of prominent democracy activists Parit “Penguin” Chirawak, Anon Nampa, Somyot Pruksakasemsuk and Patiwat Saraiyaem, prompting protests across Bangkok.¹⁰¹</p> <p>Aside from royal defamation, Sections 326 to 333 of the Criminal Code govern criminal defamation in its conventional sense, which covers any imputation to another person before a third party in a manner that can be expected to impair the reputation of such person or to expose him/her to hatred. These Articles are often used to target activists, human rights defenders, and journalists. Cases falling within the ambit of these provisions are frequently initiated by government agents, such as in the case of Ms. Chaiyajit. Indigenous Karen community leader Wut Boonlert, for instance, was charged under Article 329 following a SLAPP complaint brought by the public prosecutor’s office and a public official over a social media post criticizing government officials for trespassing into a preserved forest area to construct “Ratchapruek Resort” in 2016. Mr. Boonlert and his co-defendant, Samak Donnapee, were found not guilty by the end of a legal battle which lasted over three years.¹⁰² In September</p>
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⁹⁸ Manushya Foundation, *Civic Space in Thailand #WhatsHappeningInThailand: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at:

<https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-civic-space>

⁹⁹ Manushya Foundation, *87 Years of Jail Time for Violating 112 - It Is Inhuman!*, (20 January 2021), available at:

<https://www.manushyafoundation.org/post/87-years-of-jail-time-for-violating-112-it-is-inhuman>; Amnesty

International, *Thailand: 87-year Prison Sentence Handed in Harshes Lèse-majesté Conviction*, (19 January 2021), available at:

<https://www.amnesty.org/en/latest/news/2021/01/thailand-87-prison-sentence-lese-majeste/>

¹⁰⁰ Bangkok Post, *Court rejects bail request by Anchan*, (22 January 2021), available at:

<https://www.bangkokpost.com/thailand/politics/2055003/court-rejects-bail-request-by-anchan>

¹⁰¹ Prachatai English, *Protest at Pathumwan following activists’ detention*, (10 February 2021), available at:

<https://prachatai.com/english/node/9062>

¹⁰² The Minburi Criminal Court, *Court Judgement*, (18 November 2019), available at:

https://cfj.org/wp-content/uploads/2020/07/Judgement_Government-of-Thailand-and-Chaiway-Limlikhitaksorn-v-Woth-Boonlert-and-Samak-Donnapee.pdf; Voice from Thais, *Fact Sheet on the criminal defamation lawsuit against Mr. Wut Boonlert*, available at:

https://voicefromthais.files.wordpress.com/2019/09/fact-sheet_wut-boonlert_-en_edited_g.pdf; Columbia Law School Human Rights Institute, *Government of Thailand & Chaiwat Limlikhitaksorn v. Wuth Boonlert & Samak Donnapee*, (July 2020), available at:

<https://web.law.columbia.edu/human-rights-institute/trialwatch-july2020>

	<p>2020, in response to intensifying unrest over PM Prayuth Chan-o-cha’s administration, a committee tasked with investigating defamatory content against the PM and his cabinet on social media platforms was created. The committee’s Chair, an Assistant Minister in the PM’s office, claimed that as many as 100 cases had been initiated against the PM’s critics by June 2021.¹⁰³ Among those summoned by the authorities was renowned TV host Winyu Wongsurawat for his critical tweets about the PM.¹⁰⁴</p> <p>The complaint against Ms. Chaiyajit shares the characteristics of these precedents. It was lodged by a prominent State official in a position of power and who possesses enough influence to intimidate both her and Ms. Alice, the transgender woman she advocated for, into silence. An immediate intervention by the Experts is necessary to prevent this case from proceeding to a full trial, which is not only likely to exhaust Ms. Chaiyajit’s resources and jeopardize her work as a human rights defender, but also put her at risk of being subjected to unfair proceedings and wrongfully convicted.</p>
<p>Confirm if the victim(s) has provided informed consent for the intervention by the Special Rapporteur on his/her behalf*</p> <p>*consent by the victim(s) or their family/lawyer, including their understanding of the risks involved, is absolutely essential in cases of violations against individuals</p>	<p>Yes, consent has been provided by Ms. Chaiyajit for the intervention by the Special Rapporteurs.</p>

¹⁰³ Article 19, *Thailand: Stop defamation cases against the Prime Minister’s critics*, (10 June 2021), available at: <https://www.article19.org/resources/thailand-stop-defamation-cases-against-prime-ministers-critics/>

¹⁰⁴ Bangkok Post, *TV host Jonh Winyu charged with defaming PM Prayut on Twitter*, (28 May 2021), available at: <https://www.bangkokpost.com/thailand/politics/2123255/tv-host-jonh-winyu-charged-with-defaming-pm-prayut-on-twitter>

<p>Provide name, contact details and professional (if relevant) of the individual or organization submitting the allegation*</p> <p>*This shall remain confidential</p>	<p>Ms. Emilie Palamy Pradichit Manushya Foundation Founder and Executive Director emilie@manushyafoundation.org</p>
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Endnotes

#StopSLAPP



About Manushya Foundation

Manushya Foundation was founded in 2017 with the vision to build a movement of Equal Human Beings *#WeAreManushyan*. Manushya is an intersectional feminist human rights organization reinforcing the power of humans, in particular women, human rights defenders, indigenous peoples, forest-dependent communities, environmental defenders, LGBTI groups, and Youth, to be at the heart of decision-making processes that concern them and to speak truth to power at the forefront of their fight for Human Rights, Equality, Social Justice and Peace. Through coalition building, capacity building, community-led research, advocacy and campaigning, and sub-granting, local communities become Agents of Change fighting for their rights and providing solutions to improve their lives and livelihoods, pushing back on authoritarian governments and harmful corporations. Manushya defends local communities and seeks justice with them before the United Nations, focusing on women's rights and gender equality, digital rights, climate & environmental justice, and corporate accountability across Asia.

For further information on the work of Manushya Foundation, visit:

<https://www.manushyafoundation.org/>