

**Report for the 6<sup>th</sup> Anniversary of Enforced Disappearance of Somchai Neelapaijit:**

**Marking the failure of the Thai justice system to provide truth, reparation  
and protection from human rights abuses**

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Working group on justice for peace

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**Background**

Mr. Somchai Neelapaijit began his career as a lawyer in 1977. He used to work with Mr. Thongbai Thongpao, a human rights lawyer who won the Magsaisai Award providing legal aid to people. His last engagement involved legal representation for defendants in security related cases in the Southern border provinces of Thailand. Most of his clients were poor with little education. Somchai was driven by dedication and bravery. At that time, only few lawyers paid attention to human right abuses in the Southern border provinces. Most of the defendants he represented had been acquitted by the Court due to a lack of convincing evidence including forensic evidence. Many of them were implicated by hearsay evidence, and some had been tortured to force confessions. Thus, most of these cases were dismissed by the Court.

Apart from representing his clients in the Court, Somchai was known for speaking out against unjust practices by the police and calling for reform of the justice system, particularly regarding the roles of the police as inquiry official, the beginning of the justice process. Reform was meant to help enhance protection of human rights and to make the justice system more effective in order to provide justice to the people. He urged fellow lawyers to recognize the importance of legal aid and to dedicate themselves to providing legal aid to people whose rights were increasingly abused in the Southern border provinces.

The unrest in the Deep South has been intensifying since the gun robbery and school arsons took place on 4 January 2004 in Narathiwat. By the order of Pol. Lt. Col. Thaksin Shinawatra, the then Prime Minister, police from Bangkok were deployed in Southern border provinces. The malpractice of certain police officials involved in

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\* Compiled by Ms. Angkhana Neelapaijit, on the 6<sup>th</sup> anniversary of the enforced disappearance of Mr. Somchai Neelapaijit, human right lawyer

abetting arbitrary detention of people, torturing detainees, manslaughter or even extrajudicial killing drew outcries from the population.

### **Causes of the enforced disappearance**

Somchai Neelapaijit was disappeared at about 20.30 on 12 March 2004 on Ramkhamhaeng Rd, almost opposite the Hua Mark Police Station in Bangkok. The incidence could have been a result of complaints of torture inflicted on five alleged offenders from Narathiwat in the gun robbery and school arson case including Mr. Makata Harong, Mr. Abdulah Arbukaree, Mr. Manaseh Mamah, Mr. Sudeeruean Maleh and Mr. Sukri Maming. Before the incident, Mr. Somchai went to visit the five alleged offenders at the Crime Suppression Division in Bangkok and was told that they had been subjected to brutal physical abuse perpetrated by the arresting police officials who forced them to confess to the charges. All of them were subject to physical assault including having their genitalia charged with electrical currents, being hung with ropes, being forced to stand naked on a chair while stretching their feet, and having been urinated into mouth, etc. Pol. Gen. Sombat Amornwivat, the then Director General of the Department of Special Investigation (DSI), as Chairperson of the fact-finding committee to look into the disappearance of Somchai, testified to a Senate Standing Committee that Somchai Neelapaijit's attempt to help the five alleged offenders was the cause of his disappearance. If the torture complaints brought forward by the five alleged offenders were proven true, several officials shall be held liable for criminal prosecution. However, the public prosecutor decided to drop the charges against the five alleged offenders.

Part of the complaint written by Somchai Neelapaijit to demand justice for the five alleged offenders was sent to various agencies on 11 March 2004, one day before his enforced disappearance, which stated:

“ ...as a result of the act (of torture), the five alleged offenders were forced to confess as demanded by the police officials. Their confession and cooperation in the reenactment of the crime was made possible by their being subject to physical assault, being threatened, being denied visit by relatives and

lawyers while the interrogation was taking place, all of which could be construed as violation of the alleged offenders' rights.

“Such an act is in breach of the Criminal Procedure Code and has led to the demise at the beginning of the justice process...”

Apart from his complaint of torture, Somchai Neelapaijit embarked on an effort to gather 50,000 signatures for a petition to support the revocation of Martial Law in the Southern border provinces (as per the procedure in 1997 Constitution). In his opinion, Martial Law provided excessive power to the military including the power to hold a person in detention for up to seven days without a warrant or a charge. Accordingly, detainees were also denied visits by their relatives or lawyers. Thus, most people who are held in custody by such a law often complained about torture and several cases of enforced disappearances in custody had been reported.

#### **At the threshold of justice process**

After the abduction of Somchai Neelapaijit on 12 March 2004, his car was found in a restricted area behind the Morchit 2 Transportation Terminus on 16 March. It was sent from there to the Scientific Crime Detection Division of the Royal Thai Police for examination. On 19 March, it was sent to the Central Institute of Forensic Science (CIFS), Ministry of Justice, for further examination. Though high ranking police officials in charge of the investigation in this case told the press that major evidence had been found, useful for identifying the perpetrators, later testimonies and evidence including forensic evidence submitted to the Court had failed to hold perpetrators liable to the charges.

It seemed at the time as if the government led by PM Pol. Lt. Col. Thaksin Shinawatra was endeavoring to solve the case of the enforced disappearance of Somchai Neelapaijit. With pressure from public and human rights activists inside and outside the country, five arrest warrants were issued against five police officials including **Pol. Major Ngern Thongsukand (“Defendant 1”)**, **Pol. Major Sinchai Nimpunyakampong (“Defendant 2”)**, **Pol. Sergeant Major Chaiweng Paduang (“Defendant 3”)**, **Pol. Sergeant Rundorn Sithiket (“Defendant 4”)** and **Pol. Lieutenant Colonel Chadchai Liamsanguan (“Defendant 5”)** from the Crime Suppression Division for **robbery and**

**coercion** with the use of violence. As neither the body nor other evidence could be retrieved to confirm his death, more serious charges including murder had not been pressed against the alleged offenders. All of the defendants were released temporarily. After being detained for 30 days, the fifth defendant was allowed to resume his official duties as if the time he had spent in jail was counted as normal working hours. A regulation of the Office of Civil Service Commission (OCSC) prohibits a governmental official from being absent from work for more than 15 days successively without due reasons.

### **The taking of evidence**

The first hearing of the Somchai Neelapaijit case took place in August 2005 and the taking of evidence lasted until December the same year. From the hearings, it appeared that certain defendants had worked in the Southern border provinces and were involved in torturing the alleged offenders as per the complaint of Mr. Somchai. The fact was affirmed by the evidence no. Jor 128 submitted to the Court which included a letter declaring the appointment of Defendant 5 as part of the Committee to Investigate and Hold to Justice Perpetrators in the 4 January 2004 Gun Robbery Case. Defendant no. 1 was also part of the team to bust the five alleged offenders. Mr. Sudeeruean Maleh, one of the five alleged offenders, confirmed that Defendant 1 was among those having committed physical assault against him while being detained in the South and in Bangkok, as per the evidence no. Jor 26. After the disappearance of Mr. Somchai, Defendant 1 and 5 paid a visit to Mr. Sukri Maming as per the evidence no. Jor 23. And Defendant 1, 2 and 4 were taken by Defendant 5 and Police Colonel Pisit Phisuthisak (his title then), as part of the arresting team that busted Mr. Makata Harong and his friends, to turn themselves in (according to the evidence no. Jor 1).

### **Evidence related to mobile phone usage**

According to testimonies to the Court by inquiry officials of this case with verification from experts of the Communication Authority of Thailand (CAT) Telecom Public Company Limited (TOT), it was found that phone use logging was digitalized and could be verified. The phone log showed that since the morning of 12 March 2004, the five defendants called each other and appeared to monitor the move of Mr. Somchai until

the disappearance took place. Right after the abduction, Defendant 5 called Police Colonel Pisit Phisuthisak (his title then). Throughout 6 - 11 March 2004, the defendants' phone communication was seldom, but on 12 March 2004, the day the incidence took place, they called each other up to 75 times. Then during 13 - 15 March, their phone communication with each other had dramatically declined again. However, on 16 - 17 March 2004, when Mr. Somchai's vehicle was located, they called each other up to 36 times.

### **Forensic evidence**

Though Mr. Somchai's vehicle was found pulled over on the road, no significant forensic evidence has been acquired, except some fingerprints and hair samples of Mr. Somchai and his family members. One witness testified that he saw Defendant 2 driving Mr. Somchai's vehicle away after he was shoved into the car arranged by the five defendants. During the court hearings, public prosecutors and officials from the Scientific Crime Detection Division of the Royal Thai Police stated that no sufficient forensic evidence had been found to pin down perpetrators in this case. But as all the five defendants were inquiry officials themselves, and Defendant 5 even having been trained on investigation and evidence collection by the FBI in the USA, they were aware of the methods to destroy the evidence including latent fingerprints. This might be the reason why no evidence was found in Mr. Somchai's vehicle.

### **Witnesses**

Since the enforced disappearance of Mr. Somchai took place in downtown Bangkok and during rush hour and traffic jam, a number of people witnessed the incidence. For example, an eyewitness called 191 and found that the officials failed to take action. The record showed that the official acknowledged the notification and came to the crime scene, but found nothing criminal. There were also several other eyewitnesses, but due to the failure of the witness protection program in Thailand, several of them withdrew their testimonies at the Court hearing as they were too afraid to come out to testify. Fortunately, one eyewitness who was a woman agreed to testify and stated that Defendant 1 looked just like the person who shoved Mr. Somchai into the waiting car while Mr. Somchai's car was driven off by another man.

## **Threats and interference against the performance of inquiry officials**

Not only the witnesses had to face threats, but inquiry officials in charge of the case also felt unsafe. It was proven by the court verdict on Black Case no. 1469/2547 between Pol. Gen. Sant Sarutanond v Mr.Sondhi Limthongkul, Defendant 1, Ms. Sarocha Pornudomsak, Defendant 2, in the libel against official suit. Part of the verdict in page 21, line number 11-18, and page 22, line number 1-10, states:

"...and the former advisor to the Deputy Prime Minister in charge of national security who used to be in charge of the Royal Thai Police, and the very same person who testified on issues concerning the South in 3.4, stated that regarding the disappearance of Mr. Somchai Neelapaijit, Gen. Chawalit Yongchaiyuth, the Deputy Prime Minister instructed the perpetrators being brought to justice. The leader of the inquiry team, Commander of Metropolitan Police Bureau and Deputy Commissioner-General in charge of the investigation had asked to meet secretly with Gen. Chawalit. They reported to the General that there were many obstacles in this case and asked him to provide support and protection. The witness surmised that that the officials asked for having confidential meeting with Gen. Chawalit could showed how formidable the pressure and the obstacles the inquiry officials had to endure..." and

"...in addition, the fact that the leader of the inquiry team, Commander of Metropolitan Police Bureau and Deputy Commissioner-General asked to secretly meet with Gen. Chawalit requesting protection could imply that someone with higher power intervened in the investigation of the inquiry officials causing a lack of transparency in this matter..."

## **The judgment**

After seven months of court hearings into the disappearance of Mr. Somchai from August 2005 onward on the offences regarding coercion and robber, the Bangkok Criminal Court read out the verdict in Black Case no. 1952 / 2547 and Red Case no. Or 48 / 2006 on 12 January 2006. In sum, the Court holds that:

“After reviewing all the evidence, and considering that the prosecution witnesses including inquiry officials had given consistent accounts regarding the time and the place, **the Court was undoubtedly convinced that Mr. Somchai had disappeared.** As per the phone logs showing the use of mobile phones among the five defendants who contacted each other several times from different locations during the days before the incidence and on the day the disappearance took place, the Court still casts some suspicion over the phone logs. As the plaintiffs have failed to bring to court the Deputy Commissioner-General and Deputy Commander of the Metropolitan Police Bureau, who the plaintiffs claimed had helped to obtain the phone logging, the defendant lawyers were unable to cross-examine the issue and thus the evidence is considered impalpable. “

“ ...in addition, the Court heard from three eyewitnesses who precisely described the appearance of Pol. Major Ngern Thongsukand, Defendant 1, in that he was tall and bald, they were able to point to the correct photo of his. The witnesses confirmed that they saw Pol. Major Ngern Thongsukand (Defendant 1) shoving Mr. Somchai into the car. Since the three witnesses never had an issue or a conflict with the defendant, they are believed to have given an honest account. But the Court was not convinced by the claim of the defendants that the inquiry officials from the Metropolitan Police Bureau had taken charge of the investigation simply because they wanted to frame the defendants to be penalized due to conflicts between the Crime Suppression Division and the Metropolitan Police Bureau. As per the robbery offence, since the plaintiffs failed to provide for eyewitnesses to verify that Pol. Major Ngern and other committed the incidence, the defendants therefore enjoy benefit of the doubt..”

“ .. the Court believes that Pol. Major Ngern committed offences of physical assault as per Section 319(1) of the Penal Code and coercion of a person to do or not to do something by the use of violence as per Section 319(2) of the Penal Code. The Defendant 1 is convicted with the gravest punishment for coercion with three years imprisonment, whereas charges against Defendant 2-5 are dismissed due to a lack of supporting evidence.”

### **Failure of state mechanisms to uphold justice**

After the court ruling, all the police officials who were defendants in the case in the abduction of Mr. Somchai were allowed to resume their official duties, except Pol. Major

Ngern Thongsuk, Defendant 1, who was sentenced to serve three years in jail. He was nevertheless released on bail while the case was being appealed. Injured parties in this case find such permission unfair, since as long as the four police officials continue to serve their offices, it may simply make the witnesses fear, tantamount to a threat to the witnesses affecting their willingness to give evidence to the Court. Complaints in this matter have been lodged to concerned agencies and independent regular organizations including the Crime Suppression Division, the Administrative Court, and the Ombudsmen (under the 1997 Constitution).

### **Crime Suppression Division**

- CSD issued a letter no. 0026/ 4010 dated 18 September 2006 announcing the result of a disciplinary inquiry against the five police officials who became defendants in the coercion offence, summarized as: .... **It cannot be construed yet that the five alleged officials had committed grave disciplinary breaches. The accusation concerning their commitment of grave breaches was related to the criminal action brought against them, and the matter is in the consideration of the Court. The Committee to Investigate Grave Breaches proposes that any further decision should be made pending the final stage of the criminal action...**

### **Administrative Court**

- **On 12 March 2007**, Ms. Angkhana Neelapaijit lodged a complaint with the Royal Thai Police and Commissioner-General of the Administrative Court concerning a lack of disciplinary action against the police officials who became defendants in the abduction case of Mr. Somchai
- **On 4 April 2007**, the Lower Administrative Court ruled on the Black Case no. 475/ 2007 and Red Case no. 533/ 2007 dismissing the complaint filed by Ms. Angkhana Neelapaijit regarding the failure of the Royal Thai Police to initiate disciplinary action against the five police officials who became defendants in the coercion and robbery cases against Mr. Somchai. It was deemed by the Court that “ ... **The order made by the accused no. 2 (Commissioner-General) to reinstate the five police officials has been made at the discretion of a commanding official as provided for by**

regular procedure. Therefore, the order made by the accused no. 2 shall not affect the rights or duties of the complainant who is outside the administrative chain of command. The complainant is not considered a person to be affected by the order of the accused no. 2 which makes it possible for the five police officials to resume their official duties. Therefore, the complainant has no legal standing to ask the Court to repeal the order of the accused no. 2. As per the request for the two accused to initiate disciplinary action against the concerned police officials including the suspension order or the removal from office pending consideration of the Criminal Court and the investigation of the Department of Special Investigation (DSI), the Court deems that disciplinary actions are a matter between the state and its officials and is subject to the dissertation of a commanding officer. Any disciplinary action shall also not help to address the grievances of the complainant directly. Therefore, the complainant has no legal standing to sue the accused as per Section 42(1) of the Administrative Court Establishment & Procedure Act B.E. 2542 (1999).”

#### **Appeal motion**

- **On 22 July 2007, the Supreme Administrative Court** delivered the order no. 501 / 2007 affirming the decision made by the Lower Administrative Court to dismiss and delist the case.

#### **Office of Ombudsman**

- **On 22 March 2006**, Ms. Angkhana Neelapaijit complained to the Office of the Ombudsman regarding the fact that the police officials who became defendants in a criminal case were spared from disciplinary action.
- **On 18 January 2007**, a most urgent letter no. Phor Ror 22 / 581 was received from the Office of the Ombudsman of three pages and attached with a copy of the Ombudsman Act, B.E. 2542 (1999). In sum, it reads in three lines “.....*the Ombudsman ( Mr. Poonsap Piya-anand) deems that*

*since the 1997 Constitution has been repealed, the Ombudsman therefore is in no position to review the complaint and take any action.....”*

### **Justice proceeding**

- **Case concerning coercion and infringement on freedom:** After the Lower Court ordered on 12 January 2006, the injured parties have lodged an appeal motion which is being considered in the Appeals Court.
- **Case concerning murder:** Since it is believed that Mr. Somchai might have died after his disappearance, the Department of Special Investigation (DSI) has agreed to take it on as a special case on 19 July 2005 and the investigation has been ongoing. Much focus by DSI has been placed on locating the body parts and the drums believed to have been used for disposing Mr. Somchai's body in the Maeklong River, Ratchaburi province, according to a tipoff by an eyewitness. Four 200-litre drums have been found together with some bone fragments. The DNA testing done to the evidence failed to give any positive match with that of Mr. Somchai.
- **Complaint about torture of alleged offenders:** The DSI has passed on the complaint of torture of Mr. Makata Harong and others allegedly committed by high ranking police officials to the National Anti-Corruption Commission (NACC). The complaint is believed to be one of the causes for the enforced disappearance of Mr. Somchai. The case has been considered by NACC for almost three years now, and 14 police and military officials have been summoned to listen to the charges.
- **Being declared a disappeared person by the order of the Court:** On 18 May 2009, the Civil Court ordered in the Black Case no. 1206 / 2009 and Red Case no. 2050/ 2009 in sum that “..since Mr. Somchai has disappeared for more than five years now, the Court declared Mr. Somchai a disappeared person as per Section 61 (1) of the Commercial and Civil Code”.
- **UN Working Group on Enforced or Involuntary Disappearance (UN WGEID)** has accepted to review the enforced disappearance of Mr. Somchai

since 1 June 2005 as per the case no. 1003249. The Working Group has continuously questioned the Royal Thai Government for progress in the investigation of the enforced disappearance of Mr. Somchai.

### **Problems and obstacles against access to justice**

On 20 June 2005, and Pol. Lt. Col. Thaksin Shinawatra told Ms. Angkhana Neelapaijit during a meeting at the Pitsanuloke House that he believed Mr. Somchai was dead. Six years after his disappearance and following five Prime Ministers and seven Ministers of Justice, there simply has not been any meaningful progress in the case concerning the disappearance of Mr. Somchai. Though the government led by Mr. Abhisit Vejjajiva showed keen interest to resolve the case, when he took on premiership, again no substantial progress has been made. Observing closely the process, one may discover a number of obstacles that have made access to justice slow and impeded.

### **Reluctance among state authorities**

Mr. Somchai was disappeared during the time when Pol. Lt. Col. Thaksin Shinawatra was the PM. Although the government appeared to be eager to solve the case at the time as five police officials were charged with coercion and robbery, when it went on to the trial, much of the evidence had been destroyed or weakened so that no perpetrators could be brought to justice. Moreover, as the defendants who were police officials were released on bail, witnesses have felt threatened. Some of them withdrew their testimonies in Court.

According to a witness who testified to the Lower Court, it was believed that the five defendants had been aware of the testimonies made by all witnesses in this case prior to the trial. In the submission to the Court by Defendant 5, the evidence no. Lor 107, page 2, it states that Pol. Gen. Sombat Amornwiwat, DSI's Director General, had given a copy of testimonies made by the prosecution witnesses at the inquiry level to the defendants. The fact is confirmed by the Court order in this case, in page 72-73, which goes "the defendant lawyers asked the Court to retrieve the document from the public prosecutors and the public prosecutors brought forth the document requested by the defendants. It implied that the document was part of the inquiry report prepared by the inquiry officials and submitted to the public prosecutors. Otherwise, the defendant would

not have been able to request precisely for such a document which had been included in the inquiry report and submitted to the public prosecutors.”

Despite the fact that, following the coup on 19 September 2006, the Surayud Chulanond led government seemed to give serious attention to the case and set up a committee to investigate the case, again no real progress was made in the investigation of the murder case against Mr. Somchai.

After the general election in 2007, both governments led by Samak Sundaravej and Somchai Wongsawat showed obvious discomfort toward solving the disappearance case of Mr. Somchai while interference by politicians continued. According to the DSI Establishment Act, the DSI is an independent agency and its inquiry officials are fully authorized to address grievances faced by people as a result of abuse and misuse of power by state officials and influential people. However, thus far, the DSI has failed to effectively investigate human right abuses. They have simply failed to fulfill public expectations.

#### **Failure in witness protection scheme**

As a result of insufficient witness protection, a number of witnesses in the enforced disappearance case of Mr. Somchai have been constantly subject to threats, particularly the five alleged offenders who complained about torture by the police and were assisted by Mr. Somchai. Though they had been placed under a witness protection scheme by DSI, none of them have felt confident enough to testify as a witness in this case in order to bring the perpetrators to justice. For example, Mr. Sudeeruean Maleh was sued by Pol. Lt. Gen. Phanuphong Singhara Na Ayudhaya and Pol. Major Gen. Chakthip Chaijinda in the Criminal Court for giving false information to the NACC. As of now, the case filed by Pol. Lt. Gen. Phanuphong is dismissed, but for the case filed by Pol. Major Gen. Chakthip, the first hearing is scheduled to take place on 15 March 2010 at the Bangkok Criminal Court.

Meanwhile, Mr. Abdulah Arbukaree, another important witness in this case who had been living under the DSI witness protection scheme, disappeared from his residence in Narathiwat on 11 December 2009, after he came back from a visit to his family during the religious festival. His whereabouts are still unknown and the DSI, which is in charge

of the protection given to Mr. Abdulah as a witness, has not shown any responsibility toward the case.

### **Inefficiencies in attempts to acquire evidence**

The abduction of Mr. Somchai has left many traces, but all of them seem to have been completely erased. For example:

- Mr. Somchai's car had been driven by the perpetrators and was found on the road. However, forensic investigation by both the Scientific Crime Detection Division of the Royal Thai Police and the Central Institute of Forensic Science (CIFS) under the Ministry of Justice has failed to yield any significant forensic evidence including fingerprints, latent fingerprints, DNA traces of the perpetrators, etc. Until now, no forensic investigation including DNA testing has been conducted on the five defendants. None of their hair sample had been collected for tests to verify whether it matched the DNA pattern of the hair samples found in Mr. Somchai's car. Despite the fact that an eyewitness stated that Defendant 2 was seen to drive away Mr. Somchai's car, no evidence had been found.
- The phone logs which could be used as evidence to hold the perpetrators accountable for the crime have been nearly completely erased. Although the abduction case of Mr. Somchai carries the importance of a murder case thereby enjoying statute limitation of 20 years, the inquiry officials simply allowed the expunction of such important pieces of information. Attempts to investigate the use of mobile phones by the five defendants in greater detail have also been plagued with obstacles. The investigation was simply limited to the phone use by the five defendants among each other rather than other persons they had contacted at the time, believed to be high ranking police officials and the masterminds of the abduction, murder and disposal of Mr. Somchai's body.

### **Delay in the justice process and investigation of the enforced disappearance case of Mr. Somchai**

- **The appeal motion** On the offences concerning coercion and infringement on freedom, the appeal motion has been considered by the Appeal Court since the Lower Court ruled on 12 January 2006.
- **DSI** has been in charge of the case of enforced disappearance of Mr. Somchai for almost five years since 19 July 2005. Since the investigation has been carried out on the assumption that Mr. Somchai has been killed, DSI attempts to acquire evidence related to the death including body parts, or other evidence related to the disposal of the body. Until now, four drums which are believed to have been used for disposing Mr. Somchai's body have been found along with some human bone fragments. But no attempt has been made to acquire other important pieces of evidence including the phone usage of the defendants and other concerned culprits, or Mr. Somchai's belongings, or even the car used on the day Mr. Somchai was abducted. What the DSI has done in the past five years has thus failed to reassure the surviving family and general public that genuine efforts and determination have been given to unraveling the case.

**National Anti-Corruption Commission (NACC)** The DSI has submitted complaints concerning alleged torture of the persons held in custody for the gun robbery and school arson cases on 4 January 2004 to the NACC as the incidence is believed to have been the cause of the disappearance of Mr. Somchai. Three years past, the investigation is still ongoing. Meanwhile, a number of witnesses have been subject to constant threats, i.e., it was reported that a group of police officials went to meet with the family of a witness in Narathiwat asking the witness to withdraw their testimony given to the NACC. Another witness under the DSI's witness protection scheme has been sued by two high ranking police officials for giving out false information to the NACC. Another major witness, Mr. Abdulah Arbukaree has gone mysteriously missing from his home in Narathiwat on 11 December 2009 while under DSI witness protection. All of these incidences have caused grave concerns for other witnesses.

**Investigations by the NACC on this case have been extraordinarily slow compared to other cases taken on by NACC. The delay in the action of**

**NACC greatly compromises the safety of all witnesses involved in the case.**

- Apart from the disappearance of a major witness, Pol. Major Ngern Thongsuk, Defendant 1, also went missing on 19 September 2008, according to media reports. It should be noted that no attempts have been made by the police official's family to report the disappearance to the inquiry officials in order to locate Pol. Major Ngern.

### **Reparation from the state**

After the Civil Court declared Mr. Somchai disappeared, Ms. Angkhana Neelapaijit applied for restitution and compensation for victims in criminal cases in a murder case as per the Compensation to Aggrieved Parties and the Accused in Criminal Cases Act B.E. 2544 (2001). The request was lodged with the Office to Provide Financial Support for Victims and Defendants in Criminal Cases, within the Rights and Liberties Protection Department. Initially, officials turned down her application claiming that it did not appear that Mr. Somchai had either been injured or found dead. Moreover, an application for restitution is required to be submitted within one year. Later, the Committee to Review Compensation for the Aggrieved Parties in Criminal Cases, chaired by the Deputy Permanent Secretary, looked into the case again. Acknowledging facts and legal opinions regarding the case, they eventually agreed to provide compensation for Ms. Angkhana Neelapaijit for the murder case without an allowance for maintenance of the case. The expense for funeral rites were not provided as the body had not been retrieved.

It was the first time in Thailand that a victim of enforced disappearance received reparation from the state as per the Act.

.....